The background features a diagonal split between a light orange and a slightly darker orange. Overlaid on this are several thick, curved, overlapping lines in various shades of orange, creating a sense of movement and depth.

Transfer Subjects at Upazila and Union Parishad in Bangladesh: Regulations and Realities

Mobasser Monem, Ph.D.

**Strengthening Democratic Governance through
Ensuring Responsiveness of Public Institutions project**

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Union Parishad in Bangladesh:
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MESSAGE

It is indeed a matter of satisfaction to see our valued partner 'WAVE Foundation' commissioned a study that has brought many of the crucial facts of mismatch between local government institutions and local level service providers popularly known as field administration. The research aptly analyzed the non-compliance of legal provisions of Upazila and Union Parishads, ambiguities in the laws and contradictions between the law and day to day circulars issued by the executive ministries. The study simultaneously identified grey areas in the dealings of “transferred subjects” as well as suggested way forwards to make the situation improved.

I hope and expect that the study will help our policy makers at political and administrative levels in getting evidence based reality check as well as policy directions to fulfill their commitment towards decentralization with more concrete actions. The studies we commission are aimed at assisting our government, academics, local leaders and practitioners in appreciating the situation with field level evidences.

I congratulate the author Professor Mobasser Monem and WAVE foundation for successfully completing and sharing the study findings at different levels and also wish wider use of the study.

Shaheen Anam

Executive Director

Manusher Jonno Foundation

MESSAGE

Decentralized local government is an important issue in the arena of sustainable development. In this issue WAVE Foundation has been working for long time. At this moment, along with others major issues the transfer subjects at Upazila and Union Parishad in the field of local governance in Bangladesh are getting importance by relevant stakeholders. WAVE Foundation is implementing a project namely 'Strengthening Democratic Governance through Ensuring Responsiveness of Public Institutions' focusing democratic decentralization with the support of Manusher Jonno Foundation. Under this project, a study has been conducted which presented us an evidence based concrete findings on the implementation of transferred subjects at Upazila Parishad and transferable subjects at Union Parishad. This research will help us to understand several consistencies and paradoxes into legal provisions and also recognize the numerous contradictions between laws and circulars. Moreover, we will get insightful thoughts regarding these policy paradoxes and decentralization situation in our country from this study. I highly appreciate the excellent work of the author, Professor Mobasser Monem for identifying the empirical facts. Hope the suggestions those he has pointed out into study will contribute to achieve real decentralization.

I expect that the study will provide advantage to our policy makers, government officials, local government representatives, local government experts, academicians, practitioners to understand the ground realities and hope a better result will be brought out for nationwide. I do believe, Governance Advocacy Forum (GAF) - a national level advocacy platform will play a vital role in advocating relevant policies based on the study findings along with work experiences.

I wish extensive use of the study by the relevant stakeholders.

Mohsin Ali

Executive Director, WAVE Foundation

Coordinator, Governance Advocacy Forum (GAF)

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ACRONYMS

ACR	Annual Confidential Report
ADP	Annual Development Programme
APR	Annual Performance Report
BRDB	Bangladesh Rural Development Board
CCs	Community Clinics
DC	Deputy Commissioner
DPHE	Department of Health and Engineering
FPI	Family Planning Inspection
FWA	Family Welfare Assistant
MoLGRD&C	Ministry of Local Government and Rural Development & Cooperating
MP	Member of Parliament
PIC	Project Implementation Committee
PIO	Project Implementation Officer
SAAEO	Sub Assistant Agriculture Extension Officer
SAE	Sub Assistant Engineer
SMC	School Management Committee
TR	Test Relief
TDCC	Thana Development and Coordination Committee
UAO	Upazila Agriculture Officer
UCCA	Upazila Central Cooperative Association
UDCC	Union Development Coordination Committee
UE	Upazila Engineer
UH&FPO	Upazila Health and Family Planning Officer
UHFWC	Union Health and family Welfare Center
UNDP	United Nations Development Programme
UNO	Upazila Nirbahi Officer
UP	Union Parishad
UZP	Upazila Parishad
LGED	Local Government Engineering Department
LGSP	Local Government Support Project
UZGP	Upazila Governance Project
VGD	Vulnerable Group Development
VGf	Vulnerable Group Feeding
ZP	Zila Parishad

EXECUTIVE SUMMARY

In recent years, a major effort has been initiated in Bangladesh to strengthen the role and capacity of local government institutions (LGIs) to contribute to stronger service delivery outcomes. Legal provisions for LGIs to play a stronger role have been clarified and expanded, and fiscal transfers to local governments have grown in size. There is also a broad social consensus for strengthening local governance in Bangladesh. This is largely expressed as support for strengthening the role of Upazila and Union Parishads, through greater degree of decentralization in terms of devolution. The current study examines the extent to which the current design of the local government system provides for the decentralization of real power, functions and resources to local governments, and allows meaningful citizen oversight of local governments and services that are being delivered. The main objectives of the study are as follows:

- To identify the nature of the constraints relating to transferred subjects at UZP and transferrable subjects at UP
- To explore and analyze the opportunities for and implications of the transferred subjects at UZP and transferrable subjects at UP under the existing legal framework
- To offer recommendations regarding the transferred/transferrable subjects with a view to ensure the effective functioning of these departments for effective institutional functioning and efficient delivery of services by the UZPs and UPs

In order to find out the answers to the above questions the study relies on both the secondary and primary data. The secondary data sources include various reports published by the concerned ministries, policy documents, acts, rules issued by the ministries, recent research publications complementary to the objectives of the current research, while the primary data has been collected through stakeholder interviews at both the central and local levels. The stakeholder perspectives have been integrated from central to all LGIs level focusing existing institutional mandates and delivery mechanism in terms of funds, functions and functionaries to identify constraints, opportunities and implications. The cases of health and education were studied in depth to find the status and ground realities of the transferred subjects to UZPs and UPs. The major findings of the study are as follows:

In case of Upazila Parishad (UZP)

Transfer of functions has not taken place as expected and there is a huge gap between rules and ground realities. The UZP committee meetings are not held (no meeting was held in 2 out of 4 Upazilas visited, only a few meetings were held in other two Upazilas). The line department heads show little real interest in convening standing committee meeting as the member secretaries. There is no central monitoring on this front. Under the circumstance, the elected representatives are getting increasingly disillusioned, frustrated and their enthusiasm with the UZP committees and spirit of devolution is fading away fast.

Departmental officials do not want their functions to be transferred to the UZPs, they are used to report to their superiors based in the district towns or to the respective central ministries. There is no mechanism in place for the UZPs to supervise or monitor the functions of the government departments based in Upazilas.

The UZPs cannot hold the officials accountable in the absence of the clear legal provisions. The officials informed that they prefer to follow their departmental superior's instructions, rather than the instructions from the elected representatives of UZP. Due to capacity deficits the elected representatives are not in a position to establish their control over the line departments.

The officials do not share such information as financial inflow and how the money is going to be spent, the only mechanism in place for sharing departmental information is in the monthly meetings, but this is done in haste. No departmental files are sent to the Upazila Parishad Chairs or Vice Chairs, in extreme cases, even the meeting resolutions are not shared with the elected representatives.

The legal provision to appoint MPs as the advisers to the UZP has done serious damage to the process of transfer of authority. MPs do not seem to support the idea of transfer of functions to the UZPs on grounds that they do not

want their political competitors to gain grounds and dominate over the central government's departments (this happens in case MPs and Chairs are from the same political party) and when the MPs and UZP Chairs are from two rival political parties, MPs tend to suppress them in every possible ways they can.

The UNOs join the band-wagon along with MPs and other departmental officials to weaken the process of transfer of functions to the UZP. UNOs instead of providing support to UZP to grow as the strong institutions, remain busy appeasing MPs. UNOs tend to maintain cordial relationship often at the cost of their relationships with the Upazila Chair and Vice-Chairs.

In case of Union Parishad (UP)

There was a general unawareness of the representatives and Line Agency Officials (LAOs) about the details of the transfer of functions to UPs. The two service providers (local government and field administration) are expected to make different services available in a coordinated manner. Evidence shows that there always remains a gap between what the rules say and the way people behave.

UP representatives are unaware of the movements of the LAOs (however, Sub-Assistant Agriculture Extension Officer and Health Inspector (HI) and Assistant Health Inspector (AHI) of the Directorate of Health, Family Welfare Inspector (FWI) and Family Welfare Assistant (FWA) are seen to be providing services to an extent.

LAOs do not sit in their respective offices. There was no clear directive for the LAOs from their superiors on stationing at the UP complex. UDCC meetings are not attended by LAOs and as a result of this there is no coordination between the UPs and the LAOs. There is no mechanism in place for the UPs to monitor LAOs or hold them accountable or to supervise their activities.

What explains the above mentioned lags? It was observed that the legal provisions are there, but circulars which are sent from the central to local governments are vague and contradictory. Besides, the exact relationship between the field level units of various government departments and the local bodies has been inadequately/vaguely defined. Even where functions have been defined, many are partially or inadequately communicated to the functionaries of line agencies or people's representatives. There is a general unawareness of the representatives about the details of transferred line agency functions. On the other hand, elected officials also do not have an adequate understanding about their tasks and responsibilities; they also lack the required skills to exercise their rights and prerogatives in the absence of adequate training. In the absence of strong political commitment, the role of the central bureaucracy becomes dominant as ever and central bureaucracy wants to preserve the interests and dominance of their fellow officials based in the field. Now the question is: given the current scenario what is the way forward? A strong and unwavering political commitment coupled with adequately assigned functional responsibilities to UZP and UP is indispensable for the devolution to work effectively. Central government has to enact a clear set of legal provisions for meaningful devolution and also make sure their field level enforcement and implementation. Additionally, the central government should also devise a mechanism with a view to monitor the implementation progress of the enacted laws relating to transfer of functions at the field administration and local government level. It is important to note that at present, there is a missing link with regard to the central monitoring and as a result of which not much has moved thus far on the front of transfer of functions from the line departments to the local governments. It is also imperative that the local government functionaries and the deputed officials are brought under a comprehensive national training network to enhance their capacity and understanding about the importance of an effectively devolved local government system in Bangladesh.

CHAPTER ONE: INTRODUCTION

There is a broad social consensus for strengthening local governance in Bangladesh. This is largely expressed as support for strengthening the role of Upazila and Union Parishads, through greater degree of decentralization in terms of devolution. However, there is a disjuncture between the desire for devolution and the extent to which the current design of the local government system provides for the decentralization of real power, functions and resources to local governments, and allows meaningful citizen oversight of local governments and services that are being delivered. Thus, while representatives get elected at local government level, they do not have the defacto authority or resources available to successfully undertake the activities that their constituents have elected them to perform. This mismatch undermines the extent to which citizens are really able to hold local government representatives to account for their performance, and also limits the capacity and ability of elected representatives to oversee activities that are being performed by other (non-elected) departments/agencies at the local level.

In recent years, a major effort has been initiated in Bangladesh to strengthen the role and capacity of local government institutions (LGIs) to contribute to stronger service delivery outcomes. Legal provisions for LGIs to play a stronger role have been clarified and expanded, and fiscal transfers to local governments have grown in size. Local governments are increasingly looking to play a meaningful role, alongside central (deconcentrated) mechanisms, in the delivery of public services.

Meanwhile, the bulk of public services continue to be managed directly by central line ministries and their local administrative offices without systematic involvement of the elected local government institutions. Although Union Parishads and Upazila Parishads have the potential to play an important role in improving pro-poor service delivery outcomes within their jurisdictions, the disconnect between the functioning of the local government institutions on one hand and the sub-national deconcentrated structures on the other hand have limited the ability of local governments to improve the delivery of critical services to the rural poor in Bangladesh. It is in this context the current study seeks to focus on the dynamics of transferred functions to the Upazila and Union Parishads.

As a matter of fact, there exists no study at all on the status of the transferred subjects to Upazila and transferrable line agency services to UPs. This study therefore intends to examine the provisions on the transferred (Upazila) and transferrable (UPs) in the Acts and the current status of actual practices on the ground.

1.1 Objectives of the Study

The main objectives of the study are as follows:

- To identify the nature of the constraints relating to transferred subjects at UZP and transferrable subjects at UP
- To explore and analyze the opportunities for and implications of the transferred subjects at UZP and transferrable subjects at UP under the existing legal framework
- To offer recommendations regarding the transferred/transferrable subjects with a view to ensure the effective functioning of these departments for effective institutional functioning and efficient delivery of services by the UZPs and UPs

1.2 Methodology and Data Collection Techniques and Sample Respondents

The study relies on both the secondary and primary data. The secondary data sources include various reports published by the concerned ministries, policy documents, acts, rules issued by the ministries, recent research publications complementary to the objectives of the current research, along with the selective works of development partners to Bangladesh.

Primary data has been collected through stakeholder interviews at both the central and local levels. The stakeholder perspectives have been integrated from central to all LGIs level focusing existing institutional mandates and delivery mechanism in terms of funds, functions and functionaries to identify constraints, opportunities and implications. At the central level, ministry level officials of local government, civil society members, and leaders of the associations of Upazila and Union Parishad were interviewed. The local level stakeholders included the officials different line ministries posted at the Upazila and Union level and functionaries of the Upazila and Union Parishads, and the heads of Upazila administration called the Upazila Nirbahi Officers (UNOs). One case namely the local education service was studied in depth with a view to provide indicative evidence on the status of transferred functions to Upazila and Union Pariashds. Besides, four focus group discussions were also undertaken with the local civil society and members of local community to have their perceptions/opinions about the relative responsibility of the Upazila Pariashad, Union Parishad and the line ministry officials for the delivery of local services. Additionally, a brief questionnaire was also administered among the stakeholders (officials and elected representatives) during the field trip with a view to gather stakeholder's opinions about the transferred subjects and related constraints and implications.

1.3 Locations for Fieldwork

The field work took place in four locations: Khulna, Noagoan, Chuadanga and Brahminbaria. The selection of the locations was based on a number of criteria. It was considered desirable to have some geographical variation and some variations of experiences. It was felt appropriate to have a balance between the districts under Upazila Governance Project (UZGP) including Khulna and Brahminbaria as well as two Upazilas namely Noagoan, Chuadanga which were under the WAVE Foundation project coverage. In addition, it was recognized that locations in Khulna and Brahminbaria have geographic conditions that make them more remote or harder to reach, which may present different coordination and service delivery challenges that easier to reach locations (Noagoan, Chuadanga). At the same time, the selection reflects the practical need for the researcher to be able to complete the field work and the subsequent analysis in reasonable time.

From each of the four districts, one Upazila and one Union were selected as the samples for the study. The details of the sample sites are shown in Table 1.

Table 1: Study Sites

Name of the District	Name of the Upazila	Name of the UP
Khulna	Digholia	Digholia
Naogaon	Patnitala	Bakhtarpur
Chuadanga	Chuadanga Sadar	Paddabila
Brahminbaria	Bancharampur	Pahariakandi

CHAPTER TWO: DECENTRALIZATION IN BANGLADESH

There is no denying the fact that decentralization of central power and authority to sub-national entities can be important for political stability, effective service delivery, poverty reduction and equity. In Bangladesh, decentralization and local governance have been the long pronounced policy agenda for ensuring participatory governance and improved public service delivery. National policy documents are giving emphasis on local governance provide the legal framework for the functioning of local governance and clarify its role in public service delivery. This chapter reviews the legal framework on local governance in Bangladesh.

2.1 Decentralization in Bangladesh

Bangladesh has a long history of decentralization. The basic pattern of deconcentrated structure of administration at division, district and Upazila, popularly known as field administration has remained much the same as was under the British colonial rule (Ahmed, 1982).¹

With regard to devolution also, Bangladesh has a long and eventful tradition of local government, the structure and functions of which have been evolved in consonance with socio-economic and political transformation of the country (Khan, 2011).² Local government in Bangladesh owes its genesis to the British colonial rule. The British rulers tried to establish some form of local government system in the subcontinent to deal with some selected local affairs and to form a bridge between the government and the local level, which ultimately would help sustaining colonial rule in the country. The outcome was the creation of local bodies at the Union, district and thana level. Amongst all, the local body at the lowest level called the union created in 1880s has survived till the departure of colonial rule and even in the post-colonial eras. After independence from the British colonial rule, the Pakistan military rule introduced a four tier system of local government (divisional council, district council, thana council and Union Council). Amongst the four tiers only the union council was an elected body which was responsible for performing selected number of public welfare functions but central control made it difficult for popularly elected peoples' representatives to function responsively and effectively.

However, after independence from Pakistan, Union Council was renamed as Union Parishad (UP) in 1976 but no meaningful change took place in terms of its functions until 2009, when UP had been devolved with the authority to deliver and manage a good number of services with the objective of ensuring improved service provisions.

Decentralization in the form of devolution took its real shape in 1982 when military ruler Ershad introduced a new decentralization policy, which ushered a major departure from the colonial and post-colonial set up of administration, through which 460 thanas were upgraded into Upazilas³ and a directly elected Chairman was designated to head the Upazila Parishad (UZP) with the responsibility of planning and supervising development programmes implemented by as many as 15 departments based at the thana level (Ahmed, 2000).⁴

However, this system was repealed with the overthrow of the military ruler and takeover of power by a democratically elected government in 1991 with the excuse that the system was illegitimate as it was introduced by a military ruler. In 1998 considering the inherent potentialities of the Upazila system for improving public service delivery, Upazila system was revived in paper and in 2009, the system was practically reintroduced through forming an elected Upazila Parishad with devolved functions.

1. Ahmed, S. G. 1982. "A Typological Study of the State Functionaries under the Mughals", Asian Profile, Vol. 10, pp.327-345.

2. Khan, M.M. Local Government in Bangladesh: Some Contemporary Issues and Practices, AHDP, Dhaka.

3. Bengali word Upazila means subdistrict.

4. Ahmed, Giasuddin, S. 2000. "Public Administration in the Three Decades" in Choudhury, A.M. & Alam Fakrul (eds) (2000) Bangladesh: On the Threshold of the Twenty First Century, Asiatic Society of Bangladesh, Dhaka.

Thus historically, although the explicit goal of decentralization initiatives in Bangladesh had been to improve popular participation in development activities and to provide better services to the rural poor but the implicit goal was political. The Upazila decentralization program was initiated and implemented by Ershad as part of a strategy to consolidate its position and enhance the likelihood of its continuation in power. In later years also, initiatives for repeal or reintroduction of the system was also politically motivated than mere administrative decisions.

2.2 Territorial-Administrative Governance Structure of Bangladesh

Bangladesh is territorially deconcentrated into a four-tier field administration, with a unit at each of the following levels: division, district, Upazila and Union. The country is divided into seven divisions, which, in turn, are subdivided into 64 districts (Zillas). Below the district level, at the countryside, there are 488 Upazilas, which are further subdivided into 4550 Unions and in urban areas, there are 11 city corporations (large cities) and 319 municipalities (smaller towns).

Administration at the divisional level essentially performs coordinating functions; while district administration historically has played the most vital role in ensuring central presence in the locality. Almost all government ministries and departments have their units at the district level. Under the guidance of different district level officers including the Deputy Commissioner (DC), officials at the Upazila level are charged with actually implementing government policies related to different sectors. The Upazila Nirbahi Officer (UNO) acts as the head of Upazila administration and the general representative of the government at the Upazila level. A good number of government departments, for example, agriculture, education, health and family planning, social welfare, fisheries and livestock, public health etc. have offices at the Upazila level. At the Union level, some important departments of the government have their field staff, which includes: education, health and family planning, agriculture, fisheries and livestock.

A separate devolved local government hierarchy also parallels the administrative hierarchy of the government. There exist local councils at each of the administrative levels except the division. At the top of the three-tier rural local government structure is the Zilla Parishad (ZP) at the district level and at the bottom, the Union Parishad (UP) at the Union level and the Upazila Parishad at the Upazila level-the middle tier.

The total number of Zilla Parishad is 64. A typical district or Zilla covers an average area of 2406 sq.km populated by around 2 million population. Zilla Parishad is composed of a Chairman and 20 representative members along with 5 women members in reserved seats. No direct election is held at the Zilla Parishad level. The Chairman and the members are elected by the electoral college containing the elected representatives of all other local government institutions within the jurisdiction of Zilla.

The middle tier, Upazila Parishad (UZP) at the Upazila level, has greater importance than other councils. An Upazila contains about 302 sq kilometer area and a population of about 245 thousand (World Bank, 1996). The UZP is headed by a popularly elected chairman and composed of two Vice Chairmen, representative members (UP Chairmen) and women members. Officials of different nation-building departments attend the meetings of UZP, but they are neither members of the Parishad, nor can they vote. Government activities at the Upazila level are divided into two categories: reserved and transferred. Responsibilities for transferred subjects have been assigned to the UZP; while the central government assumes responsibilities for reserved subjects.

The Union Parishad (UP) is the lowest unit of local government. Generally, a Union with about 10-12 square miles area, encompassing 10-15 villages, is inhabited by about 15000 to 20000 people. A Union is divided into 9 wards, with each ward electing a member on the basis of popular votes. The Chairman, who heads the UP, is directly elected by the voters of the whole Union. In addition to a directly elected Chairman and nine members, three women members are also elected, with each one representing three wards.

CHAPTER THREE: TRANSFERRED FUNCTIONS TO UPAZILA AND UNION PARISHAD

3.1 Introduction

The Upazila Parishad (UZPs) and Upazila administration in Bangladesh are in transition now. For nearly two decades, the UZPs remained under absolute bureaucratic control. A frivolous body called Thana Development and Coordination Committee (TDCC), composed of Union Parishad chairs and several Upazila level officers used to carry out development activities at Upazila level with central grant. It, however, lacked democratic element and adequate authority to plan and dispense services including the power to raise resources locally.

3.2 Overview of the Functions Transferred to Upazila Parishad

Over the past few years, part of Upazila administration has been brought under democratic control. The UZP, headed by a directly elected representative, has now been entrusted with the responsibility of overseeing the activities of 17 government departments which have been transferred to them by law (Upazila Act, 2011). Officials of the transferred departments in principle are supposed to express their operational loyalty to the UZP which has certain reserved powers including recommending disciplinary actions. Theoretically, relation between the two is hierarchic, with the UZP enjoying power to require the transferred departments to account for their actions. The power is, however, limited in practice.

Table 2: Transferred Subjects to the Upazila Parishad

- Ministry of Establishment (UNO & other staffs working under UNO and related activities)
- Directorate of Health
- Directorate of Family Planning
- Directorate of Agricultural Extension
- Directorate of Fisheries
- Directorate of Livestock
- Directorate of Food and Disaster Management
- Directorate of Social Welfare
- Directorate of Primary Education
- Directorate of Secondary and Higher Education
- Directorate of Women
- Local Government Engineering Department
- Public Health Engineering Department
- Directorate of Youth Development
- Activities of Ministry of Environment and Forest
- Directorate of Rural Development
- Directorate of Cooperatives

Source: Upazila Act, 2011

There are other departments at the Upazila level which still remain outside the formal scope of control of the UZP. These are known as “retained subjects”. These are centrally directed and centrally controlled. What the UZP can do is to monitor their operation but it does not have the authority to vote on issues that concern them.

What we have seen over last few years that the functions 17 departments which have been transferred by law by the central government to the Upazila Parishad, are still working as the deconcentrated units of the central ministries. The Upazila Parishads have little real control over these departments, their finance, their manpower or their expenditure decisions. For all practical purposes, UZP has to endorse the decisions made by these departments on local development and the officials of these departments actually feel comfortable to remain accountable to central ministries rather than to the UZPs.

3.3. Overview of the Subjects Transferred to the Union Parishad

Union Parishad (UP), the lowest tier of the local government system of Bangladesh, for example, has been assigned with 39 different types of functions of which the principal ones include administration, maintenance of public discipline, delivery of public welfare services and the preparation and implementation of local economic and social development plan. But in practice, some small infrastructure development, birth and death registration and relief works are the most visible and noteworthy services provided by the UPs.

UP, in reality, is neither financially nor logistically well equipped to perform its assigned functions. Nor even it has functional autonomy to decide its own pattern of services. The UPs, despite being century old institutions and democratically elected bodies, working closest to the rural people, have little achievements in relation to serve rural people to whom they are responsible by the statute.

To improve the capacity of UP for service delivery, different government agencies have been made responsible to provide support to it. As many as 48 departments of the central government are represented at the district level. The following departments have offices in every Upazila: Health and Family Planning, Education, Social Welfare, Youth Development, Land, Ansar, Agricultural Extension, Livestock, Fisheries, Food, Cooperatives, Project Implementation, LGED, DPHE and BRDB. But again, supports of these agencies at the UP level are visible particularly in cases of implementation of rural infrastructure such as, roads, bridges, markets, some small scale irrigation schemes, water supply and sanitation.

To make UP service delivery more effective, the UP Act 2009 (Section 64) has the provision of deploying Upazila level officials (transferrable functions) and staff representing seven ministries/departments at the UP level which include: LGED, health, primary education, livestock and fisheries, social welfare and home ministry.

Table 3: Government Officials/Staffs who can be Deployed at the UP level as per the UP Act 2009

Ministry/Department	Officials/employees deployed at the Union Parishad
Local Government Division (LGED, DPHE)	Sub-Assistant Engineer, LGED, Tube-well mechanic, Public Health Engineering Department
Ministry of Agriculture (Agricultural Extension Department)	Sub-Assistant Agriculture Extension Officer
Ministry of Health and Family Planning	Health Inspector and Assistant Health Inspector, Family Welfare Inspector and Family Welfare Assistant
Ministry of Primary and Mass Education	Assistant Education Officer
Ministry of Fisheries and Livestock	Vet Field Assistant (Fisheries & Livestock), Vet Field Assistant (Artificial Breeding)
Ministry of Social Welfare	Union Social Worker
Home Ministry	Union Leader (Ansar-VDP)

Source: Union Parishad Act, 2009

In this service delivery context where the government line agencies are to support the UPs to deliver services, cooperation and coordination between the two is critical for efficient service delivery. The exact relationship between the field level units of various government departments and the local bodies is inadequately/vaguely defined. While they have defined functions, many are either partially or are inadequately communicated to the functionaries of line agencies.

On the other hand, UP officials also have inadequate understanding about their tasks and responsibilities and lack the required skills to provide services. Coordination between the UPs and the government agencies is also found to be weak. The existing laws also do not institute an effective coordinating authority on the UP. On the other hand, the loyalty and interest of the government officials at rural area is generally directed to the national departments for whom they work, not to the area where they work.

CHAPTER FOUR: CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNANCE: CONTRADICTIONS AND PARADOXES

4.1 Introduction

Local government in the country operates through a legal framework which broadly specifies the intent and guiding principles about its functioning. It is usually secondary legislations that operationalize functional assignments. In absence of any policy document on local government as such, the legal framework provided by the Constitution, national long term Five Year Plan, relevant Acts/Ordinances, Rules and Circulars reflect the policy positions on local government and its functional assignments.

The Constitution of Bangladesh has the provisions (articles 9, 11, 59 and 60) for establishing local government as an inseparable organ of administering state affairs to safeguard democratic values and to secure economic and social justice (Khan, 2011). Article 11 stresses the importance of representative character of local government and uphold the spirit of democracy and peoples' participation in administration. Article 59 and 60 emphasizes on the functional aspects of local government. Article 59 reads: i) "Local Government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law." ii) the elected bodies will perform administrative functions, maintenance of law and order and preparation and implementation of plans relating to public services and economic development. In order to enable the local government to undertake and perform the aforesaid functions Article 60 confers on local government the authority to impose taxes for local purposes, to prepare their budget and maintain their own funds based on local needs.

National long term Five Year Plans provide broad policy guidance and strategic directions for the sectors. Currently, the country runs under the guidance of the Sixth Five Year Plan (2011-15), which strongly advocates for greater decentralization in the form of devolution. The Plan has identified promoting devolution to local governments as one of the four pillars of development management and envisions a strong local government vested with adequate financial autonomy and accountability for results. The vision of the Plan is to have local governments delivering greater volume and quality of public services to their respective communities. It clearly states that the local governments will be strengthened and much of the responsibility for delivering basic services such as irrigation, district roads, education, health, population management, water and sanitation services will progressively be decentralized to local governments.

The Plan admits that the role of local government at all levels remains relatively small due to the concentration of resources and service delivery through line agencies accountable to central Government rather than locally elected councils. Local governments play a coordinating role and contribute to local development, but have few responsibilities for ongoing service delivery. It suggests the empowerment of local government to play a more prominent role in local development requires the transfer of authority for some services with commensurate resources.

As the strategy to achieve this vision the Plan stresses enhancing the legal framework for the functioning of local governments ensuring discretion of local governments to carry out their service responsibilities within national standards, devolution of administrative control over ensuring service provision in the areas which are assigned to respective local governments, providing for a greater discretionary financial base including robust local revenues and a transparent, a predictable system of intergovernmental fiscal transfers with, and provision of greater discretion in staffing to meet the administrative responsibilities at the local level. Finally, the Plan stresses that the implementation of the Plan is to take place in coordination with sector development strategies, particularly for social services.

4.2 Local Government Acts/Rules/Circulars

To operationalize the Constitutional mandates and the National Long Term Five Year Plan provisions various Acts/Rules/Circulars relating to Union Parishad (UP) and Upazila Parishad (UP) and Zilla Parishad (ZP) have been promulgated at various times which also provide policy impetus to local

government in Bangladesh. Since the focus of this study is on UZP and UP this section only reviews the legislations relating to these institutions.

4.2.1 Upazila Parishad (UZP) Acts and Circulars: Contradictions and Paradoxes

Currently, UZP runs under the guidance of Upazila Parishad Act 1998, which provides the legal framework for decentralization in the form of devolution at the Upazila level. Prior to this, Local Government (Thana Parishad and Thana Administration Reorganization) Ordinance 1982, for the first time, introduced a massive program of devolution of powers and decentralization of administration in the country. UZP Act 1998 is very close to the UZP Ordinance 1982 in terms of broad policy focus although the latter one has some additional provisions considering the changing realities with the pace of time.

Both the legislations advocated for transferring the services of central ministries/departments to the locally elected UZP. Schedule 3 of the UZP Act 1998 has transferred the services of ten ministries (12 departments) to the UZP including youth and sports, fisheries and livestock, health and family welfare, department of primary education, ministry of agriculture, social welfare etc. while the UZP Ordinance 1982 listed seventeen functions transferred to the Upazila Parishad. Both the legislations have backed this transfer by the devolution of financial authority and staff support from the central government and by a considerable increase in the resources made available to Upazila.

Both have mentioned that the officials, staff and their functions of the ministries will be transferred to the UZP. All officials of transferred departments will be placed at the disposal of UZP meaning the officials dealing with transferred subjects have been made accountable to the UZP with their services deputed to it. As per the section 34 of UZP Act 1998, UZP will also be authorized to appoint officers and staffs as it deem fit to assist it in discharge of its functions on such terms and conditions as may be prescribed by the rules, subject to the prior approval of the government. On the other hand, rule 24 of the Act requires that Annual Performance Report (APR) of the officials of the transferred departments will be written by the UZP while Annual Confidential Report (ACR) will be written by their departmental superiors.

Fourth schedule of the 1998 Act has authorized UZP to mobilize its own resources. Like the 1982 Ordinance, the 1998 Act specifies eight sources of income of UZP which include: hat-bazar, water body leasing, tax on trades and businesses, tax on street lighting, fees on fair, exhibition, fees for licenses and permits and other services, 1% earning of the registration fee for land transfer and 2% of the land development tax. Other sources of income of UZP include earning from the property vested on the parishad, government grant, donations from government or any other organization etc.

In addition, Schedule 2 of UZP Act 1998 clarifies the role of UZP in delivering the transferred services by saying that UZP will be responsible for the implementation of the programs of the transferred departments and to supervise and coordinate the activities of those departments. With regard to health service, it has further mentioned that UZP will be responsible for ensuring the delivery of public health and family planning services and in case of education responsibility of UZP will be to motivate and facilitate the expansion of education at the UZ level and to supervise and facilitate the concerned institutions for improving the quality of secondary education.

UZP Act 1998 has been amended twice. First amendment took place through the Upazila Parishad (Reintroduction of the Repealed Act and Amendment) Act, 2009, which revised Rule 24 of the UZP Act 1998 bringing slight changes in certain provisions. The major change brought about by this amendment was allowing the Members of Parliament (MPs) to get involved in the decision making process of UZP (Section 19 of the Rule 27). It states that MP of the concerned area will be made the adviser to the UZP and the Parishad will accept the advice of the MP. In addition to this, concerned MP will have to be kept informed about all kinds of correspondence of UZP with national government. This provision has been placed as section 25 of UZP Act 1998. It also required the Parishad to send a copy of its development

plan along with the recommendations of the local MP to the government before it goes for implementation (section 42, UZP Act 1998). Thus the 2009 UZP amendment Act created a huge scope for leverage of central politics in local level activities.

Furthermore, a Circular (dated 20 June 2010) issued by the Ministry of Local Government, Rural Development & Cooperatives (MoLGRD&C) has intensified the power of central politics further over the elected UZP, requiring that UZP has to send a copy of its approved budget to the government along with the local MP and the Deputy Commissioner (DC). Another Circular issued in 2010 (dated 19 September, 2010) states that officials of transferred departments will submit all the official files for approval to the UZ Chairman through UNO.

On the other hand, though the Act advocated for transferring services to the UZP with increased authority, but in fact, with regard to the management of the deputed officials UZP has been granted very limited authority. A Circular issued on 4th May 2009, by the MoLGRD&C, states that Upazila Chairman can propose measures for control, supervision, withdrawal, transfer, disciplinary action against an official to the concerned authority. The circular also states that the Chair will have the authority to take disciplinary action against any official or staff of the UZP other than the officials deputed by the government. This means that Upazila Chairman will not have any managerial/disciplinary control on the deputed officials.

Financial power of UZP has also been delimited through the issuance of a Circular issued on 4th May 2009 requiring that UZ fund will be administered jointly by the UNO and the UZ Chairman. Moreover, this particular circular states that no additional expenditure can be made other than the amount earmarked and allocated for each sector in the budget. However, up to 10 percent expenditure readjustment between sectors can be made by the parishad on condition that the additional fund is not spent on charged/recurring areas (charged areas include payment of salary, expenditure incurred for implementing verdict of the higher courts etc.). Thus it is evident that specific central guidelines are in place as to where this additional money can be spent indicating tight central control.

UZP Act 1998 has been amended again in 2011. The UZP Act 2011 (section 22) required to use the word “transferred” in place of “transferable” as used in the UZP Act 1998 and added 5 more ministries/departments under the fold of transferred subjects. In this spell, along with others, Directorate of secondary and higher education has been transferred to the UZP. Here it is worth mentioning that a Circular issued by the MoLGRD&C on 6 January, 2013 clarifying the duties and responsibilities of the additional 5 transferred departments state that the matters related to internal administration,

- human resource management and control,
- ACR writing,
- allocation of duties

will be retained by departmental heads at the central level. Thus in case of UZP, there remain some contradictions between the Acts and the Circulars issued from time to time. Although the Act requires devolution of authority to the UZP, but the contents of Circulars, which are considered as functional legislations, impose central control over the UZP.

4.2.2 UP Acts and Circulars: Contradictions and Paradoxes

Currently, the Local Government (Union Parishad) Act 2009 provides the legal framework for the functioning of UPs, which are further regulated and controlled by the subsequent orders and Circulars issued by the Local Government Division (LGD) of the Ministry of Local Government, Rural Development & Cooperatives (MoLGRD&C). Prior to the promulgation of UP Act 2009, various Acts and Ordinances known as the Local Government Ordinance 1976, 1983 and Local Government (UP) Amendment Act

1993 used to guide the functions of UP, which only entrusted UP with the responsibility for around 40 functions including public welfare, maintenance of law and order, revenue collection, development and adjudication without transferring the required authority. The UP Act 2009 was a big advancement towards devolution of powers and decentralization of public services to the local level.

The UP Act 2009 has conferred the UP with the authorities for local economic and social development. To this effect, the Act confers the UPs with broadly defined powers to handle 'local affairs' and meet basic needs. Conforming to the Article 59 (2) of the Constitution the main functions of the Parishad as per Section 47 of the Act include: i) administration and establishment matter; ii) maintenance of public discipline iii) delivery of public welfare services; and iv) preparation and implementation of local economic and social development plan. The second schedule of the Act has made UP responsible for 39 different functions including primary and mass education and implementation of activities related to health and family planning .

More importantly, Schedule 3 of the Act states that the functions of seven line ministries could be transferred (transferable) to UP. The transferred ministries are: Local Government Division, Ministry of Agriculture, Ministry of Health and Family Planning, Ministry of Primary and Mass Education, Ministry of Fisheries and Livestock, Ministry of Social Welfare, and Home Ministry. The Act also requires transferring the officials and staff of these departments/ministries providing service to the UP. For example, in case of education, Assistant Education Officer, manpower of Primary Education Department and their functions have been transferred. With regard to health and family planning services, Health Inspector and Assistant Health Inspector, Family Welfare Inspector and Family Welfare Assistant and manpower of Health and family planning Departments and their functions will be transferred. Section 63 (1) of the Act further suggests that these transferred officials and staff will perform their duties under the management of UP. On the other hand, the same section (2) also states that if UP deems fit to undertake disciplinary action against any official transferred to the UP, it will conduct enquiry and send report to the concerned agencies. No UP visited has ever done it, did not even lodge any formal complaint in case of absence, Some UP representatives were not even aware of this provision in detail, no attempt made by the UZP to communicate this important information.

Despite these provisions, the Act has not made clear what particular role UP will play in implementing health and education service related functions. Section 45 of the Act requires to have 13 Standing Committees on various services and activities in order to ensure efficient accomplishment of functions. One of the 13 standing committees will be on education, health and family planning. These Committees are composed of 5-7 members and will have two monthly meeting to review the activities of the concerned subjects. The functions of the Standing Committees shall be regulated through by laws, but they shall be determined at the general meeting of the Parishad, until the by-laws are prepared.

In order to coordinate, plan and implement all development activities, to review the progress of all departments, review the service delivery conditions, giving recommendations and supports and facilities for services UDCC has been formed in 2011 through circular which has been revised again in 2013. A Circular issued by the MoLGRD&C on 14 March 2013 has revised the composition of Union Development Coordination Committee (UDCC) incorporating all the line ministry officials and staff transferred to the UP level. The Committee will meet at least once in two months.

Conforming to the Constitutional provision UP has been bestowed with some power to generate revenue. Section 65 of The Act has authorized UP to collect tax and charge fees, rates for its services. Fourth Schedule details the source of tax mainly includes holding tax, tax on profession, trades, fees for issuance of licenses, permits, hat-bazar leasing. Besides UP will have its fund composed of 1% land transfer tax within the Union boundaries, government grants, and grants from other sources. There are quite strict guidelines for the use of the Block Grant which should be allocated to Agriculture and Irrigation (15-30% of the funds), Transport and Communications (25-60% for the funds), Water Supply

and Sanitary Latrines (10-15% of the funds) and Education (10-25% of the funds).

Thus all the legal documents including the Constitution, national long term Five Year Plan and the Acts reflect government's policy on local government favouring devolution. In some provisions the Acts have pronounced very strong and clear commitment to authorize local government to plan and implement the programs of the transferred subjects along with managing the officials of the respective departments. At the same time, there also remain many gaps and contradictions. For instance, although UZP Act clearly mentions that the parishad will be responsible for implementation of the programs of the transferred departments and to supervise and coordinate their activities but in case of UP Act 2009, there is no clear mention about what role the parishad will play with regard to delivering the transferred services .

On the other hand, both the Acts state that all the officials and staff of transferred departments will be placed at the disposal of the parishads but no provision has been made to authorize the parishads to recruit, take disciplinary action or to make them accountable to the local body. Although UZP Ordinance 1982 emphasized on making the civil servants providing services to the local level accountable to the UZP but UZP Act 1998 does not have any such provision. Rather, the UZP has been conferred with mere coordinating and supervisory authority not even monitoring role. Contradictions are also there in the legislations. When the UZP Act 1998 suggested the transfer government departments to the UZP, places the officials and all activities related to the transferred services at the disposal of the parishad, a circular issued in 2013 states that matters related to human resource management will be retained by the departmental heads at the central level. Besides, various legislations reflect government's deliberate intention of maintaining central control over the UZP. Making MPs Adviser to the parishad by the UZP Act 2009 (Amendment) and making MPs and UNOs involved in various aspects of the decision making process through issuing various Circulars are the manifestations of such intentions.

CHAPTER FIVE: FINDINGS FROM THE FIELD AND ANALYSIS

5.1 Introduction

The above discussion demonstrates that the Government of Bangladesh does have a stated vision for a decentralized local government and also for localized service delivery. Legal documents with many gaps and contradictions, pledge for establishing a devolved administrative structure and transferring a good number of services along with health and education to the UZP and UP. This sub section presents the stakeholder perceptions about the current role of local government in the delivery of health and education services at length. It is to be noted that these case studies are based on the information collected from the field and these will help us understand the de jure and de facto functional responsibilities of LGIs and the deconcentrated structures with regard to health and education service delivery. It is to be mentioned here that similar scenario could be found in case of 15 other transferred service provisions. It is because of the time constraints that we have not dealt with all the transferred functions. However, the Case Studies below are indicative and focus particularly on identifying the existing constraints of transferred functions (from the central to the local governments) within the existing legal, institutional and governance structure. Besides, these cases briefly explore the opportunities for these transferred functions and their implications on local service delivery.

5.2 Constraints, Opportunities and Implications of Transferred Functions to Upazila and Union Parishads: Case Study of the Education Service

5.2.1 Role of LGIs in Education Service Delivery

Despite being transferred to the UZP, the parishad does not have any direct involvement in delivering education service other than providing small logistic supports and paying visits to the facilities. At the Upazila level, two committees are there through which involvement of UZP in service delivery can be 'felt': i) UZ committee on the service concerned, and ii) Service related Committee at UZP.

- i) There is a provision of forming Upazila Committees on various subjects including education at the UZ level, to act as the bridge between Upazila administration and UZP. It is a 13 member committee headed by the UZ Chairman with Upazila Education Officer as the member secretary and UNO, one representative of the Member of Parliament are the members along with others. Committees are supposed to have monthly meeting to discuss about the problems and issues related to service delivery. If the discussion reveals any scarcity of resources, UZP tries to fill up the gap with its fund if the amount of the required resource is small. But if the amount is big, resolutions are placed before the UZP coordination meeting later through which it is communicated upwards.
- ii) Service related Committees at UZP (formerly known as the Standing Committees) formed as per the Upazila Parishad (amendment) Act 2011 in order to facilitate the delivery of services at the local level. In general, it is a 5-7 member Committee chaired by a UZP Vice Chairman, with Upazila Education Officer as the member secretary and two UP Chairman and UZ Engineer as the members. Formation of the UZP Committees is also not regular. There is no TOR for the Standing Committee. Agenda for the discussion is mostly random, often depends on the contemporary problems of the area.

Thus neither of the two Upazila level Committees through which UZP may formally get involved in service delivery is truly effective.

Union Parishad (UP), on the other hand, mainly performs supervisory, motivational and supportive functions in delivering both education service. Besides this, in general, UP provides limited logistic supports to the facilities including furniture, latrine, tubewell and sometimes builds or repairs approach road to the facilities and communicates local demands to the Upazila coordination meeting for action.

In case of education, ward members act as the members of School Management Committee (SMC),⁵ which handles the school budget received from the ministry and is supposed to solve the problems of schools locally. On an average a school can implement a development project costing up to Tk. 50,000. Other than being a part of SMC, UP is mostly engaged in social mobilization through organizing education fair, mothers' meeting once a month, concern of which is mainly awareness building regarding health and education among the rural mothers. During the book distribution in schools at the beginning of the year, UP Chair remains present. Sometimes UP provides support to the poor students from VGD fund.

5.2.2 Administrative Authority of LGIs with Regard to Service Delivery

As per UZP Act 1998 and UP Act 2009, all the issues related to health and education services (along with other transferred services) and also the service providers are supposed to be managed by these LGIs. But the practice is too distant from the policy. Neither UP nor UZP recruits any education staff. All the frontline service providers are recruited by the concerned ministries. Even the UP/UZP does not have any authority to make any readjustment in the staffing pattern of schools even in case of emergencies.

Neither UP nor UZP does play any role with regard to the supplies for service delivery. Supplies of materials (teaching and learning materials and other supplies such as chalk and stationary) for primary schools are decided by the Ministry. In special circumstances concerned UZ Committee places its request for supplies to the concerned departments. In response to some critical needs UZP provide some small logistic support (fans, furniture, cycle stand for the staff) considering the lengthy process involved to obtain them from the ministry.

All the infrastructural facilities for education service are owned by the government although land is donated for both school and CCs by the community. UZP and UP play role in managing suitable land for the facilities. On the other hand, local bodies do not have any responsibility for paying salary to the service delivery staff. Concerned ministries pay the wages of the teachers working at the local level.

With regard to maintenance and repair also, line ministries have the exclusive control. UZGP and ADP funds are given to the UZP for small schemes for infrastructural extension works but for maintenance there is no specific fund. For maintenance cost UZ needs to rely on the central govt. From ADP fund UZP is allowed to spend 10-15% of the budget for education expenditure but most of the local budgets are spent for road construction. Although neither UZP nor UP does have any budget earmarked for maintenance and repair but in special circumstances both UZP and UP do some small repair and maintenance from its development budget.

5.2.3 Accountability and Monitoring of the Service Providers

The frontline education service providers are accountable to their departmental superior officers not to the UZP or UP. As a means of ensuring accountability of service providers at the local level, although there is a legal (UZP Act 1998) provision of taking Annual Performance Report (APR) from the UZP Chairman by the departmental officials but it is not being enforced everywhere. It exists in some cases with limited applicability to the departmental heads only. But in general, APR does not have any significance in determining the official's future posting or promotion and it is not written objectively by the UZP Chairman. Personal relation between the UZ Chairman and the official often influences the APR of the concerned official. "It seems that government is not sincere enough for making APR effective. The UZP received APR form in 2012 and it was duly filled in by the parishad and sent to the DC office but since then there is no follow up of the system. As a result, it is not being practiced any more" informed a UZP Chairman.

5. SMC is a 12 member committee, which include 2 teachers from school, concerned UP Chair and the ward member and the remaining members are the respected people of the community. Without the signature of SMC the AEO can't issue the salary of the Head teacher of a school.

On the other hand, neither UZP nor UP has any formal authority to monitor the functions of the officials of the education department although UZP Act 1998 requires that the officials of all the transferred departments will function under the management of UZP. UZP Act 1998 has conferred UZP the authority to supervise the facilities through which irregularities are detected and informed upward but with little impact. On the other hand, the UZ education committees are also largely ineffective to monitor the service performance due to the reasons mentioned before.

Services are informally monitored by the local representatives. They visit schools once a month, check the registrar book, identifies the dropouts/absenteeism of teachers. Teachers' absenteeism is discussed in the monthly school meeting and explanations are sought. Thus teachers are made accountable. But the visit by the local representatives get difficult to school located in hard to reach areas. As a result, in geographically disadvantaged areas where road communication is poor, service delivery takes worse shape. Poor communication often discourages the UP functionaries to supervise the facilities as they are not provided with any logistic support. On the other hand, availability of the line agency staff in these areas is also quite limited. In this way, absence of any kind of supervision/monitoring over the functioning of the facilities and the functionaries either by the UP or by the central administration makes services worse.

5.2.4 Fiscal Authority of UZP and UP

At present, it is the responsibility of the line ministries to fund education service delivery at the local level. Only a small financial contribution is made by the UZP from its own budget mainly for small logistic support. UZP budget contains funds from central government and its own sources. From the central government, funds flowing to the UZP include mainly ADP and UZGP or other sources. UZP has a poor tax base and relies almost solely on central government fund. The amount of ADP allocation from the central government to the UZP depends on the size of population and area. ADP block grant has a guideline for spending about 10-15 percent of the total fund for health and education but often this expenditure varies from place to place and more importantly, expenditures are mostly made for infrastructure development. For example, present study found that in 2011-12, Digholia UZP spent 9.7% of its development budget on education. On the other hand, in Bancharampur UZP spent 18 percent on education of their budget in 2012-13.

Budgetary decision making power of UZP is also quite limited. Sectoral readjustment is hardly done. All the UZ level Committees having concern for finance are headed by the UNOs and the Members of Parliament are legally the advisers to the UZP.

UP budget is composed of 3 sources: i) government grant (Basic Block grant) ii) local sources iii) Others (LGSP block grant etc.). UP does not have any authority to decide local priority in spending the government grant. Broadly, UP development budget is classified into four major heads: education, health, agriculture and infrastructure. Budgetary allocation for these subsectors follows the guidelines issued by the ministry. UP cannot switch fund from one subsector to another. In case of funds raised from own sources (holding tax, trade license fees) UP has the freedom to decide its spending but its size is too small. From LGSP fund there is a specific guideline for spending health (10-20%) and education services (7-15%). In practice, the amount spent for these services is far low. The study found that during 2012-13 education expenditure of Digholia UP was only 1 percent of the total budget. On the other hand, in 2010-11, Paddabila UP spent 4.3 percent of its development budget for education. UP expenditure for services mostly involve spending for small infrastructure and logistic support like earth filling in the approach road to school, providing bench, chair, tube well distribution in CC/school.

Thus the stakeholder perception about the role of local government in the delivery of education service demonstrates a big gap between the policy and practice. Despite the policy of devolution of power to the local level, neither administrative nor financial authority enjoyed by the LGIs is adequate for true devolution. LGIs do not have any managerial control on staff, supplies, maintenance, and infrastructure

development. It does not have any authority to monitor performance of the front line service providers and to make the providers accountable them. The role that LGs play with regard to the delivery of services is mere facilitative.

Now the question is: what are the usual barriers to effective service provision by UP and UZP? Apart from the inadequate transfer of administrative and financial authority to the LGs to provide services, the stakeholders also identified some pertinent issues that create obstacles for LGs to be the effective players in service delivery. These include: capacity deficits of LGs that include human and financial resource shortage, interference of local MP in almost every aspect of decision making, lack of authority to monitor the performance of frontline providers and making them accountable, low remuneration and lack of transport or logistic support to the local government functionaries that often discourage them to be active in supervising the facilities.

5.3 Education Policy and Decentralization

Education service is targeted to make universal, accessible to all. Various policy strategies have been pronounced to make education accessible to all with a focus on decentralized service delivery. This section reviews the education policy documents and presents the perceptions of stakeholders regarding the role of local government in delivering education service.

Various policy documents have been evolved in the education sector. Vision 2021 of the country is one of such documents, the key educational goal of which is to ensure overall improvement of quality and equity in education. Empowering local government as the engine for delivering services is also a target of education sector. The vision states that a key item relevant for educational development is governance and management, particularly, the idea that local government bodies would be at the centre of planning and management of development activities. With this end, local government authorities at the district and upazila levels would be empowered to become self-reliant and autonomous.

Like the health sector, education sector also receives policy guidelines from the National long term Five Year Plans. The Sixth Five Year Plan (2011-2015) has proposed some reform measures in education sector. The Plan, in order to bring about qualitative improvement in education, has pledged to initiate decentralization of primary and secondary education management structure.

Centralization of education administration has been termed as one of the three most critical governance constraints (while the other two are: weak human resource management and inadequate coordination) in education sector. Ministry of Education (MoE) is aiming at moving towards a devolved system of governance within the current administrative structure. In this system the central government will be responsible for formulating policies, financing, setting quality standards, monitoring and evaluation etc., while lower levels of government will be responsible for administering the system. MoE is empowering officials at the district and Upazila levels to take greater responsibility in monitoring school performance and to ensure public disclosure of information related to school quality. Thus the Plan actually advocates for decentralization in the form of delegation and deconcentration.

Reform also focuses on total decentralization of primary education management with a stronger role for the school managing committees and a greater involvement of the community in school management. At the secondary level, power, responsibility and authority will be given to the division, district and Upazila levels. This policy will be supported by strengthening managing bodies of these institutions and ensuring the timely release of allocated budgetary resources.

The first National Education Policy was formulated in 2000 which was revised in 2010. Education policy 2010 like the previous one stated about overall decentralization of primary education and in this regard the policy stressed importance on further empowering School Management Committee (SMC) to make it

more effective. With regard to secondary education the 2010 policy advocates for devolution of power, responsibility and authority of secondary educational administration at division, district and Upazila levels. Local government has been given authority to jointly supervise secondary education institutions along with the guardians and other local persons interested in education. Thus the policy pledges for direct participation of local government at the secondary education level though with supervisory capacity but in case of primary education, indirect participation of local government through SMC has been stated. It is worth mentioning here that in 1978 an interim education policy was formulated which made local government responsible for both primary and secondary education. Formation of a Union education committee headed by the UP Chairman was proposed. Besides, the policy stressed importance on decentralizing primary education system through transferring the responsibility for implementation of education programs to an autonomous district education authority represented by the teachers at different levels and local people.

In addition to various policy documents, various Acts also provide legal framework for the functioning of the education sector. Amongst all, the Primary Schools (Taking Over) Act 1973, the Primary Education Act 1981 and National Education Law 2013 are worth noting here. The Primary Schools Act 1974 provided for free primary education all over the country and declared that the teachers of primary schools would become the civil servants. The Act placed upon the government the responsibility for bringing the primary school system under a centralized administration from the previous district based management. The Primary Education Act 1981 made provisions for the establishment of Local Education Authorities at the subdivisions (present districts). The Act also provided for school based management and the formation of the school management committee. The Act of 1981, however, was not implemented; it was promulgated as a decree by the then military ruler, but was not followed up with necessary administrative steps for implementation.

In recent times National education Law 2013 has been formulated which requires to establish a link between the de-concentrated educational administration and the local government institutions. The Act stipulates that the annual and five year plans of UP and UZP should mention the annual and integrated development plans and the financing of every educational institution at the respective level. The Act also requires that UZ educational administration will have to report its activities on three monthly basis to the UZ education committee. Based on the review of progress of activities UZ education committee will provide necessary directives to the local administration. Thus the Act empowers UZ education committee headed by UZP Chairman over UZ administration.

Secondary education in Bangladesh is regulated by the Bengal Education Code of 1930, with subsequent amendments and modernization (Ahmed et.al 2005).⁶ This law continues to be the overall legal framework for secondary education. The East Pakistan Intermediate and Secondary Education Ordinance of 1961 spelt out the law regarding establishment of managing committees for secondary schools. Based on this ordinance, regulations were framed at various times on such matters as student fees, admission and registration, and terms of teachers' service.

At the primary education level, there is a Macro Plan known as Primary Education Development Program (PEDP), which is currently in its third phase. Emphasizing on decentralization with a focus on deconcentration and delegation the Plan notes, "Fundamental to the process of quality improvement in primary education is the principle of decentralization and devolution of authority and responsibility to middle and local levels of the education system. A distinctive thrust of the PEDP II is to increase authority and accountability, and enhance resources at school level to achieve quality improvement in learning with equitable access. In line with this approach, key outreach support mechanisms will be

6. Ahmed, Manzoor, Ali Shakhawat, K. and Khan Kishwar K. 2005, Bangladesh: Education Sector Mapping, Institute of Education and Development, BRAC University. Report prepared for Canadian International Development Agency.

developed at the Upazila level... additional functions will be assigned to schools and upazilas, which will be strengthened in terms of infrastructure and staff" (PEDP II Final Plan, October 2002, pp. 48-49.)

5.3.1 Inconsistencies between Education and Local Government Sector Policies

The review of education policy documents demonstrate sheer enthusiasm for decentralizing the management of education services but emphasis has largely been given on deconcentration and delegation. Recent policy documents– the education policy 2010 and the Education law 2013 have mentioned limited involvement of local government in the delivery of education service. The Education policy has conferred supervisory power on local government with regard to secondary education and the Education Law 2013 has empowered the UZ education committee to oversee the functions of UZ education administration. Thus the education policy contradicts with the focus and concern of the policy of local government advocating for devolution– transfer of authority for the overall management of local level education service to the local bodies. The policy document has nowhere mentioned any such promise.

5.3.2 Local Stakeholder's Perception on Education Service

Stakeholders interviewed are of the opinion that education service at the local level is solely delivered by the Upazila education administration and UZP does not play any meaningful role in this process. UP supervises the attendance of teachers/students and create social awareness for education. At the UZP, education committees are in place but mostly, they are the “sleeping committees” as termed by a ministry official, as they lack the required authority to have any impact on service. Moreover, UZP education committee mostly deals with infrastructural development than governance/service delivery. In fact, service delivery is considered by the UZP officials as “the concern of education department rather than the parishad”–opined an education official.

Like health, UZP does not have any responsibility of the education staff in terms of their recruitment or salary payment, performance monitoring as all are done by the Ministry itself. Informal monitoring is done by SMC at the Union level. But in reality, local level monitoring is hardly effective in bringing about any visible improvement in service delivery.

UZP and UP do have some funds earmarked for education and health services from which they do small maintenance works. In addition, small maintenance and repair works are done by SMC. “Although UZP is supposed to spend 10-15% from its ADP budget but UZPs often do not spend their budgets for education. Due to a lack of formal guidance/instruction spending for education by the UZP is quiet nonexistent” informed an official.

When asked what could be the optimal role played by the LGIs in delivering education service, the officials were found to be confused. One official replied the social mobilization role of UP could be strengthened as “Public representatives are the most appropriate persons for such kind of job”. Due to the social mobilization role of the local government representatives community involvement has been improved particularly, donations to schools from local people have increased. “Upazila education committee can be given a small fund (around Tk.50,000) for social mobilization” suggested the official.

Officials were mostly found to be satisfied with the current involvement of local government in education service delivery. Many officials particularly, involved with secondary education, were even found to be unaware of the governmental decision regarding the transfer of this service to the UZP. Officials informed that no education related files move to the UZ Chairman for approval through the UNO. Upazila education administration is the final approval authority regarding education service at the local level.

Officials are also not in favour of conferring the ultimate authority to the UZP for managing service delivery with its current capacity. “LGIs are underfed, under supported and malnourished, which has made it unsuitable for service delivery” –opined an official. Education service can be transferred to the UZP only after transferring increased fiscal and administrative authority. “Currently, UZP is not working as a full-

fledged local government institution and not actually capacitated to provide service. MP has been assigned as the Adviser to the Parishad and the Committees are not duly formed and functioning in most of the UZs. In this situation, transfer of education service to the UZP is an impractical move” –opined an official.

The foregoing discussion reveals a clear picture about the role of local government in delivering health and education services both in paper and in reality. The legal documents demonstrate a policy pledge of government (through various legal documents) for devolution by transferring a wide range of services including health and education to the UZP and UP. But the stakeholder perceptions inform about a wide gap between the policy and practice. The policy of transferring health and education services to the UZP is left mostly unimplemented.

Currently, UPs play mainly motivational and supervisory role in delivering services but supervision becomes weak in hard to reach areas leaving services worse. UZP's role is limited to the formation of upazila committees which are hardly effective in functional terms. Besides, the local bodies, in reality, enjoy very limited administrative and financial authority with regard to service delivery. Particularly, issues related to service delivery like staff recruitment, salary, managing supplies, maintenance and repair, performance monitoring etc. are controlled by the concerned ministry. LGIs do not play any meaningful role in any of these aspects of service delivery. Thus it appears that devolution in the form of transferring government departments and their services is nothing more than rhetoric.

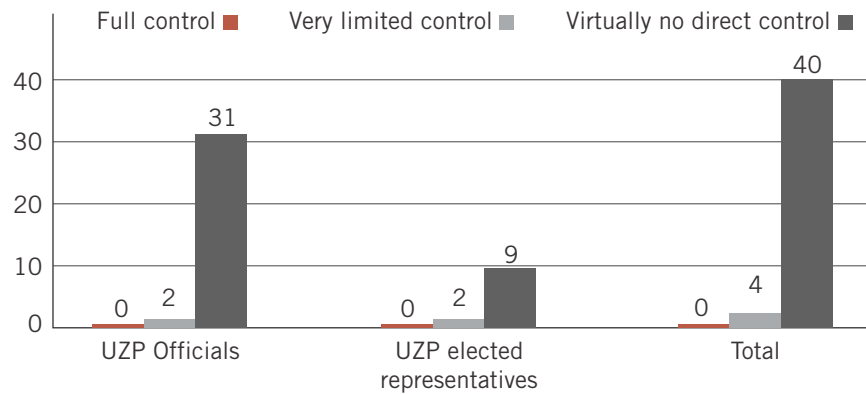
In fact, the prevailing Acts guiding local government functioning have many gaps and contradictions. For instance, on the one hand, the UZP Act 1998 requires for devolution through transferring the responsibility for services to the UZP while on the other hand, the Circulars issued from time to time have delimited the authority of the parishad by imposing central control. Through the legislations per se, ample scope for leverage of central politics and bureaucracy in local level decision making has been created making local bodies weak. Besides, in some cases, the law remains vague causing the transfer ineffective.

A significant contradiction between the sectoral policies and the policy of local government has also been noticed, which negatively contributes to the non-implementation of the policy of transfer of services to the LGIs. Both the education and health policies emphasize on decentralization in the form of deconcentration while local government policy advocates for devolution. Furthermore, sectoral policies remain quite vague about the involvement of local government in service delivery or allow very limited involvement. As a result, sectoral officials and staff, both health and education, were found to be unsure about the optimal role that local government can play in service delivery. Local governance stakeholders were found confident about the capacity of local government to perform additional responsibilities related to service delivery. On the other hand, the civil society members and the community strongly advocated for conferring the UP with the authority to monitor the performance of sector services.

Transferred Functions to Upazila Parishad: General Findings from the Field

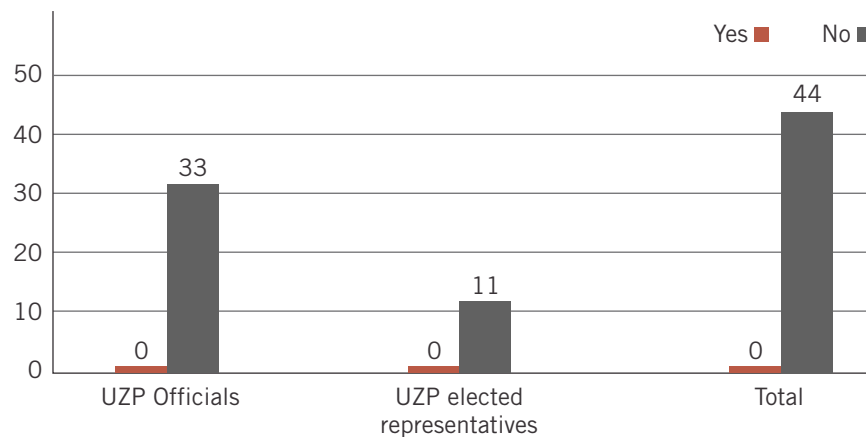
- Upazila administration and Upazila parishad talk at each other, rather than talking to each other. Legal provisions are there, but circulars are vague and contradictory. The exact relationship between the field level units of various government departments and the local bodies has been inadequately/vaguely defined. Even where functions have been defined, many are partially or inadequately communicated to the functionaries of line agencies or people's representatives. Political commitment to devolution is low. Whatever is added in Upazila manual with regard to the transfer of functional responsibilities, the Upazila elected representatives actually have limited power. Every project comes from the central ministry with a standing order where the department officials are to follow well laid down departmental procedures. It is to be noted that although central government manual suggests transfer of functions, but in reality transfer has not actually taken place. Under the current level of transfer, it is absurd on the part of the elected representatives to hold central government's deputed officials or the departments accountable to them.

Figure 1: Q: How much control the Upazila parishad has over the transferred departments? Total respondents 44 (33 UZP officials and 11 UZP elected representatives)



- The most deputed officials of the different central ministries openly stated that “they discharge their responsibilities as before, receive funds from their respective ministries as before, remain accountable and report to their district level offices as they used to. They never felt that addition a section in the Upazila manual on transferring subjects or sending Circulars on this by the central ministry could change the way they used to work.” Following responses were registered when posed the as to whether the UZP line departments started to work differently since central government's decision to transfer departmental functions to the Upazila Parishad.

Figure 2: Q: Has the de-concentrated line departments based at your Upazila started to work differently after their functions were transferred to UZP by dint of a legal provision? Total respondents 44 (33 UZP officials and 11 UZP elected representatives).

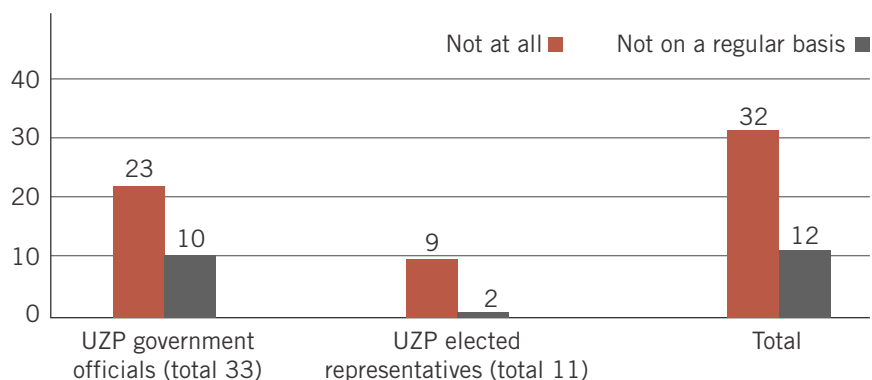


The officials pointed out that as there is a clear vagueness in the legal provisions concerning transfer of subjects, they preferred to work under the umbrella of their respective ministries. Most officials informed that until and unless they receive clear directives from their parent ministries or from the Cabinet Division relating to report directly to the elected representatives of the Upazila or to remain accountable to them. An Upazila Nirbahi Officer stated that “I believe the central government is fearful of the local government for rampant misappropriation or resources and that's why central government does not want to strengthen the local government in true sense”. As mentioned earlier, there is a lack of strong political commitment, central bureaucracy plays the dominant role and central bureaucracy wants to preserve the interests and dominance of their fellow officials based in the field. The Upazila level officials maintain

good terms with Upazila elected representatives but they informed that they did not make any attempt to make the provision of the transfer of functional responsibilities to UZP effective. It can be said that the prevailing bureaucratic culture and elitist mindset of bureaucrats discourage them to cooperate with local elected representatives for the transfer of functions to the Upazila and Union Parishads in true sense. The Nirbahi Officer of a Upazila informed that “almost cent percent officers are against the transfer of their jobs, salaries to UZP. Given the bitter past experience of 1986, no matter how good the relationship is with representatives, the officers are generally against such transfers”.

- There is a general unawareness of the representatives about the details of transferred line agency functions. On the other hand, elected officials also do not have an adequate understanding about their tasks and responsibilities; they also lack the required skills to exercise their rights and prerogatives in the absence of adequate training. Transfer of functions has not taken place at all, there is a huge gap between rules and ground realities.
- Local government functionaries consider the line agency officials as their opponents rather than coworkers. In some cases, local representatives become over enthusiastic about exercising power over the officials. Similarly, the departmental officials also sometimes tend to undermine the local government functionaries. This unhealthy, unsupportive relationship between the local government functionaries and the line agency officials create obstacle for smooth transfer of services to the local level.
- In most Upazilas visited, the UZP Committees were either not formed, in case they were formed, the UZP Committees were non-functional. The UZP committee meetings were not held at all in 2 out of the 4 Upazilas visited, only a few meetings were held in 2 Upazilas. The deputed officials of the different departments are supposed to convene the UZP Committee meetings and act as the member secretary of such committees. The elected representatives indicated a general non-cooperation of officials to convene such meetings. However, it was also found out that the elected representatives (UZP Vice-Chairs) were not very keen to hold such meetings either. It seemed that they were not fully aware of the fact that proper functioning of these Committees help them establish more control over activities of different departments at the Upazila level.

Figure 3: Q: Do the UZP Committee meetings take place on a regular basis? Total respondents 44 (33 UZP officials and 11 UZP elected representatives)

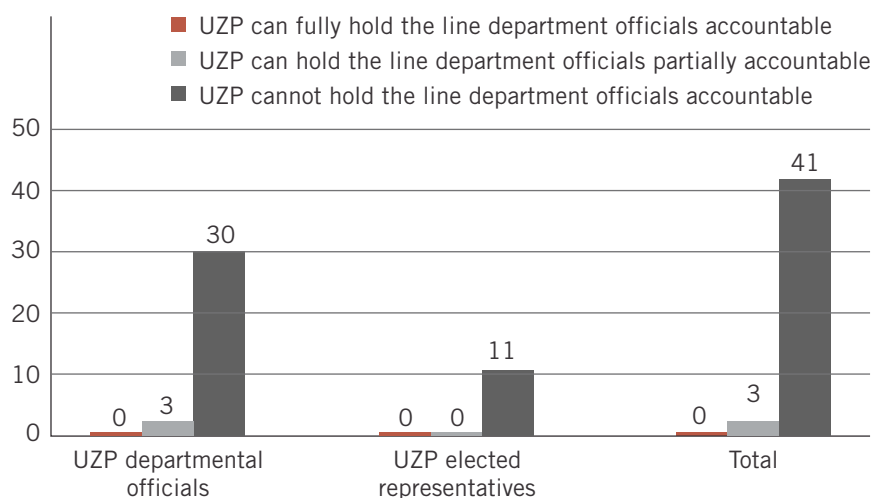


An Upazila Nirbahi Officer stated that “none of the Upazila Chairman and Vice-Chairmen are aware of their authority as they never read the Upazila manual. Otherwise they would have taken the advantage of the UZP Committees to exercise their power over the affairs of the Upazila”, he also added that “UP Chairmen do not want to attend UZP committee meetings. They do not want UZP Committees to be active as they fear that recommendations of these committees may override their own personal

recommendations”. Besides, UZP elected representatives tend to co-opt his/her own people in the committee based only on political considerations. UZP Committee meetings are seldom held. In case where the meetings take place, the elected representatives, in extreme cases, do not share a copy of the resolutions made in such meetings.

- Officials think that the elected representatives are politically biased. Besides, they do not have the required educational qualification and training to make rational and equitable decisions. Therefore, transfer of functional responsibilities to the UZPs would contribute to inefficiency, wastage and misappropriation of resources.
- There is no mechanism in place for the UZPs to supervise or monitor the functions of the government departments based in Upazilas. The legal provision is weak and vague on this front. The UZPs cannot hold the officials accountable in the absence of the clear legal provisions.

Figure 4: Q: How accountable the transferred line departments and their officials are to the UZPs under the existing arrangements? Total respondents 44 (33 UZP officials and 11 UZP elected representatives)



The officials informed that they prefer to follow their departmental superior's instructions, rather than the instructions from the elected representatives of UZP. The officials do not share such information as financial inflow and how the money is going to be spent (Only mechanism in place is sharing departmental information in the monthly meetings, but this is done in haste). No departmental files are sent to the Upazila Parishad Chairs or Vice Chairs (in extreme cases, even the meeting resolutions are not shared with the UZPs). However, exception can happen only in case the UNO on his personal initiative wants to share files or information. There is no clear directive on the matter from the central ministries. Upazila Chairman must have access to all important/required information of Upazila administration.

However, a Vice-Chair suggested that “less than 2% files of the departments are actually sent UZPs, and this is only done in case there is a dire need for the departments to involve the local leaders”. For instance, the elected representatives are never consulted by the Upazila social welfare office at the time of loan disbursement among the local people. But when the borrowers fail to repay the loans, files are then sent to the UZP elected representatives for their interventions to help the departments recover the disbursed loans. Elected representatives of Upazila generally do not get copies of the letters/Circulars that are sent to Upazila's deconcentrated departments from their respective ministries. Therefore, they don't even have idea about the actual amount allocated to the Upazila, details about their projects or their plans. For example, Upazila Chairman should be involved in projects such as “Ekti bari ekti khamar” but they are not, rather the UNO plays the dominant role as far as this project is concerned. No project of BRDB involves Upazila Chairman but they could play a major positive role such as loan

recovery using their local influence.

- MPs do not seem to support the idea of transfer of functions to the UZPs on grounds that they do not want their political competitors to gain grounds and dominate over the central government's departments (this happens in case MPs and Chairs are from the same political party) and when the MPs and UZP Chairs are from two rival political parties, MPs tend to suppress them in every possible ways they can. The legal provision to appoint MPs as the advisers to the UZP has done serious damage to the process of transfer of authority. A UZP Chair informed that “the members of the parliament (MPs) in some cases feel intimidated by the concept of decentralization”. Ostensibly, they seem to support the idea of devolution but a UZP Chair opined that “as decentralized or empowered local government bodies might curb MP's power to an extent, therefore, they want to remain in full control of the local development and often they prefer to work through the local administration”. In all the Upazila visited, it was found out that UNOs were more inclined to MPs than to elected officials of the UZPs. Upazila Nirbahi Officers (UNOs) tend to keep good relationship with MPs and at times at the cost of their relationship with the UZP functionaries. UNOs often prefer to take directives from local MPs considering their relative political strength compared to Upazila Chairman. This increases frustration among local representatives and hampers their morale as local leaders. The fund of Upazila is expected to jointly managed by the Upazila Parishad Chairman and Upazila Nirbahi Officer (UNO) but in practice the UNO in consultation with local MP, enjoys absolute dominance in disbursement of the fund. MPs can exercise their influence over UZP or UNO by just making a phone call, the provision of making them advisors has dampened the spirit making the UZPs actually devolved institutions. Considering our socio-political reality, MP's advices tantamount to order. MPs tend to influence the making of the list of beneficiaries for different allowances (old age allowance, freedom fighter etc.). Although local representatives have clear knowledge about the eligible candidates but with MPs influence they have very limited role to play. For all practical purposes, it is mandatory to obey the 'advice' (orders) of MPs. For example, in one of the Upazilas, under the Kaajer binimoye taka (KABITA) scheme MP got an allocation of about 60 lakh taka, while UZP received around 18 lakh taka. But both the allocations could not be distributed to the beneficiaries as MP was otherwise busy and instructed the UNO to delay the process of distribution for some time. Upazila Chairman accepted it as he did not want to antagonize the MP.
- The UNOs join the band-wagon along with MPs and other departmental officials to weaken the process of transfer of functions to the UZP. UNOs instead of providing support to UZP to grow as the strong institutions, remain busy appeasing MPs. UNOs tend to maintain cordial relationship often at the cost of their relationships with the Upazila Chair and Vice-Chairs.
- Ministries should contact UZP directly like they are contacting with the UNO office if meaningful transfer of responsibilities has to take place. The Ministries while sending Circulars, directives or sharing official information with UNO and other government officials, must send copies of those communications to UZP's elected Chair and Vice-Chairs.
- The officials were in agreement to suggest that if the Upazila Parishad Chairman & Vice Chairman are given substantial authority then they would use their power for their private interest rather than public interest. For example, the departments working with sensitive aspects such as family planning often requires support from local representatives to carry out their motivational campaign. But unfortunately the local representatives generally do not extend their whole hearted support to the family planning office in encouraging family planning or the women's affairs office in stopping child marriages in fear of losing votes.
- Even the officials and the elected representatives alike opined that effective transfer of responsibilities is not possible under the current legal provision. Currently, the line department's officials are assigned their responsibilities by their parent departments, Upazila Parishad generally does not have any role on this front. It is therefore observed that the officials spend remain accountable only to their parent departments, rather than to the UZPs.

Transferred Functions to Union Parishad: General Findings from the Field

- One of the important functions of the Upazila Parishad (UZP) is to coordinate the activities of the UPs and those of the line agencies at the grassroots level. The issue of coordination is usually discussed in monthly meetings of the UZP where Chairmen of different UPs (as members) and officials of various Upazila level government departments have an opportunity to discuss issues related to the delivery of services at the local level. The UZP has 17 Committees, while the Upazila administration has 50-60 subject/sector wise committees (eg., VGF/VGD, Fertilizer distribution committee). Chairmen of UPs are often made members of such committees. In practice, the UZP coordination meetings are far from being effective. Many UP Chairmen observed that although they raised the issues of irregularities by Line Agency Officials (LAOs) in the delivery of services and/or lack of availabilities of services, rarely were these addressed in different committee meetings. They expressed dissatisfaction at the ways their complaints were handled. But no effective action was forthcoming.
- One of the important reasons underlying the indifferent attitude of LAOs to the UP functionaries is that they are accountable to their departmental heads at the Upazila level and not to the UP. None of the LAOs other than Sub-Assistant Agriculture Extension Officer (SAAEO) mentioned the UP as an authority to which they were accountable, although theoretically, if not practically, all of them have some kind of accountability to the UP. As per the UP Act 2009, the UP Chair can monitor the services of government officials. But it is not possible in practice. Supervision of field staff by their departmental superiors is also not adequate. In case of failure of performing the assigned duties, no one is held accountable. Absence of any bottom-up accountability causes serious problems in the delivery of services.

Table 4: Coordination between the UP and the Line Agency Officials (LAOs) through Formal Mechanisms Available at the UP

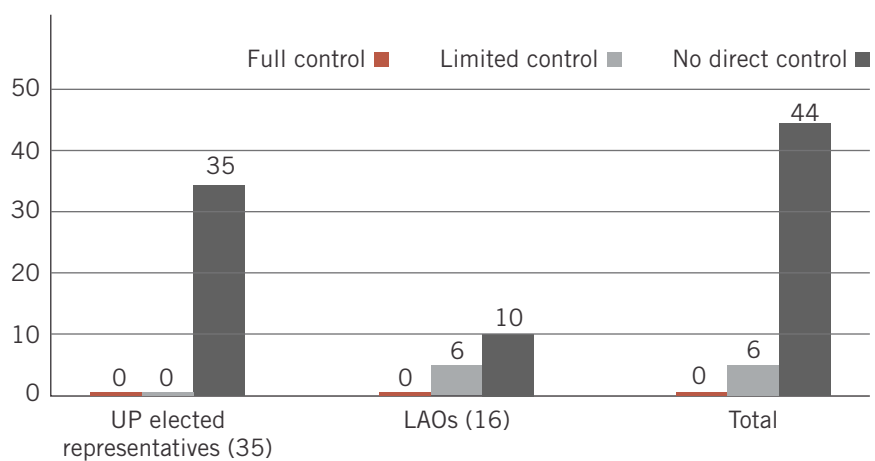
UP	UP Complex used by LAOs	LAO Membership in SCs	Regular Attendance in the UDCC Meetings
Digholia (Khulna)	None sits in the UP complex	3	SAAEO, SAE (LGED)
Bakhtarpur (Naogaon)	None sits in the UP complex	5	SAAEO, FPI
Paddabila (Chuadanga)	None sits in the UP complex	4	SAAEO, SAE (LGED) FPI, FWA
Pahariakandi (Brahminbaria)	None sits in the UP complex	3	Not certain

Source: Findings from the field survey

Table 4 shows that none of the UP-based formal mechanisms is fully effective in ensuring coordination between the two entities due mainly to insufficient legal guidelines ensuring the presence of LAOs in meetings of the Standing Committees (SCs) and use of UP complex by the LAOs. Also, poor communication between the Upazila administration and the UP seriously impedes the effectiveness of the formal mechanisms in ensuring coordination.

- Evidence shows that coordination between the UP and the line agencies is mostly 'contingent', 'situational', 'occasional' or 'need based' rather than a regular event. Consequently, services delivered at the local level become poor. Preceding analysis has referred to inadequacies of formal legal provisions, lack of enforcement of the existing rules due mainly to poor communication between the Upazila administration and the UP, lack of clarity of roles and responsibilities of UP and the line agency officials as the dominant reasons accounting for poor coordination between the two providers.

Figure 5: Q: How much control the UP has over the Line Agency Officials? (Total respondents 51, 35 UP elected representatives and 16 LAOs)



- The legal weaknesses that cause ineffective coordination between the UP and the LAOs in service delivery include the absence of sufficient legal coordinating power of UP, absence of sufficient legal guidelines; lack of clearly defined jurisdictions of the UP and line agencies with regard to service delivery; and lack of proper enforcement of the existing laws.
- Although the UP Act 2009 has bestowed the UP with the responsibility for providing various socio-economic services but this responsibility has not been supplemented by adequate legal authority. The study finds that the existing laws do not institute an effective coordinating authority on the UP. Although the UP Act 2009 requires that UP Chairman to ensure attendance of the departmental officials in the UP meetings but in practice it is not enforced and the law does not suggest step/s to be taken in case of failure of ensuring the attendance of the officials. In fact, the UP leadership has no legal control over the functionaries of line ministries/agencies working at the Union level.
- Another legal weakness has resulted in insufficient guidelines about making incorporation of line agency officials in SCs and UDCC mandatory and about the nature of mandates of SCs in service delivery. Legal guidelines are also insufficient to effectively explain the roles of the UP and the line agency officials in service delivery. Neither the UP functionaries nor the line agency officials have clear idea about their role regarding service delivery at the local level.
- There is no standardization of output– how much service the line agencies will provide, what will be the contribution of UP in this regard, how they are related to each other– are not clear to either of the parties. Field officials also suffer from the lack of clarity of their roles. In many cases, field officials do not have any precise written job description; they mostly perform their job on an ad hoc basis under the instant verbal instruction of their superiors. Thus, the principle of arbitrariness has rather become institutionalised in the delivery of services. A UP Chairman, during interview, informed that how much service an agency would provide depended on how much the UP Chair could manage. Such arbitrariness and lack of clarity of roles and relations affect coordination between the two service providers.
- Moreover, the available legal instructions are also not being enforced due to a lack of proper communication between the concerned parties. Some line agency officials were found unsure about the legal instruction regarding their use of space at the UP complex. The Circular issued by the Ministry of Local Government with regard to incorporating the line agency staff in the UDCC is not even clearly communicated to all the concerned staff. Thus enforcement of the rules and laws do not receive due prominence by the authority.

- Both the UP and the line agencies have certain limitations that influence poor coordination between them. At the supply side, effectiveness of UP in providing coordinated service delivery can be determined by its orientation to development and its capacity to perform development related functions. The attitudes of UP functionaries are not rightly attuned towards development. Their main focus of concern is financial (income and expenditure) issues rather than the issues of development. They rarely have any long term vision (5/10 years) for local level development and take any sustainable/tangible initiative towards that end. As a result, delivering services for the socio-economic up-liftment of the community people is not considered as a priority area by them. UP also suffers from capacity deficit as a service provider. Unawareness about the formal rules and regulations and about their own roles as service providers, lack of required skill have made the UP less capable service provider. The UP functionaries were found largely unsure about their roles as the 'service providers' and unaware of the legal basis for their service provisions. They were also found unaware of the fact that government line agency officials are supposed to provide support to their services. When asked about the recently promulgated UP Act 2009 and its provision of transferring the services of seven ministries at the UP, majority of the UP functionaries were found unaware of this.
- UP also lacks the skill required to communicate or negotiate with the LAOs. Although UP is a 13 member body (excluding the Secretary), apart from the Chairman and the Secretary, contribution of others in its operation is quite negligible. The UP members, particularly women members, rarely have any idea about their role and functions as service providers, let alone the role of LAOs. Such poor capacity of UP has made it mere subservient to the Upazila administration.
- In majority of the cases, LAOs were found unavailable at the community level and were found unknown to the local people and also to the UP. Two factors– lack of adequate logistic support and lack of manpower of the line departments have been found as the underlying reasons for such non availability of LAOs at the community level.
- Inadequate logistic support including insufficient transport allowance and non-availability of vehicles causes barriers to making field visits by many of the LAOs. Officials providing health and agriculture services at the community level are mostly the locals. As a result, they can frequently visit the community people and communicate with the UP. In case of other services, LAOs mostly stationed at the Upazila level and distance, poor road communication system and above all, lack of transport facilities create barrier for them to visit the community people. On the other hand, across the departments, manpower shortage at the field level is a universal problem which directly inhibits LAOs from being present at the UP complex or in the UP monthly meeting and from paying regular field visits. In some cases, posts of field officials are lying vacant for years together while in some cases the number of available field staff is far less than the posts sanctioned. These cause acute manpower crisis in various line departments.
- As a consequence, services have become largely unresponsive and dissatisfactory to the recipients. Overall, the health and agriculture services involving better coordination between the UP and the officials were considered to be the most satisfactory services by the beneficiaries. On the other hand, almost all the members of the community expressed extreme dissatisfaction with services involving little or no coordination, which include: water and sanitation, law and order, fisheries and livestock and social welfare services. Finally, to ensure improved service delivery at the local level through proper coordination what is needed most is to have a legal framework that clearly defines functions of the UP and various line agencies with regard to the delivery of services and prescribe the relationships between the two service providers in precise terms. The framework should aim to sensitize the line agencies and the UP about the need for a coordinated effort to make service delivery efficient. At the same time both UP and line agencies need to improve their capacity to deliver coordinated services.

CHAPTER SIX: SUMMARY OF THE FINDINGS AND POLICY RECOMMENDATIONS

This concluding chapter summarizes the findings/observations of the study and offers some recommendations.

Bangladesh has a century old history of decentralization. Since last couple of decades the national legal documents of the country pronounce the requirement of having decentralization in the form of devolution in order to ensure greater participation of local people in decision making and to improve service delivery at the local level. Relevant Acts have also been passed to operationalize this policy pledge. In this regard, recent UZP Act 1998 and its amendment in 2011 that have transferred the services of 17 central ministries/departments to the UZP and UP Act 2009 transferring services of 7 ministries (including health and education) to the UP are worth mentioning. In functional terms, this vertical and territorially deconcentrated structure manages the service delivery at the local level while the LGIs play mere facilitative role in the process through social mobilization, providing small logistic support to the facilities and supervising the facilities.

All the key issues related to service delivery e.g., managing functionaries, finance, facilities, supplies, maintenance and repair, performance monitoring– all are virtually being controlled by the concerned departments. Thus the legal moves of transferring services to the local bodies have largely been left unimplemented. It is evident that the UP is mainly responsible for the so-called 'soft' functions (like social mobilization) of local service delivery instead of 'hard' delivery of social services. The role of UZP, in this regard, is more limited to mainly holding meetings of the concerned committees or being a part of the committees. However, the study has found that whatever small or 'soft' role the UP play in service delivery, it does have a telling impact on service. Areas with poor communications that are being deprived of the visits of the UP functionaries demonstrate poor service delivery outcome.

Major Observations of the Study

The study has identified various practical reasons contributing to a lack of poor or no accomplishment of the functional assignments to the UZP and the UP. The study finds lack of enforcement of the Acts transferring 17 department's services to the UZP and UP due to some legal weaknesses, which include some contradictions in legal provisions and certain gaps in legislations. They are as follows:

Legal Contradictions in UZP Acts and Circulars

Broad major legal contradictions in the attempt of introducing a devolved local government system with a transfer of authority and responsibility for services to the UZP through the UZP Act 1998 lies in the UZP Act (amendment) 2009 through which central control was imposed over the UZP through allowing the Members of Parliament (MPs) to get involved in the decision making process of UZP (Section 19 of the Rule 27). The 2009 Act has seriously undermined the spirit and essence of devolution expounded by the 1998 Act and its mother law the 1982 UZP Ordinance.

Afterwards various Circulars issued by the MoLGRD&C generated some more contradictions with the existing law mainly with regard to the issues of maintaining managing human resources and exerting central control over UZP activities. Although the UZP Act 1998 advocated for transferring services to the UZP by placing the officials and staff of the concerned departments at the disposal of the parishad, but in practice, with regard to the management of the deputed officials UZP has been granted very limited authority. In addition to this, although the UZP Act 1998 requires devolution of authority and responsibility to the UZP, but certain Circulars have imposed central control over the UZP.

Table 5: Contradictions in Local Government Polices, Acts and Circulars

ISSUES	ACTS	CIRCULARS
1. Management of the officials and staff by the LGIs	UZP Act 1998 states that the officials, staff and their functions of the ministries will be transferred to the UZP. All officials of transferred departments will be placed at the disposal of UZP.	Dated 4th May 2009 <ul style="list-style-type: none"> • Upazila Chairman can propose measures for control, supervision, withdrawal, transfer, disciplinary action against an official to the concerned authority. • Chair will have the authority to take disciplinary action against any official or staff of the UZP other than the officials deputed by the government.
	UZP Act 2011 stressed using the term ‘transferred’ in place of ‘transferable’ and added 5 more departments as transferred to the UZP	Dated 6 January, 2013 <ul style="list-style-type: none"> • Matters related to human resource management and control will be retained by departmental heads at the central level.
2. Central control	Policy (Sixth Five year Plan) commitment of having strong autonomous local government with discretionary power to carry out their responsibilities.	Dated 20 June 2010 <ul style="list-style-type: none"> • UZP has to send a copy of its approved budget to the government along with the local MP and the Deputy Commissioner (DC).
		Dated 19 September, 2010 <ul style="list-style-type: none"> • Officials of transferred departments will submit all the official files for approval to the UZ Chairman through UNO.

Contradictions between the Policy Position of Local Government and the Sectoral Policies

In addition to the contradictions in local government Acts, the study also finds contradictions between the local government policy and the sectoral policies. The Sixth Five Year Plan (2011-15) rightly stresses that the implementation of devolution is to take place in coordination with sector development strategies, particularly for social services. In reality, the study finds a sheer gap between the policy focus of these sectors. While local government policy emphasizes on devolution, sectoral policies systematically advocate for promoting deconcentration. Agenda wise, involvement of local government in service delivery is a remote issue in sectoral policies. Such contradiction in policy focus affects the effective transfer of services to the LGIs.

The UP Act 2009 has not mentioned specifically what role would UP play in delivering the services transferred to it which creates confusion among the functionaries about their role with regard to the delivery of services. On the other hand, the sectoral policies also do have certain gaps. As we have seen in our Case Study that the education policy 2010 has specifically mentioned about the role of local government in primary education through SMC and supervisory role in secondary education, but in health sector policy, policy statement regarding the involvement of local government in service delivery is vague and superficial.

Control of Central Politics over the Functioning of UZP

Although the UZP Act 1998 has transferred different services to the UZP but the parishad has not been devolved with adequate authority to provide services instead, central control has been imposed on the parishad by making Member of Parliament (MP) of the concerned area as the adviser to the parishad. Involvement of MPs as the adviser to the UZ Coordination Committee is one of the major obstacles for the UZP to play a stronger role in delivering service. Particularly with regard to infrastructure development MP's voice become stronger than the UZP or the line agencies. This provision causes conflict between UZP Chairman and MP leaving the UZP Chairman inactive with regard to service delivery. Interference of MP is a great barrier to the activities of UZP. Besides, each and every committee at the local level has MP or a representative of MP as its adviser or member. For instance, Upazila Hospital Management Committee, which is the lone functional Upazila level committee on health service, is headed by MP, SMC at the primary school level has one representative of MP and the Managing Committee of secondary education at the Upazila level and all the UZP committees having relevance with finance have MPs as advisers. This practices seriously disempower and demotivate the local bodies to get involved in service delivery.

Lack of Political Will

The review of legal framework and policy documents done in an earlier section reflects sheer political unwillingness for devolution or transferring authority to local bodies regarding social services. One example can justify this observation. The 1982 UZP Ordinance was explicit about the responsibility of UZP regarding the management of government staff and had no mention of MP advisership to the UZP. But the UZP Act 1998 remains vague about the authority of UZP regarding the management of deputed officials and its amendment in 2009 has introduced the provision of making MPs to the advisers to the parishad. These attempts of government are indicatives of the unwillingness of the successive governments to transfer power to local government in true sense. As a natural consequence, devolution initiatives remain half-hearted and do not take real shape.

Capacity Deficits of Local Bodies

Staff shortage is the key obstacle for UP to play stronger role in service delivery. UP has only one staff called the Secretary to perform the secretarial job as well as managing all the services provided by the UPs. Capacity shortage of UP is also caused due to an inadequate access to information by the local leaders. Local representatives are often found to be unaware of the most of the Acts and Circulars related to their duties and functions, which makes them largely inactive and reluctant.

Lack of financial resource capacity of LGIs is another obstacle for them to be more active in service provision. Internal resource base of both UZP and UP is poor. UP can increase its revenue through mobilizing additional resources through taxation but for political reason, UP Chairman cannot force the villagers to pay the tax. On the other hand, villagers do not have the mindset for paying tax. UP also cannot convince the community people to pay tax as it fails to provide quality service.

Lack of Local Level Monitoring and Accountability

Local bodies—neither UP nor UZP have been conferred with legal authority to monitor the functions of the service providers. Although the local representatives supervise the facilities, identify the irregularities and inform the local needs to the upper level but it rarely makes any impact. This creates UP reluctant about services delivered by the line ministries. One UP Chair was even found unaware of the staff position of the Union health centre in his locality.

Moreover, both at the UZP and UP level, Standing Committees and Coordination Committees, which are considered as the formal mechanisms for ensuring accountability of providers and monitoring their functions to a small degree, do not also function effectively. Service providers often remain absent in the meetings or in some cases, they are not incorporated as the members of the Standing Committees. UZP coordination meeting is not regularly attended by the service providers and even if they attend meeting time is so short (one hour) that it often service issues are dealt with superficially.

Lack of Positive Mindset

Both the UZP and UP leaders are mostly more reactive than proactive. Moreover, LGIs appear to consider themselves as political organizations rather than service delivery organizations and their positions as the source of power not responsibility. This mindset makes them little reluctant to service delivery issue. Lack of awareness, information gap, lack of adequate education, knowledge and training of local government functionaries contribute to having such mindset.

The Way Forward

There are certain preconditions that should be fulfilled in order to make the transfer of services at Upazila and Union level to reap the expected benefits out of this action. Right combination of political, fiscal and institutional elements should be blended together in order to ensure successful transfer of services. To make the functional assignments to local bodies effective, the study puts forward the following recommendations:

- Contradictions in legal provisions and the gaps identified in local government Acts need to be addressed as much as possible. More importantly, contradictions in local government policy and the sectoral policies need to be removed. Sectoral policies have to take a stronger stand in favour of the participation of local government in service delivery in order to make the transfer of functions to the local bodies effective.
- LGIs can play stronger role if MPs are willing to let them be strong. Political interference needs to be reduced in the functioning of UZP.
- UZP Committees have the power to give recommendations but their execution lies with the ministry. Local bodies should be given some power to readjust human resources.
- All the transferred departments should be made accountable to the UZP. To improve service delivery at the local level, ensuring accountability of providers is important. As a means of improving local level accountability of providers, instead of transferring salary of the providers to the UZP, APR and leave issues should be brought under the control of UZP. Drawing salary by the officials from the UZP will only generate chaos and hassles rather than ensuring accountability. Previously under Ershad regime it was tried but generated a huge conflict between the officials and UZP.
- Staff strength of UZPs and UPs needs to be improved. In addition to secretary, one computer operator cum office assistant is needed to be recruited at UP. To collect tax, separate tax assessors and collectors should be appointed under the guideline of government as has been done in City Corporation.

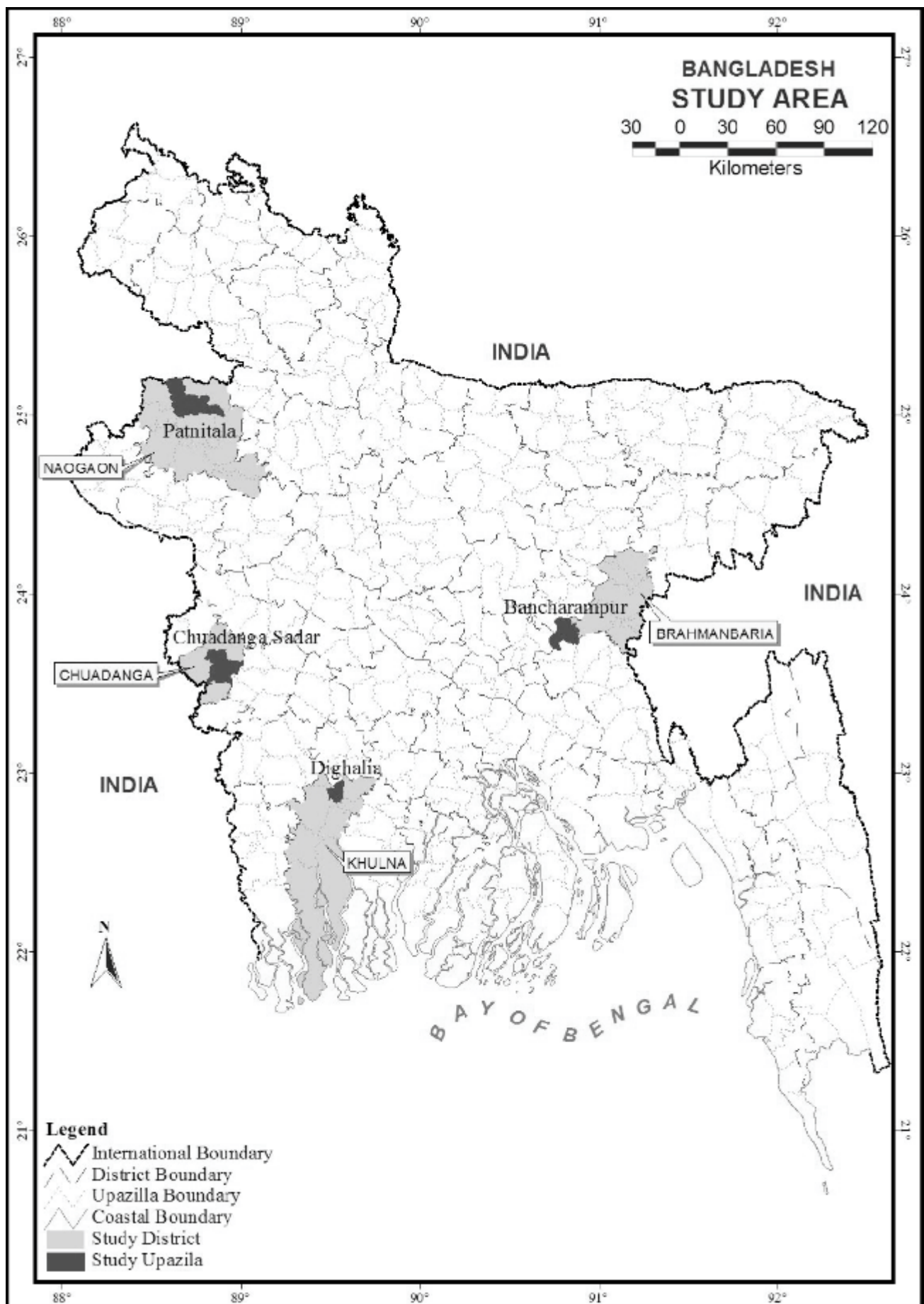
- UZPs should be given the authority to monitor the services on the ground. Field staff should be made accountable to the UP. UP Chairman and members should pay regular visit to the facilities and make written reports available to the UZP instead of verbal reporting.
- Both UZPs and UPs are required to increase their own source fund. Different types of taxes and rates need to be increased.
- To make the LGIs truly functional in delivering public services, the whole issue of human resource management i.e. appointment, transfer, accountability, monitoring should be brought under the management of UZP. With this objective Civil Service Recruitment Rule needs revision.

Finally, the study finds that despite being made functionally responsible for providing different services at the local level, the LGIs have been playing 'soft' role in service delivery while the deconcentrated structure controls and manages the process. The over-centralized nature of deconcentrated structure of the sectoral ministries is contributing to inefficiency in service delivery.

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APPENDIX I: SURVEY AREA (MAP)



APPENDIX 2: SURVEY QUESTIONNAIRE FOR UPAZILA PARISHAD

Interview Checklist for Upazila Parishad Representatives

1. Please provide your opinion about the relation between the Upazila Parishad and the transferred departments.
2. Do you think the legal framework concerning “transferred departments” is adequate?
a. Yes b. No c. Deficient (explain why and how)
3. Please provide your opinion about the existing modus operandi of the transferred departments.
4. With the existing arrangements how much the Upazila Parishad can achieve?
5. If, the laws on this front was enforced in true sense how differently parishad could serve?
6. Do you have control over the transferred departments?
a. Full operational control b. Limited operation control c. No operational control
7. Is there any mechanism for Upazila Parishad to establish its control over the transferred departments?
8. Identify the major barriers to implement the law on this front.
9. Explain the attitudes of the central and local level government officials on transferred subjects.
10. Tell us how the current level of transfer is contributing to local service delivery?
11. Please cite examples as to why and how Upazila Parishad has failed to influence the functioning of the transferred departments.
12. Explain how this could have been made more effective?
13. Please provide your suggestions on the front of transferred departments.

Interview Checklist for Upazila Parishad Government Officials

1. Please provide your opinion about the relation between the Upazila Parishad and the transferred departments.
2. Do you think the legal framework concerning “transferred departments” is adequate?
a. Yes b. No c. Deficient (explain why and how)
3. Please provide your opinion about the existing modus operandi of the transferred departments.
4. With the existing arrangements how much influence the Upazila Parishad can exert over the transferred departments and its officials?
5. What is the mechanism of cooperation/coordination between your department and the Upazila in delivering services?
6. How are your functions supervised?
7. What type of constraints (legal/ financial/institutional) do you face in delivering services at the local level?
8. In your opinion, if the laws on this front, was enforced in true sense how differently parishad could serve?
9. How much control the Upazila Parishad has over the transferred departments?
a. Full operational control b. Limited operation control c. No operational control
10. What are the usual mechanisms through which Upazila Parishad can establish its control over the transferred departments?
11. Identify the major barriers to implement the law on this front.
12. Would support the idea of truly transferring your department's functions to elected Upazila Parishad?
13. Don't you think parishad being the representative institution would have served the local citizen's better had the true departmental transfer occurred?
14. Would you agree that because of the non-enforcement of the legal provision on this, local service delivery is being hampered?
a. Yes b. No c. Partially (explain further)
15. Explain how can the present arrangements be made more effective?
16. Please provide your suggestions on the front of transferred departments.

APPENDIX 3: SURVEY QUESTIONNAIRE FOR UNION PARISHAD

Interview Checklist for Union Parishad Representatives

1. What are the different services the UP provides to the local people?
2. In delivering these services, what different roles do the UPs and the government agencies play?
3. How do the government agencies contribute to the UP services?
4. Do you consider the contribution of government agencies in performing your mandated functions sufficient? If not, what type of cooperation you expect from the government agencies to perform your task effectively?
5. How do the agencies provide their services to the UP? (Coordination/cooperation mechanism)
6. How is the relationship between the UP and the government agencies? Is it hierarchical or collegial?
7. What are the major common problems you face in delivering different services?
8. Can you please specify the problems you face in delivering the following services:
 - Water and sanitation
 - Health and family planning service
 - Education
 - Infrastructure development
 - Fisheries and livestock
 - Agriculture
 - Law and order maintenance
9. According to you what roles the government line agencies should play to deliver the UP related services effectively?
10. What is your suggestion with regard to improving service delivery at the Union level?

Interview Checklist for Line Agency Officials of Union Parishad

1. What type of services you provide at the Union level?
2. How do you provide your services? Do you provide your services independently or in cooperation/coordination with the UP?
3. What is the mechanism of cooperation/coordination between your agency and the UP in delivering services?
4. How are your functions supervised?
5. What type of constraints (legal/financial/institutional) do you face in delivering services at the local level?
6. Do you face any non-cooperation from other government's offices while performing your responsibilities?
7. Do you find any limitation/incapacity from the part of UP in delivering your services? What role should the UP play to make services more effective?
8. How to remove the existing bottlenecks in order to improve the service delivery at the Union level?

APPENDIX 4: SURVEY QUESTIONNAIRE FOR CIVIL SOCIETY MEMBERS AND COMMUNITY PEOPLE AT UPAZILA AND UNION LEVEL

Interview Checklist for the Civil Society Members

1. What kind of services does the Upazila/UP provide to the community?
2. How do you evaluate its following services? To what extent these can fulfil the community requirements?
 - Water and sanitation
 - Education
 - Health and family planning
 - Law and order
 - Fisheries and livestock
 - Agricultural extension
 - Infrastructure
 - Social welfare
3. In providing these services what role does the Upazila/UP play? Do you think that the role being played by the UP in delivering services has been appropriate?
4. What is your opinion about the role of transferred departments/government agencies in providing services? Can you identify some strengths and weaknesses of these agencies?
5. What role should the Upazila/UP play to ensure effective service delivery?
6. How can/transferred departments/government agencies improve their services?

Checklist for FGD with Community

1. What kind of services you receive from the Upazila/ UP?
2. Which services Upazila/UP provides successfully and which services it fails to provide most?
3. What services you expect from Upazila/UP? Do the existing services fulfil your need?
4. If not, how is the gap between the services you receive and your requirements? Give examples.
5. Why, do you think, this gap persists? (Resource scarcity/ staff shortage of Upazila or UP/incapacity of government agencies etc.)
6. What is your impression about the functioning of government line agency staff working at the Union level? Can they reach their services to the community?

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promoting human rights and good governance