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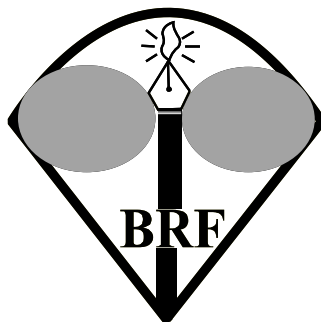
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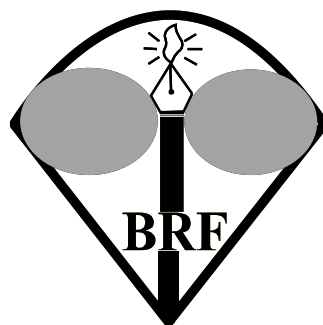


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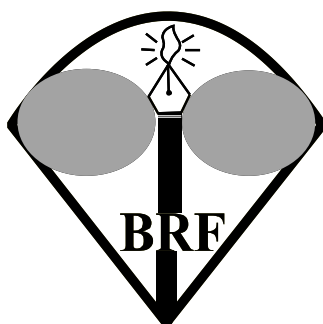
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Footnote 11

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Performance Analysis with Legal Issues of Islamic Banks in Bangladesh

Dr. Gopal Chandra Saha*
Kazi Latifur Reza**

Abstract

This study is a comparative study on Islamic banks in Bangladesh. A review of Profitability and investment return Ratios, Growth Ratio, Cash flow and Capital Adequacy Ratios, Liquidity and Leverage Ratios, risk and solvency Ratios, Asset Management and Asset Quality Ratio and Efficiency, Productivity and Capital Strength Ratio among seven Islamic Banks which are listed in the Dhaka Stock Exchange. For the analysis of data, the researchers have considered the yearly secondary data of Islamic Banks. All the results show the individual picture. According to the ration analysis resulted from the overall analysis, IBBL stands out as the best performing and efficient bank among the seven and the chronologically goes down towards EXIM Bank, AL-Arafah Islamic bank, SIBL, and FSIB. However, the moderate performing banks also features good ratio in few sectors whereas the average performers exhibit poor ratios. And, ICB's performance is the poorest among all and thus has been incurring losses since last few years. Though ICB's performance is poor in maximum sectors, this bank is trying to improve their situation. Islamic Banks should try to mitigate the gap between customer expectation and satisfaction and all the officers have to give concentration to provide improved service quality for capturing the large market share and try to improve their overall performance. It is not only the responsibility of the higher management but also the responsibility of the employees. Islamic Banks are not usually able to work smoothly throughout the nation due to public awareness about Islamic services. So, the companies have to work more carefully to stand on their own position efficiently. ICB Islamic Bank should try to increase profitability, proper management of liquidity according to deposits, minimizing their different types of costs and expenses, employees should be trained-up with the modern banking system. Other six banks should also try to increases their market share in Banking industry and trained-up management to diagnosis the problem sectors and find out the solution. However, the Islamic banking systems developed on Islamic rules and Sharia (Islamic Law) and its success depends on Islamic values. The Islamic interest free banking is facing challenges in an approach that how to execute the Islamic rules and Sharia while the whole world has become a universal community. So, the Islamic banking is facing serious problems to practice Islamic laws as suitable interbank money market is not available for legal framework for interest free banking.

Keywords: Performance, Analysis, Shari`ah-Compliant, Legal Issues, Islamic Banks

Introduction

Islamic banking is now spread almost all over the world- in both Muslim and non-Muslim countries- as a viable entity and financial intermediary. The second half of the twentieth century witnessed a major shifting of thinking in devising banking policy and framework on the basis of the shari'ah.

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This new thought was institutionalized at the end of the third quarter of the century, and emerged as a new Islamic banking system. Ahmed El Naggar is considered to be the first man to implement this concept. After the establishment of MitGhamr Local Savings Bank in a provincial rural center in the Nile Delta, Egypt in 1963, through the initiative of Naggar, the initial shape of Islamic banking modality was injected into the Egyptian economy. The establishment of the Islamic Development Bank (IDB) in 1975 gave formal momentum to the Islamic banking movement. Since the establishment of IDB, a number of Islamic banking and financial institutions have been established all over the world. At present, more than two hundred Islamic banking and financial institutions are working in different parts of the world. Bangladesh was not inactive in this movement toward Islamic banking. One and a half decades have passed since the establishment of the first Islamic bank in Bangladesh in 1983, with the establishment of Islami Bank Bangladesh. Since then, eight more full-fledged private Islamic banks and 20 Islamic banking branches of conventional banks have been established. Pat wary (Chairman of the executive committee of Islami Bank Bangladesh Limited) says that his bank is now one of the top performer banks in terms of business and profits among the 48 commercial banks operating in the country. "Islamic Bank Bangladesh Limited has gained first position in the all private banks in term of deposits, investment, export and import and remittance collection." According to the Bangladesh Bank (BB), the central bank of the country, the deposits of the Islamic banking systems are now 25 percent of all private banks deposits and its investments are 30 percent. Bahauddin Mohammad Yusuf, vice chairman of Al-Arafah Islamic Bank, has an explanation for Bangladesh's Islamic finance boom. He says that for a Muslim, whose religion prohibits earning or paying interests, Islamic banking makes it possible to operate interest-free business. "People of this country are religious," Patwary, Chairman of the Islami Bank, agrees. Islam forbids Muslims from usury, receiving or paying interest on loans. Islamic banks and finance institutions cannot receive or provide funds for anything involving alcohol, gambling, pornography, tobacco, weapons or pork. Shari`ah-Compliant financing deals resemble lease- to-own arrangements, layaway plans, joint purchase and sale agreements, or partnerships. It is now time to analyze their function and performance. Keeping this in view, an attempt has been made here to focus on the growth, structure, and performance of Islamic banking in Bangladesh.

Literature Review

Islamic banking (Arabic: ائفمال) is banking or banking activity that is consistent with the principles of Shari ah law and its practical application through the development of Islamic economics. Islamic banking has the same purpose as conventional banking except that it operates in accordance with the rules of Shari ah, known as Fiqh al-Muamalat. Amongst the common Islamic concepts, the Islamic banking uses-the used in Islamic banking are profit sharing (Mudarabah), safekeeping (Wadiyah), joint venture (Musharaka), cost plus (Murabaha), and leasing (Ijara). Some of the salient features of Islamic banking may be summed up as (Siddiqui, 2004): Kaynak and Whiteley (1999), for example, observed that the convenience of a bank was a primary motivation for customers in selecting a specific institution. Further, the convenience motivation include location or other factors such as service quality (Wel and Nor 2003, Lee and Marlowe 2003). Jalaluddin (1999) interviewed eighty

Australian financial institutions based in Sydney on their attitudes towards Islamic profit/loss sharing methods of finance and whether they would be agreed to lend funds in accordance with these methods.

Sabi (1996), Saleh and Zeitun (2007), Samad and Hassan (1999) conveyed that, bank performance in general can be evaluated using financial ratios such as liquidity ratios, profitability ratios and others. However, evaluating Islamic banks' performance is far more complex and demanding as these banks' performance is not only tested by their profitability level but also their relative compliance with Shari ah principles.

Reger *et al.*, (1992: p. 195), stated that, some studies even go as far as to claim that ROA is “the most meaningful financial indicator in the banking industry”. Return on Assets has the advantage that it can be used for small firms which have a very small equity base, in which ROE may be a bit misleading in comparison to ROA.

Simpson and Kohers (2002: p. 98), Castelli, Dwyer and Hasan, (2006: p. 9,10) Karr (2005: p. 56-59) said that ROA is considered to be highly correlated with ROE in the banking sector, where both give the same indication of performance in terms of the direction of financial performance movement, but differ in magnitude and interpreted analysis. Ahmad (1997) mentioned some important factors that cause loan defaults which include - lack of willingness to pay loans coupled with diversion of funds by borrowers, willful negligence and improper appraisal by Credit Officers.

Hurt and Fesolvalyi (1998), cited in Kwakwa (2009), found that “corporate loan default” increases as real gross domestic product decline, and that the exchange rate depreciation directly affects the repayment ability of borrowers. Balogun and Alimi (1988) also identified loan default as loan shortages, delay in time of loan delivery, small farm size, high interest rate, age of farmers, poor supervision, non-profitability of farm enterprises and undue government intervention with the operations of government sponsored credit programmed. According to Olomola (1999), loan disbursement lag and high interest rate can significantly increase borrowing transaction cost and can also adversely affect repayment performance.

Chowdhury and Ahmed (2009) observed that all the selected private commercial banks are able to achieve a stable growth of branches, employee, deposit, loans and advances, net income, earning per share during the period of 2002-2006. They indicate that the prospect of private commercial banks in Bangladesh is very bright. Khan (2008) stated that a bank is evaluated based on its profit and loss as the same way for other business. If the shareholders of the bank get more profit then the bank is identified as successful. Banks can attain success if relevant risks are effectively controlled.

Muhammad Irfan, Yasir Majeed and Khalid Zaman found that Islamic banking is efficient about 98.19% with respect to return on asset ratio; the return on equity ratio, in Islamic banking system, is about 91.4% and 77.03% with respect to

net profit ratio. As per the efficiency-ranking measurement, Brunei stands at top followed by Pakistan, Iran and Bangladesh among the South Asian countries.

Garas (2007) identifies that Islamic financial institution are facing two types of challenges i.e. internal and external. The internal challenge is to involve those customers who are using conventional banking products whereas the external challenge is to fulfill the international transaction requirements due to lack of Islamic regulatory system. To penetrate in international market and increase local potential customers the Shari`ah knowledge and training is required to communicate Islamic product.

Ahmed (2007) conducts research in Bangladesh about the performance and regulations of Islamic banking. He finds that deficiency in the regulatory framework for proper functioning is not according to Shari`ah rules. The performance of Islamic banks is also affected by the lack of interbank money market and legal requirements of reserve. He suggests that an independent banking act should be constituted in Bangladesh for guidance, supervision, control, practice and operations of Islamic banks to provide legal support to the stakeholders.

Research Design

The type of research design is Quasi-experimental by using secondary data. The research topic is an analysis to show the peer comparison among seven Islamic banks in Bangladesh. The objectives of this type of research is to find out the actual scenario of the Islamic banks for understanding the financial position at a glance on the basis of the latest announced financial statements by Financial indicators performance which are given bellow:

1. $PER = \frac{NetProfit}{TotalExpenses}$
2. $ROA = \frac{ProfitAfterTax}{TotalAsset}$
3. $ROE = \frac{ProfitAfterTax}{TotalShareholderEquity}$
4. $EPS = \frac{NetProfit}{TotalNo.ofEquityShare}$
5. $ROCE = \frac{NetProfit}{TotalAsset - CurrentLiabilities}$
6. Profit Per Branch = $\frac{ProfitAfterTax}{TotalNo.ofBranch}$
7. Profit Per Employee = $\frac{EAT}{TotalEmployee}$
8. Interest Income to Total Asset = $\frac{InterestIncome}{TotalAsset}$
9. Gross Profit Margin = $\frac{GrossProfit}{Income}$
10. Net Profit Margin = $\frac{NPAT}{Income}$

Objectives of the Study

The main objective of the research is to analyze the financial performance of Islamic banks in Bangladesh and to relate this with the theoretical knowledge acquired from the banks. The objectives are as follows:

- To provide a brief overview of Islamic banking and legal issues and their historical background.
- To analyze the financial performance of Islamic banking in the last 05 years -(2010-2014).
- To identify the strength and weaknesses of the banks based on the financial performance in the study period

Sample of the Study

- Al-Arafah Islami Bank Limited
- Export Import Bank of Bangladesh Limited
- First Security Islami bank Limited
- Shahjalal Islami Bank Limited
- Social Islami Bank Limited
- Islami Bank Bangladesh Limited
- Investment Corporation Bangladesh.

Research Methodology

The methodology includes direct observation, face-to-face discussion with employees of different departments, study of files, and circular, etc. and practical work. In preparing the paper, there have been used more meaningful and acceptable secondary data sources of information.

The secondary sources are:

Sample No.	Name of Islamic Banks	Data Collection of Data
Sample-1	Al-Arafah Islami Bank Limited	2010-2014
Sample-2	Export Import Bank of Bangladesh Limited	2010-2014
Sample-3	First Security Islami bank Limited	2010-2014
Sample-4	Shahjalal Islami Bank Limited	2010-2014
Sample-5	Social Islami Bank Limited	2010-2014
Sample-6	Islami Bank Bangladesh Limited	2010-2014
Sample-7	Investment Corporation Bangladesh	2010-2014

- Annual reports and performance reports of the DSE listed companies (2010, 2011, 2012, 2013 and 2014) are primarily based on data.

- Various files and documents of credit and industrial credit division of the bank.
- Some articles.

Data Analysis Plan:

This study is completed by using the following methods:

- Sampling design
Sampling unit: Financial statements analysis
Sampling size: Last 5 years financial statements
- Ratio analysis:
Ratio analysis shows the financial position of the organization as mathematically proven. This Ratio will be represented by graphically.

Performance Analysis of Islamic Banking Sector on the Basis of Ratio

The performance calculates the bank efficiency, by measuring the bank liquidity, profitability, its assets, liabilities, revenue, expenses, deposits, and equity etc. These variables help to measure the bank's performance in different ratios and there trend analysis. By the ratio analysis the management can take the business goals and determine the objectives.

Ratio Analysis

Ratio analysis is a diagnostic tool that helps to identify the problem areas and opportunities within a company. The most frequently used ratios by financial analysts provide insights into a firm.

Importance of Ratio Analysis

Ratio analysis is very important for every business, because by calculating the ratios, we can understand the business position, business strength and weakness. By knowing this information, management can takes its necessary steps to organize their goal.

Profitability and Investment Return Ratios

Return on Assets (ROA):

The return on assets (ROA) is used to measure the relationship between profits or earnings and total assets. ROA is a good indicator of a bank's financial performance and managerial efficiency. The higher this ratio, the higher the financial performance or profitability of the banks is. ROA is probably the most vital single ratio in comparison the efficiency and operating performance of banks since it indicates the return earned from the assets financed by the banks. According to Basel-II accord, ROA should be more than 1%.

Calculation:

$$ROA = \frac{ProfitAfterTax}{TotalAsset}$$

Fig: 01 Comparative Analysis of ROA

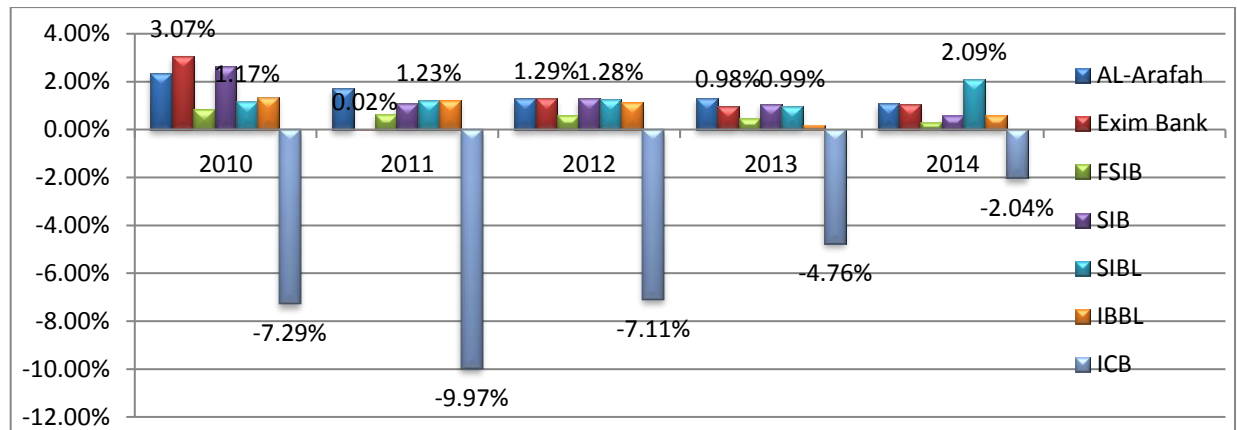


Figure 01 shows that in 2010 FSIB achieved nearly one percent (0.86%) ROA. The scenario is much worst in case of ICB which is -7.29%. The reason behind this worse scenario of ICB is a huge provision shortfall and insignificant profit during the period. Here we see that the position of Exim Bank is better than other banks in 2010 that is 3.07%. FSIB ROA was below the standard level in 2010 and gradually it was decreased from 2010-2014, that is 0.32% in 2014. In 2011 Exim Bank dramatically falls from 3.07% to 0.02% and ICB also fall from previous year that is -7.29% to -9.97% and here the position of Bank Al-Arafah is better than the others. In 2012 though the position of ICB is worsen but it gradually recovered it's worsen position that is -2.04% in 2014 and the position of Al-Arafah still remains better than the others. Though in 2013 the position of bank Al-Arafah is better but in 2014 the ROA's position of SIBL is better than others.

Finally it can be said that, the SIBL has the balanced position from 2010-2014 on basis of the ROA and the position of ICB has been worsen and comparatively the position of Bank Al-Arafah is better than the other Banks.

Return on Equity (ROE):

The return on equity (ROE) is considered to be one of the profitability performance ratios. It indicates how effectively the management of a bank is able to turn shareholders' funds into net profit. It is the rate of return following to the bank's shareholders. The higher this ratio, the more managerial efficiency the bank will have and vice versa.

Calculation:

$$ROE = \frac{ProfitAfterTax}{TotalShareholderEquity}$$

Fig: 02 Comparative Analysis of ROE

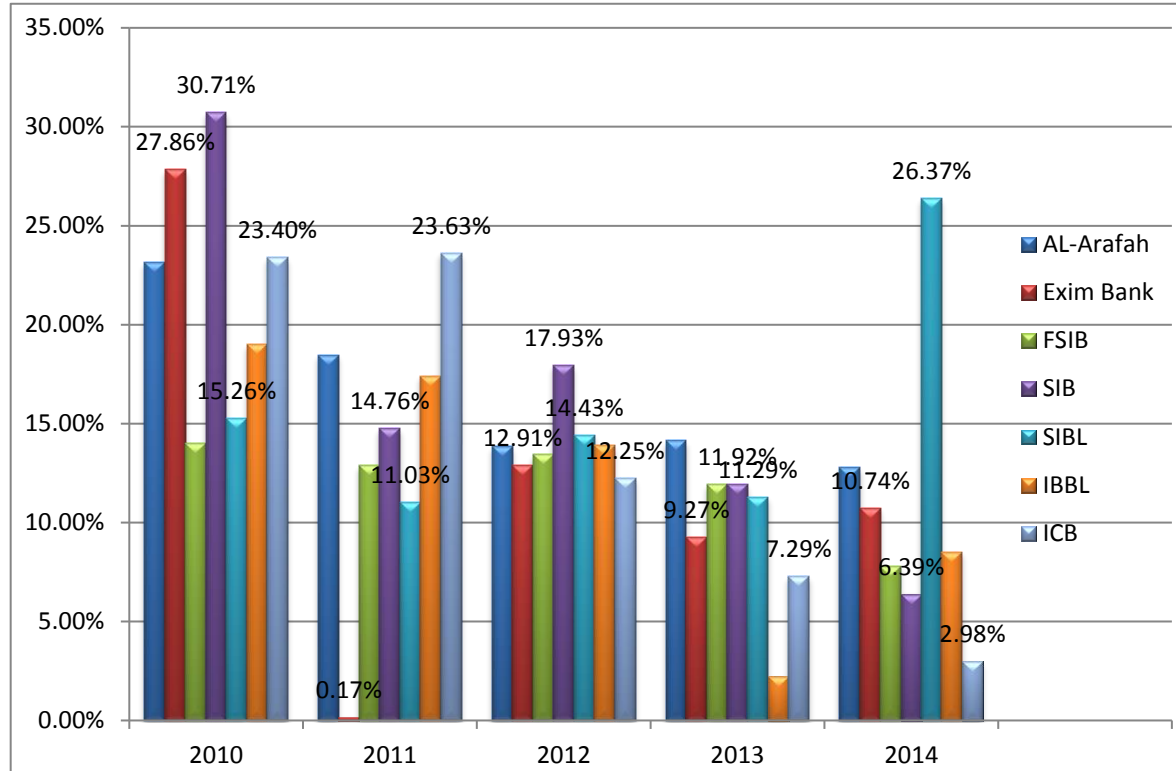


Figure 02 shows that in 2010 the FSIB's ROE was 13.99 percent that is lower than the others and the position of Al-Arafah was better that was 30.71% but dropped down from year to year without 2012 where the ROE was slightly increased than 2011. In 2011 the ROE of EXIM Bank was 0.17% that was very poor comparatively than that of 2010-2014 and the ICB was in a better position than other 6 Islamic banks but in 2012-2014 its ROE gradually drop down. In 2012 SIB captures the highest position among all the other banks and other 6 banks' performance according to ROE is closely related. In 2013, the IBBL's performance was weaker than other banks and Al-Arafah captured the highest position. The ROE of SIBL' touched the highest point in 2014 that is 26.37% and the lowest position was held by ICB. From 2010-2014 the performance of SIBL is consistence.

Profit Expense Ratio:

Profit Expense Ratio is computed to show the relationship between Net Profit and Total Expenses. It is computed by dividing a net profit by net expenses. If the ratio is high then it shows the high profit of the bank.

Calculation:

$$PER = \frac{NetProfit}{TotalExpenses}$$

Fig: 03 Comparative Analysis of Profit Expense Ratio

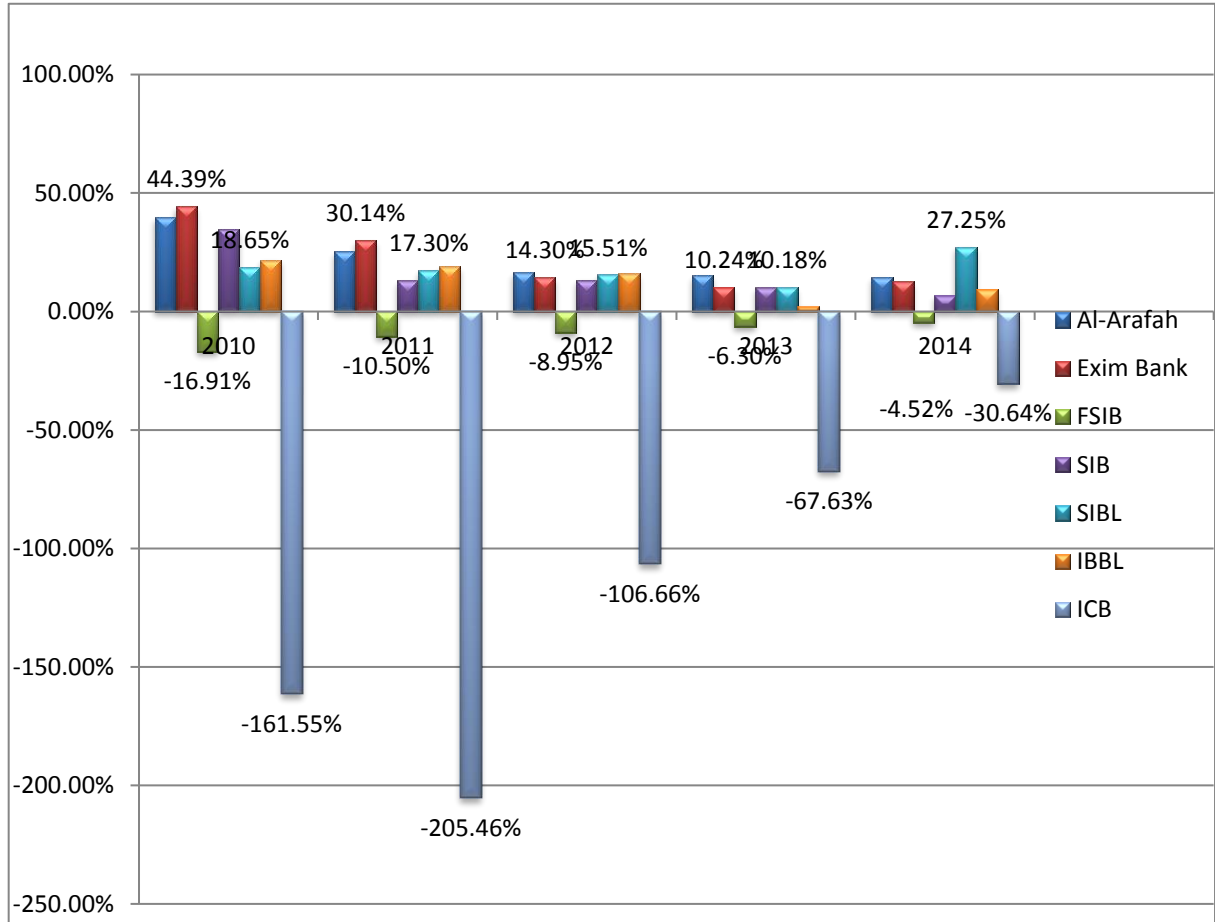


Figure 03 shows that in 2010, the PER of ICB was -161.55% that was lower than the others and the PER of FSIB also negative, where the position of EXIM bank was better that was 44.39% but dropped down from year to year. The graph above shows that the PER of FSIB and ICB both are negative but both bank try to recover their PER gradually from 2010-2014 except ICB in 2011.

Earnings per Share (EPS):

EPS is the portion of a company’s profit allocated to each outstanding share of common stock. EPS per share serves as an indicator of a company’s profitability. Higher EPS shows a stronger position of the banks.

Calculation:

$$EPS = \frac{NetProfit}{TotalNo.ofEquityShare}$$

Fig: 04 Comparative Analysis of EPS

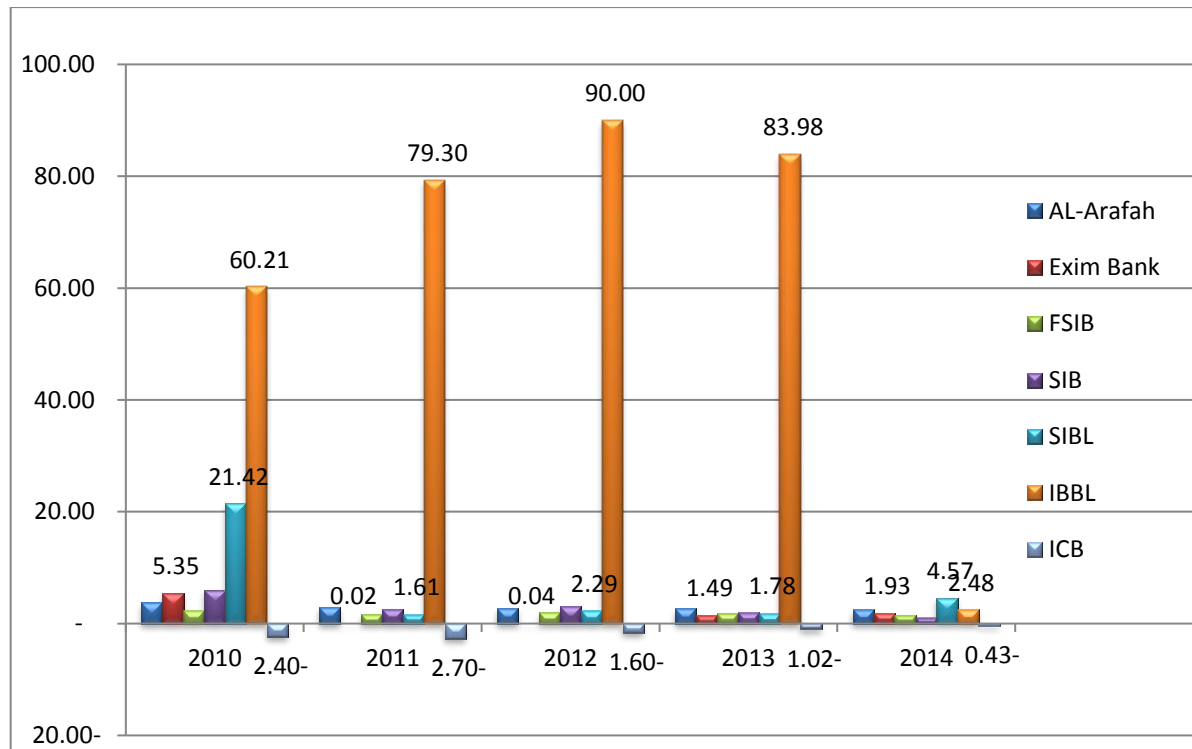


Figure 04 shows that in 2010, IBBL achieved the highest position in EPS that was 60.21 and the lowest position was ICB that was only one bank has negative EPS from 2010-2014. But IBBL’s position was better from 2011-2013 and dramatically dropped down in 2014. As a result, SIBL’s position is highest that is 2.48.

Finally it is said that, the IBBL is the balanced and better position from 2010-2013 on the basis of EPS.

Return on capital Employed Ratio (ROCE):

ROCE is better measurement than ROE, because ROCE shows how well a company is using both its equity and debt to generate a return. Sometimes it is also called a “primary ratio”.

Calculation:

$$ROCE = \frac{NetProfit}{TotalAsset - CurrentLiabilities}$$

Fig: 05 Comparative Analysis of Return on capital Employed Ratio

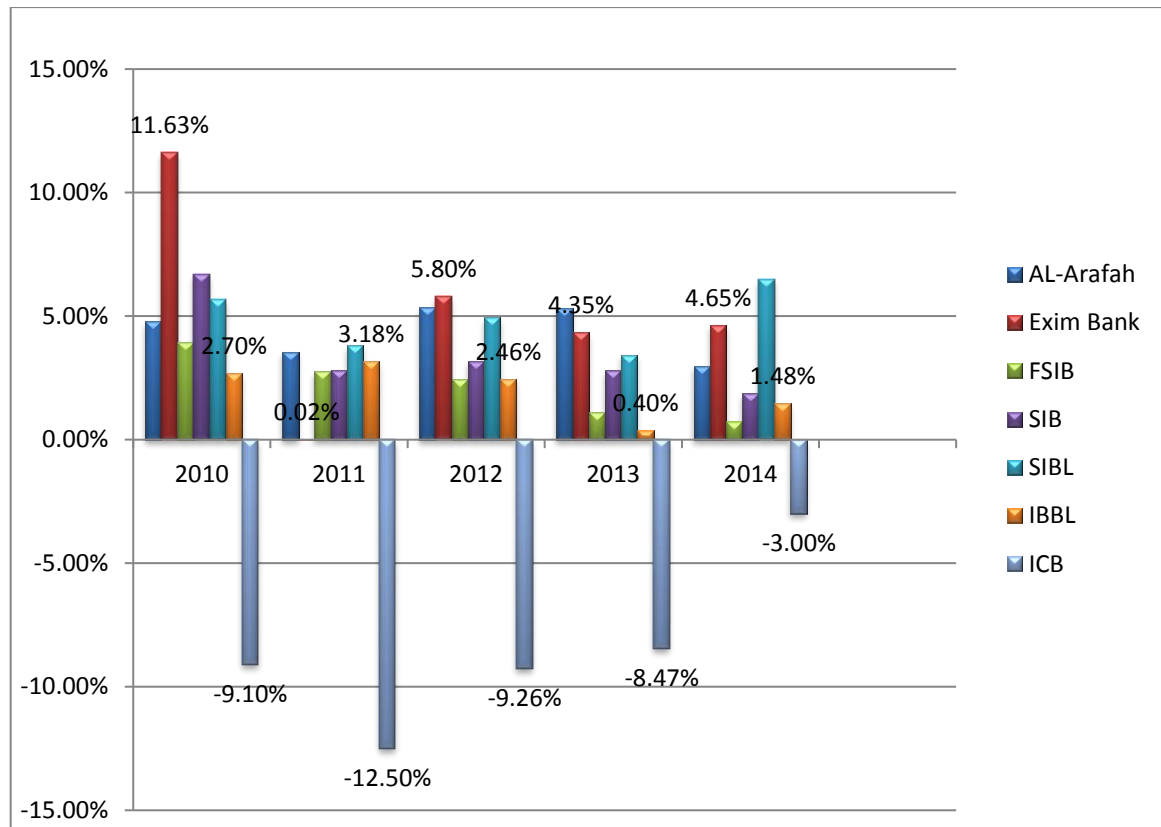


Figure 05 shows that in 2010 EXIM Bank achieved the highest position that is 11.63% which describes that the net profit of EXIM bank was high; the position of ICB was worst that was -9.10%. Not only in 2010 but also from 2010-2014 its position was negative and very poor comparatively than other banks. The position of EXIM Bank dramatically decreased in 2011 that was near to zero, and the next year it reached at highest position. Al-Arafah and SIBL’s ROCE position is moderate from 2010-2014.

Profit per Branch:

Profit per branch is a profitability ratio of a bank which is calculated by profit after tax by dividing total number of branch. This ratio shows that how much profit is earned after paying Tax. If this Ratio is high then the performance is good of Banks.

Calculation:

$$\text{Profit Per Branch} = \frac{\text{ProfitAfterTax}}{\text{TotalNo.ofBranch}}$$

Fig: 06 Comparative Analysis of Profit per Branch

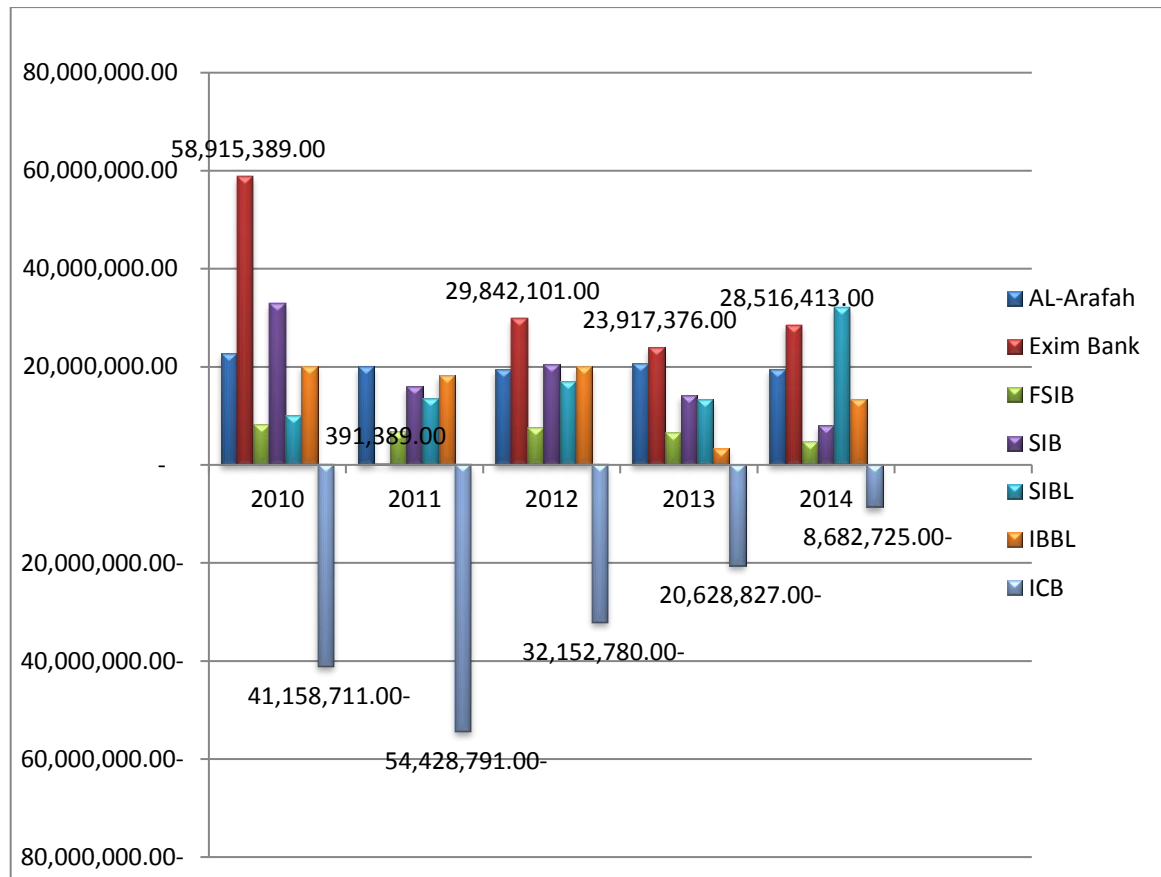


Figure 06 shows that in 2010 EXIM Bank achieved highest position that is 58915389 which describes that the net profit per Branch of EXIM bank was high and the position of ICB was worst that is -41158711, Not only in 2010 but also from 2010-2014 its position was negative and very poor comparatively than other Banks. The position of EXIM Bank dramatically decreased in 2011 that was 391389, and the next year it reached at the highest position again. Al-Arafah and SIBL’s Profit per Branch is moderate from 2010-2014.

Profit per Employee:

Revenue per employee is calculated by dividing a bank’s revenue by its total number of workers.

$$\text{Profit Per Branch} = \frac{EAT}{TotalEmployee}$$

Fig: 07 Comparative Analysis of Profit per Employee

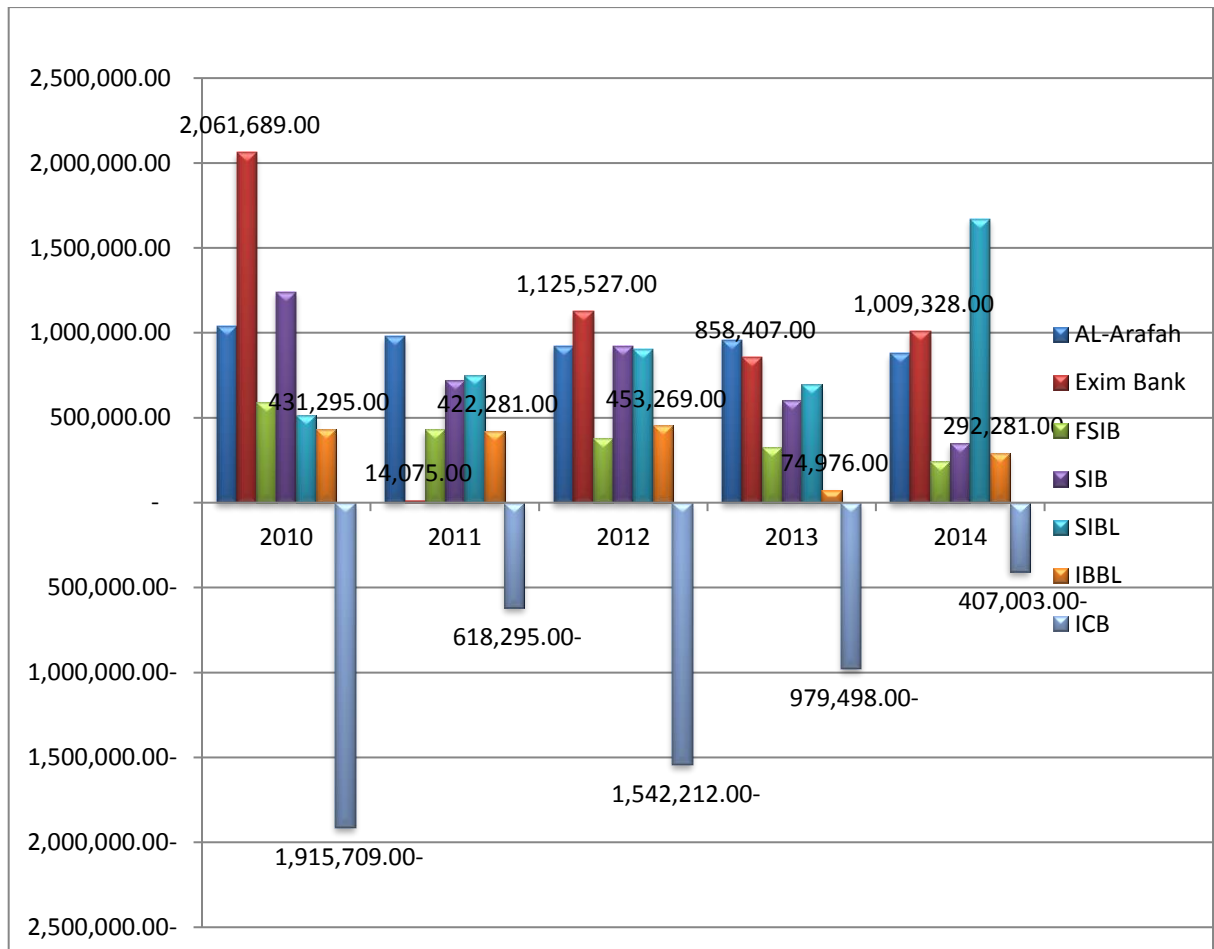


Figure 07 shows that in 2010 EXIM Bank achieved the highest position that is 2061689 which describes that the net profit per Employee of EXIM bank was high and the position at ICB was worst that was -1915709. Not only in 2010 but also from 2010-2014 its position was negative and very poor comparatively than other Banks. The position of EXIM Bank dramatically decreased in 2011 that is 14075, and the next year it reached the highest position again that is 1125527. Al-Arafah and SIBL's Profit per Employee is moderate from 2010-2014.

Interest Income to Total Asset:

In Islamic banks Interest means profit though practically it is difficult to find out the difference between interest and profit.

So it means according to income interest, taking deposits and lending money are the most basic functions of a bank. Banks usually charge higher interest on deposit. The difference between the interest earned and paid is called a bank's net Interest Income.

Calculation:

$$\text{Interest Income to Total Asset} = \frac{\text{Interest Income}}{\text{Total Asset}}$$

Fig: 08 Comparative Analysis of Interest Income to Total Asset

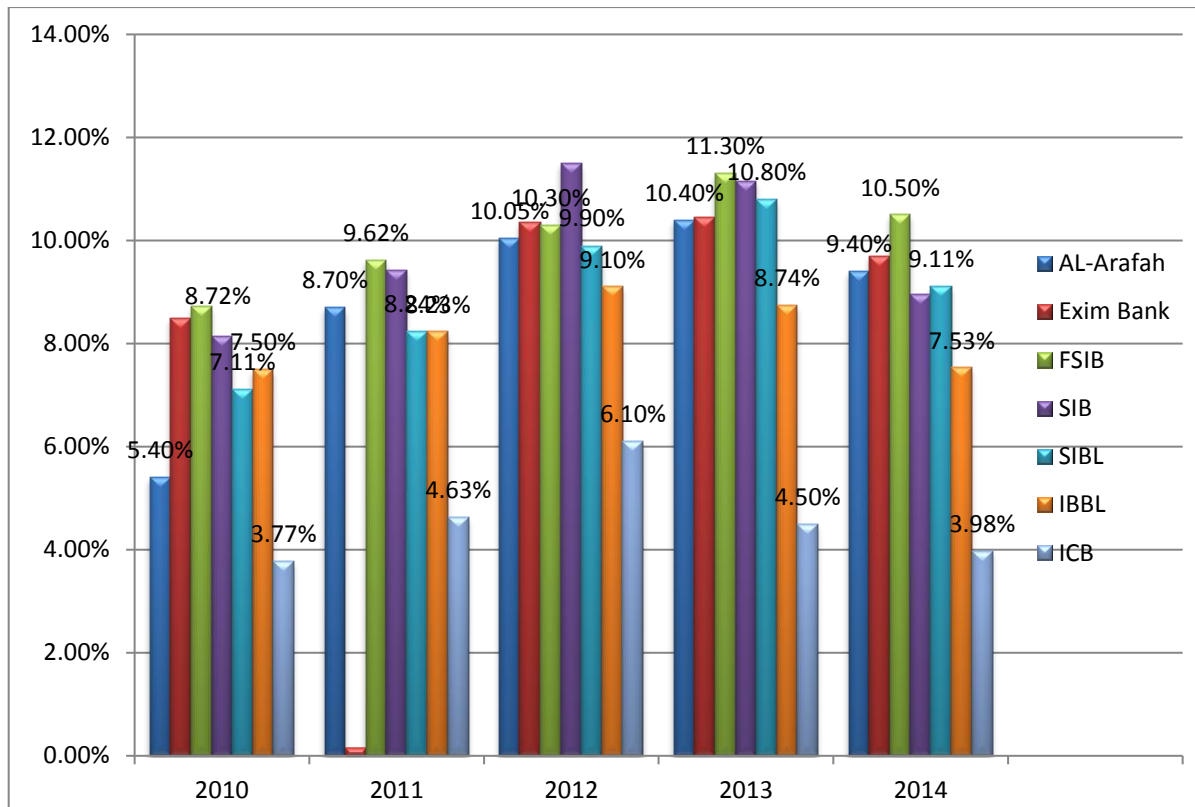


Figure 08 shows that in 2010-2011, FSIB's Interest Income was 8.72% and 9.62% respectively against 100% of total asset, in which the Interest Income was higher than the others banks and the position of ICB was worst that is 3.77% but increased (2010-2012) and decreased(2012-2014) like pyramids. In 2012, the Interest Income on the total asset of EXIM Bank was 0.16% that was very poor comparatively than those 2010-2014 years' and the SIB was in a better position. In 2013-2014, again FSIB touched the pick that is the interest income is better against total asset. Finally this graph show that the FSIB's position is better in 5 years than other banks and the worst position is held by ICB and rest of the banks are at moderate position.

Gross Profit Margin:

Gross Profit Margin is a financial metric used to assess a bank's financial health and business model by revealing the proportion of money left over from revenues after accounting the Cost of Goods sold. Gross profit Margin, also known as Gross Margin is calculated by dividing Gross profit by Revenues.

Calculation:

$$\text{Gross Profit Margin} = \frac{\text{Gross Profit}}{\text{Income}}$$

Fig: 09 Comparative Analysis of Gross Profit Margin

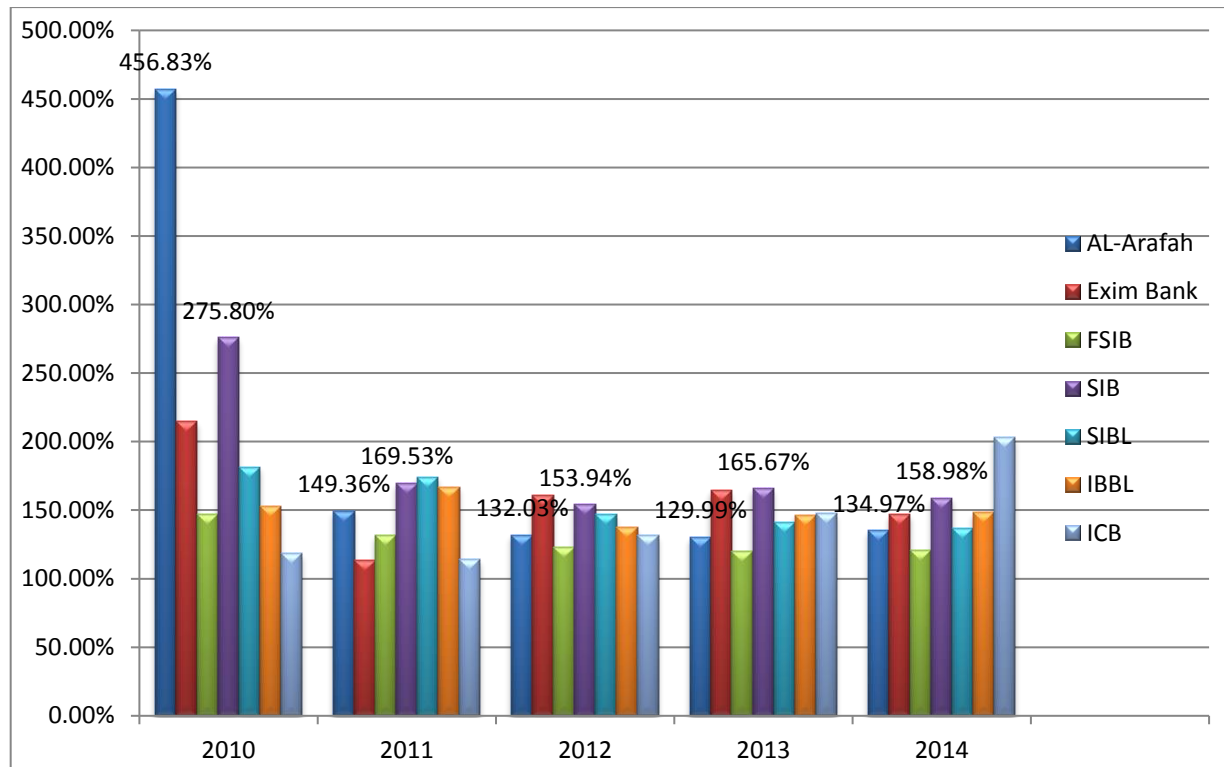


Figure 09 shows that in 2010, ICB’s Gross Profit Margin was 118.41 percent that is lower than the others and the position of Al-Arafah was better that was 456.83% but dropped down from year to year without 2014 where the Gross Profit Margin was slightly increased than 2013. In 2011, the Gross Profit Margin of EXIM Bank was 113.43% that was very poor comparatively than that of the 2010-2014 years’ and the average position of SIB was the better from 2011-2014 than the other 6 Islamic banks. The average Gross Profit Margin of EXIM bank is also good. Though ICB had poor gross profit margin but last year 2014 it improve its position.

Net Profit Margin:

Net profit Margin is used to compare profitability of competitors in the same Industry. It can also be used to determine the profitability potential of different industries while compare to, some industries are able to generate high net profit margin, and other industries offer very narrow margins. It depends on the existence of competition, elasticity of demand, production differentiation etc. of the relevant product or market

Calculation:

$$\text{Net Profit Margin} = \frac{NPAT}{Income}$$

Fig: 10 Comparative Analysis of Net Profit Margin

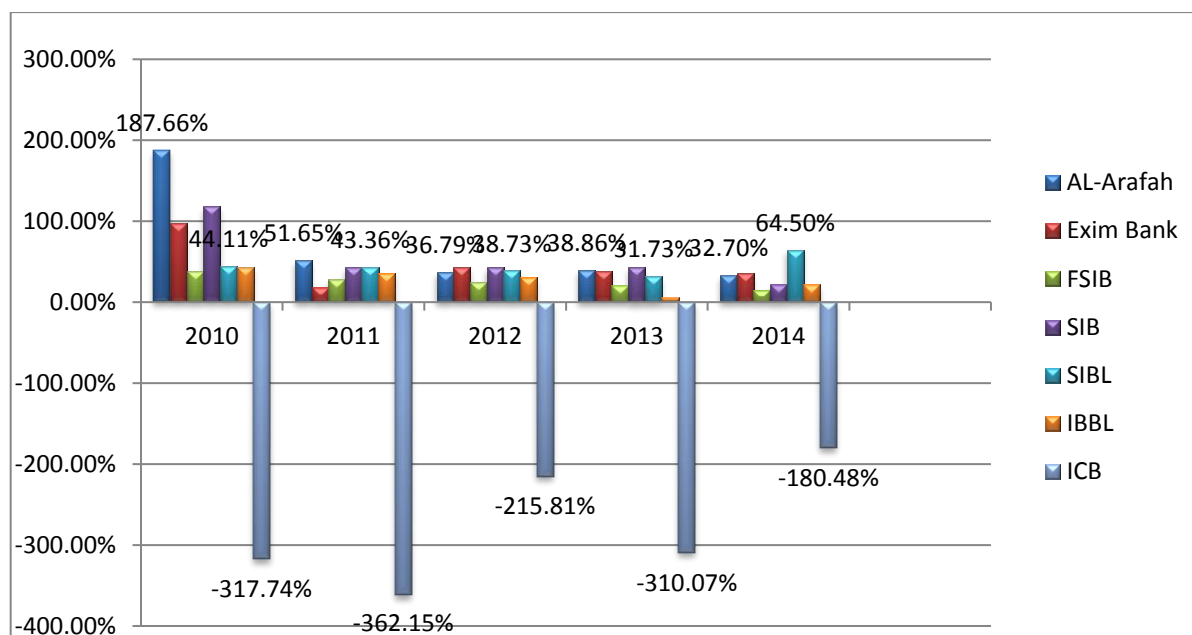


Figure 10 shows that in 2010 Al-Arafah achieved the highest position that is 187.66% but after 2011 its net profit margin was kept decreasing from year to year. In 2012, Exim Bank and SIB both touched the highest Net Profit Margin that is 42.47%. In 2013, SIB reached the highest Net Profit Margin comparatively than other 6 Islamic banks. In 2014, SIBL gained the highest Net Profit Margin which is greater in 5 years by SIBL's Net Profit Margin than previous Year Net Profit Margin. Here, the ICB's Net Profit Margin is largely negative throughout the years. A large amount of loss was incurred by ICB from 2010-2014. Here the moderate position exists in the banks - Exim, SIB, SIBL, IBBL except every bank earn poor Net Profit Margin in 1 year of 5 years.

Limitations of the Study

Any study about something is not free from limitations. So this study also included some limitations. Those limitations are described below:

- The study considers only the annual report of the Islamic Banking Companies in Bangladesh. It is mainly based on secondary information.
- Annual reports have been investigated only for five year.
- Only ratio is used for finding financial performance; regression, ANOVA, questionnaire and other statistical and practical tools are not used.
- Sometimes the ratio does not show the actual result of banks due to the volume of capital or equity.

Findings of the Study

The future progress of the Islamic banking may be deformed by the inappropriate protection policy. Lack in the legal framework for proper functioning is not according to Shari ah rules in Bangladesh. The performance of Islamic banks is

also affected by the lack of interbank money market and legal requirements of reserve. Lack of legal framework- Bangladesh utilize Independent banking act for guidance, supervision, control, practice and operations of Islamic banking to provide legal support to the stakeholders.

Return on asset indicates the profitability of the banks; this ratio is recorded as the highest for EXIM Bank that is 3.07 over 5 years. The last year (2014) highest record of SIBL and the lowest record of ICB banks that is -9.97%. Average highest record of ROA is of AL-Arafah and IBBL is in a moderate record position. Return on equity also indicates the profitability of the banks; the highest record of this is by SIB that is 30.71% over 5 years. Last year (2014), the highest record was by SIBL that is 26.37% and the lowest record was by ICB's that is -0.17%. Average highest record of ROA is by SIBL and AL-Arafah & IBBL that is in a moderate record position. Net profit ratio is the tools to identify the performance of the banks; this ratio is highest recorded for Exim Banks that is 44.39% over 5 years. Last year (2014), the highest record was of SIBL's that is 27.25% and the lowest record was of ICB's that is -0-30.64% and the overall ratio in the last 5 years recorded of ICB is the lowest again, which is -205.46%. Average highest record of Net profit ratio is Exim banks and SIBL & IBBL is in a moderate record position. Earnings per share of IBBL is highest (90 Taka) rather than any other banks and last year highest was SIBL that is 4.57 and the lowest recorded for ICB that is -0.43 and the overall in 5 years lowest record was -2.70. Average highest record of Net profit ratio is IBBL banks and SIBL is in a moderate record position.

Profit per Branch of EXIM bank is highest (that is 58915389 Taka) and last year, the highest record was of SIBL that is 32103854 and the lowest record was of ICB that is 8682725 and the overall ratio in 5 years is recorded as the lowest as 54428791 by ICB.

Average highest record of Profit per Branch is of EXIM banks and AL-Arafah and IBBL is in of moderate position. Net profit ratio of AL-Arafah bank is highest (that is 187.66%) rather than any other banks and last year highest was also AL-Arafah bank that is 64.54% and the lowest record of ICB banks that is -371.74% and the overall in 5 years lowest record is -180.48% by also ICB. Average highest record of Net profit is AL-Arafah banks and IBBL & SIBL exist in Standard position.

Current ratio of EXIM bank is the highest (that is 0.25) rather than any other banks and last year highest was of SIB that is 0.163 and the lowest record of FSIB banks that is -0.093 and the overall in 5 years lowest record is 0.093 by also ICB. Average highest record of Current ratio is EXIM banks and IBBL, FSIB & SIB is in a moderate record position. Equity to Asset ratio of EXIM bank is highest (that is 1.12) rather than any other banks and last year highest was also EXIM banks that is 0.099 and the lowest record of ICB banks that is -0.687 and the overall in 5 years lowest record is -0.687 by also ICB. Average highest record of Equity to Asset ratio is EXIM banks and IBBL, SIBL, SIB & AL-Arafah exist in moderate position.

Investment against total deposit of IBBL is highest (0.178) rather than any other banks and last year highest was also IBBL that is 0.178 and the lowest record of ICB banks that is 0.018 and the overall in 5 years lowest record is 0.001. Average highest record of Investment against total deposit is IBBL banks and EXIM, AL-

Arafah SIBL is in a moderate record position. Investment Decision by Net Interest Margin of IBBL is highest (0.037) rather than any other banks and last year highest was AL-Arafah that was 0.030 and the lowest record of ICB banks that is 0.011 and the overall in 5 years lowest record is 0.001 by EXIM banks. Average highest record of Investment against total deposit is IBBL banks and AL-Arafah is in a moderate record position. Investment to equity and deposit of IBBL is highest (0.164) rather than any other banks and last year highest was also IBBL that is 0.164 and the lowest record of SIBL banks that is 0.046 and the overall in 5 years lowest record is 0.002 by ICB banks. Average highest record of Investment to equity and deposit is IBBL banks and EXIM, SIB is in a moderate record position. Investment to liability of IBBL is highest (0.165) rather than any other banks and last year highest was also IBBL that is 0.165 and the lowest record of ICB banks that is 0.009 and the overall in 5 years lowest record is 0.001 by ICB banks. Average highest record of Investment to liability is IBBL banks and EXIM, SIB is in a moderate Situation.

Over all findings are that the actual scenario according to the ratio analysis is as the better performing and efficient bank among the seven Islamic banks is IBBL and then chronologically are EXIM Bank, AL-Arafah Islamic bank, SIBL, FSIB and ICB is at the worst position for having a poor performance in Islamic banking sector. The Islamic banking has faces problems to be practiced in Bangladesh as there is no Islamic law and legal framework to run an interbank money market for interest free banking.

Conclusion and Recommendations

Conclusion:

Islamic banking has been rapidly growing in Bangladesh. For this reason, it is important to know that they are doing all of their activities according to the provision of Shari ah. Islamic banking uses the expertise of shari ah scholars to judge the shari ah well-matched problems for financing local and international business according to shari ah. This paper tried to measure the performance of the Islamic banks in Bangladesh according to the annual report from 2010 to 2014. The following recommendations are made on the basis of the analysis of the data which may bring stability in the performance of the Islamic banks if followed.

Recommendations:

- a) ICB banks should take up effective and efficient plan to come out from the worse situation.
- b) ICB bank should be increased their management skill
- c) They should properly invest in every branch.
- d) ICB Bank should manage Cost of Information, Control over Cost of Fund, Mark-up Financing, Utilization of Interest Rate for Fixing the Profit Margin in Murabahah Sales; and these recommendation will be applicable for all Islamic banks
- e) Islamic banks should demonstrate the impact of Islamic investment on the solution of the unemployment problem and assisting the state in confronting

these ever- increasing problems.

- f) Islamic banks should Establish Co-operation among Themselves
- g) Islamic banks should finance to high-return projects & profitable use of surplus funds
- h) Need to increase concentration to capital market investment & inter-bank money market.
- i) Sources and nature of income and expenditure should be disclosed in the income statement to ensure that their income and expenditure were earned according to Shari'ah.
- j) Proper advertisement must be regularly published by the banks for customer awareness and highlights the prohibition of interest in Islam but profit is Halal. This advertisement helps the Islamic banking sectors to capture large amount of customers because in our country more than 80% of the total population are Muslims.
- k) The working of Islamic banking needs a separate shari'ah based legal framework to implement the Islamic transactions.

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Corporate Governance: Where Leaders are Accountable

Abu Bakkar Siddique*

Abstract

In the wake of this decade's corporate scandals, crimes and excesses, improving the effectiveness of corporate governance in the United States and other countries have become a priority. An important influence on a board's effectiveness at monitoring is its members' degree of independence from senior management. Good corporate governance can ensure the smooth operation of the company. In absence of good corporate governance severe incidents may take place for which a big company goes in bankruptcy resulting in the liquidation of the business. This article explains the role of directors both executive and non-executive, auditor's responsibilities regarding corporate governance and various findings and recommendations in different countries perspective. All the rules of the corporate governances are not applied equally to all countries as well as all perspectives. It may vary depending upon the concept and its application. This article mainly focuses on how companies can run well for the greater interests of their shareholders and the wider community.

Keywords: Corporate Governance; Good Governance, Board of Directors; Auditors; Accountability of the Leaders

Introduction

Corporate scandals that are involving fraud, highlights a systemic problem that has less to do with financial reporting standards than with oversight of the reporting process itself. These crimes are 95% of the total corporate scandals and their effects on investors continue to lead to calls for improvements in corporate governance from regulators, legislators and investment managers as well as investors themselves. In 1999, the New York Stock Exchange (NYSE) formed a Blue Ribbon Committee to study audit effectiveness and make recommendations for improvements. Additionally, the United States Congress passed the Sarbanes-Oxley Act in 2002. Several institutional investors have developed tools to screen companies on their oversight quality as well as by a number of public interest groups that support governance reform.

Perceived deficiencies in governance quality direct attention to the board of directors' responsibility for fiduciary oversight. Through monitoring management's execution of a firm's strategic plans and reporting mechanisms, the board serves as a check on managerial action and holds executives accountable for their performance. An important influence on a board's effectiveness at monitoring is its members' degree of independence from senior management. Beecher-Monas (2007, p. 384) points out that independent board members 'improve monitoring because, in theory at least, they will be less willing to rubber stamp management policies and more willing to consider alternative courses of action'. For this reason, the degree of board member

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independence is often used in research as the single most prominent measure of firm-specific governance quality.

Typically, state and federal laws in the United States define independence as the absence of a significant financial interest or familial tie between a board member and the company or between a board member and the firm's senior executives. Yet, a well-developed stream of social network research on the origins and effects of interlocking directorates, where individual directors sit on each other's boards, and on back door ties between directors, where individual directors serve on two or more boards which have overlapping sets of directors, suggests that such a purely economic definition of independence may not be adequate to create boards that are truly independent of management (see Mizruchi, 1996; Davis, 2005; Larcker *et al.*, 2005 for reviews). Social relationships with senior executives and other directors can be antithetical to independence and thus impede the ability of directors to provide effective oversight. Rodrigues (2008) suggests that to promote independent oversight, companies should look beyond the 'narrow' economic view of independence in choosing board members.

The Origin of Corporate Governance

The need to improve corporate governance came to prominence in the UK in 1980s, following the high profile collapses of a number of large companies such as Maxwell, Polly Peck, BCCI, etc. Poor standard of corporate governance had led to insufficient controls being in place to prevent wrongdoing in the US in 1990s, as demonstrated by the collapses at Enron and WorldCom. Corporate governance came to be a major development during 1990s originating from the Cadbury Committee that was set up by the London Stock Exchange in May 1991 because of the lack of confidence which was perceived in financial reporting and in the inability of auditors to provide the assurance required by the users of the financial statements.

The Key to Corporate Governance

Good corporate governance is particularly important for publicly traded companies because large amounts of money are invested in them, either by small shareholders, or from pension schemes and other financial institutions. The well published scandals mentioned above are examples of abuse of the trust placed in the management of publicly traded companies by investors. This abuse of trust usually takes one of two forms or both:

- The direct extraction from the company of excessive benefits by management e.g. large salaries, pension entitlements, share option, use of company assets (jets, apartments, cars, etc.)
- Manipulation of the share price by misrepresenting the company profitability so that shares in the company can be sold at high price or options 'cashed in'.

The key to good and effective corporate governance is to ensure that talented individuals are rewarded at appropriate levels for their effort and skill, whilst ensuring that they act in the best interests of the company and its stakeholders.

Auditor's Responsibilities for Reporting on Corporate Governance

1. Listed companies following the combined code in the UK, or other applicable guidance in respect of corporate governance must include a corporate governance statement in the annual report.
2. The auditors are not required to 'audit' this statement but must review it for inconsistencies with other information contained within the annual report.
3. If inconsistencies are found, there may be an impact on the audit report in two ways:
 - i. If the inconsistency highlights an error in the financial statements and the directors refuse to amend the error, the auditor will issue a qualified report.
 - ii. If the inconsistency highlights an error or misleading information in the corporate governance statement, the auditor will add an emphasis of matter paragraph to their report. This is not a qualification. It is included to bring the readers' attention to the matter.
4. In the US, the requirements are more stringent. Sarbanes Oxley states that the auditors must attest as to whether the company has complied with corporate governance requirements. Therefore, they must give an opinion as to the effectiveness of the company's internal control system. Therefore, there is significantly more risk involved with auditing. US listed companies who are covered by Sarbanes Oxley.

Corporate Governance in Different Countries:

Corporate Governance in the USA and in Canada

A lot of attention has been given on corporate governance in the USA as also in Canada, particularly addressing the investors and the press leading to the publication of a number of major reports prepared by high level committees. These reports include:

- The McDonald Report (1998)
- The Federal Deposit Insurance Corporation Improvement Act (1991)
- Internal Control and Integrated Framework (1992)

Corporate Governance in UK

Series of collapses in the corporate sector in late 1980s created profound doubts and concerns amongst the trade and business community about the state of corporate management in the United Kingdom. The consequent state of confusion led to the formation of the Cadbury committee in 1991 with Sir Adrian Cadbury. The committee which was formed by the London Stock Exchange and Financial Reporting Council in the UK published its report in December 1992 in the form of 'code of best practice' requiring the same to be strictly followed by the companies enlisted with the London Stock Exchange.

Another study group was formed with Sir R Greenbury as its chairman which came out with its report in the form of 'Code of Best Practice' in December 1992 to be known as Greenbury Code which concentrated more on 'Directors Remuneration'.

While both these recommendations were incorporated in the listing rules of the London Stock Exchange by the end of 1995, the issue of corporate governance came up once again for review at the initiation of Sir Sidney Lipworth and a committee

called the Hampel committee with Sir Donald Hampel as its head was formed which submitted its report titled 'Hampel Committee Report' in January 1998.

Corporate Governance in India

'Corporate governance' is also a current buzzword in India. The concept has been gaining tremendous impact on the Indian corporate sector since 1996. Three main reasons for the Indian corporate sector coming closer to the concept of corporate governance as explained by the Directorate of studies and Research include:

- (a) the economic liberalization and deregulation of industry and business.
- (b) demand for new corporate ethics and stricter compliance within the laws of the land.
- (c) more importantly, due to the latest approach to corporate accountability that the company owes to its shareholders and other stakeholders.

The Indian Companies Act 1965 provides considerable importance to the role of Board of Directors in corporate governance. The existing law specifies as to what the Board should do as well as what it should not. The existing law also specifies as to how the Board should do certain things relating to the affairs of the company.

The current Indian Companies Act imposes on directors certain civil and criminal liabilities for misrepresentation in documents and annual accounts, failure to return subscription money and also for contravention of the law.

Corporate Governance in Bangladesh

The concept of corporate governance has drawn some attention in Bangladesh. Apart from being debated in different professional forums, it has been given recognition by making mandatory to undertake cost audit by every public limited company aiming to ensure cost control so as to reflect fair view of the statement of financial position. Stock exchange and Security and Exchange Commission (SEC) from time to time are imposing rules and regulations to maintain disciplines in the capital market. However, corporate governance by and large still remains to be an academic debate in Bangladesh. Corporate governance, management, audit, board accountability and other related issues need to be studied more closely so as to incorporate them as effective governance tools through suitable amendments of the Companies Act as well as in the Stock Exchange disciplines.

Key Corporate Leaders and Their Accountability to the Major Stake Holders

No one is held more accountable than the CEO. Corporate Governance mechanisms designed to ensure managerial accountability to stakeholders and at the same time serve to unleash entrepreneurial initiatives on the part of executives. CEOs and directors are obviously central for Corporate Governance. The CEO is the reference, must have a clear responsibility and must be led by example. Being ultimately responsible before all stakeholders, the CEO is in a 'very lonely' position, especially in times of crisis. In selecting the CEO, boards should consider both times of stability and times of crisis.

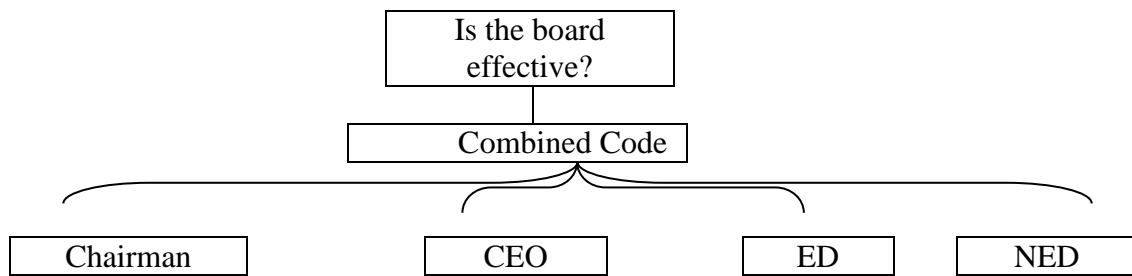
A good board can never compensate for a bad CEO but a good CEO can compensate for a bad board. In this light, effective leadership must anchor its behavior in values that set example and provide stability in times of crisis. Among the values the most essential three are integrity, transparency and accountability. The latter one

is critical for good governance and more effective for capital markets, as well as for providing investors with visibility on matters such as remuneration and giving investors, and moreover rating agencies, more information with which to make decisions.

Functions of Corporate Governance

Corporate governance mainly deals with answering three questions:

1. Is the board effective?



To ensure the board is effective, we need to know the combined code. Board of directors is responsible for company's success. We need to know that they ensure the maximization of shareholders' wealth. We also need to know whether the board meets regularly. There is no specific definition of meeting regularly. It depends on the company's need which can be monthly, quarterly, and half yearly or annually that is suitable for that business. It represents the balanced and understandable assessment of the company which means the board ensures how the financial statement of the company at the yearend is prepared. The board must ensure that there is nobody individually dominating the board.

Chairman and CEO

The role of chairman and CEO should be separate. Chairman likes to visit the company on a regular basis and sees whether principles of good corporate governance are being followed. The CEO is to be there for day to day activities.

Executive and Non-Executive Directors

There must have a good balance between executive and non-executive directors. No individual director dominates the group. The key thing is executive directors are for long term and they are running and managing the business more with respect to non-executive directors. Non-executive directors are for short term and will be visiting the business on a less regular basis. Sometimes it could be once or twice in a year and NEDs offer their advice based upon what they have experienced and to ensure the good governance principles are being followed.

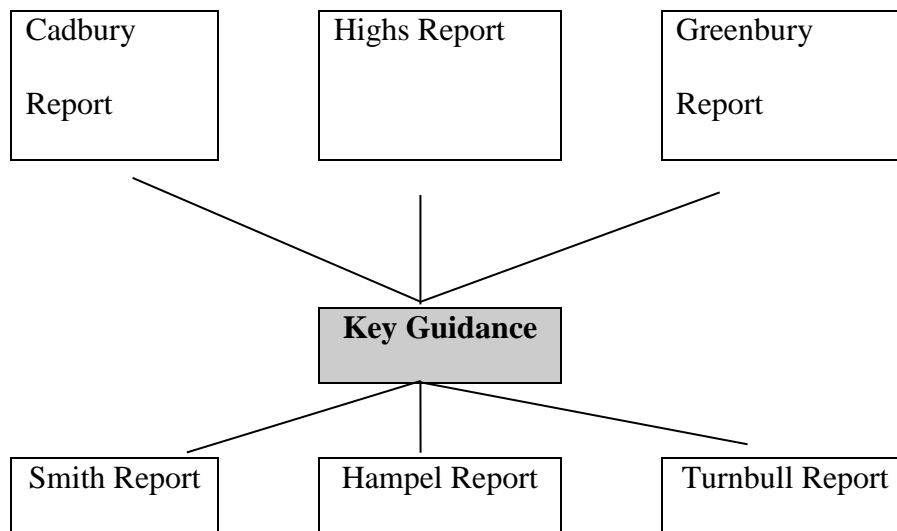
Appointment of Directors

The next matter is how the board is going to be remunerated; i.e. appointment of directors. One needs to pay more to get better quality directors to make the decision within her/his business. To appoint a director s/he needs to go for a formal and rigorous process. So the shareholders wish who is going to be the director of the company. If the shareholders remove directors, they have no right to stay within the company.

2. Are They Making Good Decision?

We need to ensure that they are following the rules and ethics that have been laid down to them with respect to various rules in the stock exchange. There are codes such as Cadbury code, Greenbury code, Hampel code, Smith report, Highs report etc. Are the directors following those within our day to day business decisions?

Is the Board making good decision?



The second question is whether the directors are making appropriate decision or not. To ensure this, the directors should follow the following principles of the corporate governance.

Explanations of Various Corporate Governance Report

Cadbury Report

This report sets out the foundation published in 1992 and went through set up, and recommendation for the board of one's company and what accounting standards should the board be adopting for that given company. In late 1990s various corporate scandals took place and it was felt that the BOD was not implementing that level of control. It was not following proper accounting standards, the balance of the board as cracked in terms of making good decisions. For that reason, there was an existence of Cadbury report.

The first major development during the 1990s in corporate governance was the Cadbury committee. This was set up in May 1991 because of the lack of confidence which was perceived in financial reporting and in the ability of auditors to provide the assurances required by the users of financial statements.

The Cadbury Committee report, reported in December 1992, went beyond purely financial matters and made recommendations about corporate governance in general. Cadbury defined corporate governance as 'the system by which companies are directed and controlled'.

Code of Best Practice

This was aimed at the directors of all UK companies, but the directors of all companies were encouraged to use the Code for guidance. The major provisions of the Cadbury report were as follows:

(a) Board of Directors

The report stressed the importance of the board of directors meeting on a regular basis, relating full control over the company and monitoring executive management. Certain matters such as major acquisitions or disposals of assets should be referred automatically to the board. The chairman's role in good corporate governance is crucial. There should be a clear division of responsibilities at the head of a company, with no one person having complete power. Generally this would mean the posts of chairman and chief executive being held by different people. If they were held by the same person, there should be a strong independent element on the board.

(b) Non-Executive Directors

The report showed non-executive directors as important figures because of the independent judgment they brought to bear on important issues. There should be at least three non-executive directors on the board, a majority of whom should be independent of management and free from any other relationship that might compromise independence. They should be formally appointed by a nomination committee, which should itself have a majority of non-executive directors.

(c) Executive Directors

The report contained provisions about the length of service contracts and disclosure of remuneration which were developed further in the Greenbury and Hampel reports.

(d) The Audit Committee

The audit committee was seen by the Cadbury Committee as a key board committee. The audit committee should liaise with internal and external auditors, and provide a forum for both to express their concerns. They should also review half-yearly as well as yearly statements.

(e) Accounts

The Cadbury Committee stressed the importance of the board presenting a balanced and understandable assessment of the company's position. The directors should explain their responsibilities for preparing accounts. Statements should also be made about the company's ability to continue as a going concern and the effectiveness of its internal controls.

Recommendations from Cadbury Report

The Cadbury report recommends the following issues:

- Board accountability
- Non-executive directors
- Executive directors
- Audit committee
- Internal controls

- Interim reports, auditor's fees, rotation of audit partners, reporting to regulatory authorities.

Greenbury Report

Following the Cadbury report, the Greenbury report was published (17 July 1995). This report sets up the principles behind the determination of directors' pay, i.e. how the directors should be remunerated and as the directors' remuneration can be quite large with respect to the profit the company makes, it needs to be little bit more transparent about how directors are getting remunerated. So the Greenbury report went through the emphasis and disclosure in the company's annual financial statements regarding how much the directors have been paid, i.e. cash salary, any bonus, share options, some form of pensions etc.

In July 1995 the Greenbury Committee's report on director's remuneration was published. The report developed a number of recommendations of the Cadbury Committee. Greenbury stressed the importance of the role of the remuneration committee, which the report recommended, should consist entirely on non-executive directors.

The Greenbury report established a Code of Best Practice as follows:

(a) The Remuneration Committee

The most important recommendation was that the board should set up a remuneration committee of non-executive directors to determine the company's general policy on the remuneration of executive directors and specified remuneration packages for each director. The non-executive directors on the committee should have no personal interests other than as shareholders, no conflict of interest and no day-to-day involvement in running the business. The committee chairman should be available to answer questions to the AGM.

(b) Disclosures

The report suggested that a report on remuneration policy should be included or attached to the annual accounts. The report on remuneration should give details of the company's policy on the remuneration of executive directors including:

- Remuneration levels
- Comparator companies
- Main components of remuneration
- Performance criteria and measurement
- Pension provision
- Contracts of services
- Compensation for loss of office

The committee should consider whether shareholders should approve this policy at AGM.

The remuneration report should contain details of the remuneration packages of individual directors including basic salary, benefits-in-kind, bonuses and long-term incentives. Details should also be given of individual entitlements to share options and pensions entitlements earned during the year. In addition, service contracts with notice periods greater than one year should be disclosed, and

reasons for longer notice periods be explained. Incentive schemes should be performance-related and shareholders should approve long-term incentives.

(c) Remuneration Policy

The report emphasized that the remuneration committee should consider wider pay scene, and should provide packages to attract, retain and motivate directors of quality. Performance-related elements should reconcile as between the interests of directors and shareholders. The remuneration committee should consider the level and form of rewards in the light of performance criteria set. Matters to be carefully considered would include the terms of share option scheme, the phasing of rewards, and the pension consequences of various elements of the remuneration package. Share options should not be issued at a discount.

(d) Service Contracts and Compensation

The Greenbury report favored notice and contract periods of less than one year, though up to two years that may be acceptable in certain circumstances. Periods longer than two years should be set in exceptional circumstances. Initial contracts are necessary to attract outside directors.

(e) Governance

Remuneration committees should take tough line over dismissal for unsatisfactory performance, and mitigation of compensation by directors. Committees should consider phasing of compensation payments over a period, and stopping them when the directors start a new job.

(f) An Evaluative Survey

A survey conducted by the department of Trade and Industry in 1999 indicated that many listed companies were failing to comply with a number of the recommendations originally aired in the Greenbury report particularly:

- (i) A significant number of remuneration committees did not consist solely of independent non-executive directors; a few had executive directors as members. The government has proposed that all quoted companies should be required to have a committee composed solely of independent not executive directors, the chairman should be prohibited from being a member, and the committee should have access to independent professional advice.
- (ii) Compensation from loss of office commitments and arrangements should be disclosed in listed company accounts.
- (iii) Few companies were putting their remuneration report to the vote in the accounts. The government was considering a range of options to ensure shareholders' approval, including a compulsory vote on remuneration report and remuneration policy, or annual re-election of directors or the chairman of the remuneration committee.

Recommendations in the Greenbury Report

- Executive Directors' remuneration which should be determined by a remuneration committee.
- Disclosures in the accounts to include details of each director's remuneration packages and the company's overall remuneration policy.

The Hampel Report

Hampel report followed the above two reports (Cadbury and Greenbury report). It focused both the application of accounting standards and directors' remuneration.

The Hampel Committee was set up in 1996 to carry out the following tasks:

- (a) Conduct a review of Cadbury code and its implementation to ensure that the original purpose is being achieved, proposing amendments to and deletions from the code as necessary.
- (b) Keep under review the directors' executive and non-executive roles recognizing the need for board cohesion and the common legal responsibility of all directors;
- (c) Be prepared to pursue any relevant matters arising from the Greenbury Report.
- (d) Address the role of shareholders and auditors in corporate governance issues.
- (e) Deal with any other relevant matters.

The Hampel Committee produced a final report in January 1998. The committee followed up matters raised in the Cadbury and Greenbury reports, aiming to restrict the regulatory burden on companies and substituting principles for detail whenever possible. The introduction to report also states that whilst the Cadbury and Greenbury reports concentrated on the prevention of abuses, Hampel was equally concerned with the positive contribution good corporate governance could make.

The introduction to the report pointed out that the primary duty of directors is to enhance the value of shareholders' investment over time. Relationships with other stakeholders were important, but making the directors responsible to other stakeholders would mean there was no clear yardstick for judging directors' performance.

The Hampel Committee was also against treating the corporate governance codes as sets of perspective rules, and judging companies by whether they have been complied with (January 1998). The report stated that there may be guidelines which will normally be appropriate.

Recommendations in the Hampel Report

The Hampel report sets out principles of corporate governance. The major recommendations were as follows:

(a) Directors

Non-executive directors should continue to have the same duties under the law. The roles of chairman and chief executive should be separate. A senior non-executive director should be identified. Non-executive directors should make up at least one third of the board. The report stressed the importance of monitoring directors' performance with all directors submitting themselves for re-election at least once every three years, as also boards assessing the performance of individual directors and collective board performance.

(b) Directors' Remuneration

In common with the Cadbury, the Greenbury and the Hampel reports, the Hampel committee saw the remuneration committee as the key mechanism for setting

the pay of executive directors. Remuneration committees should develop pricy on remuneration and devise reasonable remuneration packages for individual executive directors.

(c) Shareholders and the AGM

The major recommendations were that shareholders should be able to vote separately on each substantially separate issue; and that the practice of ‘bundling’ unrelated proposals in a single resolution should cease. Companies should propose a resolution at the AGM relating to the report and accounts.

(d) Accountability and Audit

The Hampel committee stressed, as the Cadbury committee had, the importance of the audit committee. However, whilst the report stated that directors should report on internal controls, the committee did not actually believe that the directors should be required to report on the effectiveness of controls. Auditors should report privately on internal controls to directors. Directors should maintain and review controls relating to all relevant control objectives, and not merely financial controls.

(e) Stock Exchange Requirements

Hampel proposed combining the various best practices, principles and codes of Cadbury, Greenbury and Hampel into one single ‘super code’. The Stock Exchange has issued a Combined Code derived from the recommendations of the Cadbury, Greenbury and Hampel reports. In June 1998 the Stock Exchange Listing Rules were amended to make compliance with the new code obligatory for accounting periods ending after 31 December 1998.

The Combined Code requires listed companies to include in their accounting disciplines:

- (a) A narrative statement of how they applied the principles set out in the Combined Code. This should provide explanations which enable their shareholders to assess how the principles have been applied.
- (b) A statement as to whether or not they complied throughout the accounting period with all the provisions must specify the provisions with which they did not comply, and give reasons for non-compliance.

This report ensures whether the directors are making good decisions. This specially aims to develop the listed companies and the stock exchanges. It focuses on directors’ responsibilities on the combined code. It also focuses on internal control, because if the company has good system of internal control in place, none of the problems go unprevented in future.

4. Turnbull Report

"Turnbull Report" was a report drawn up with the London Stock Exchange for listed companies. The committee which wrote the report was chaired by Nigel Turnbull of The Rank Group plc. The report informed directors of their obligations under the Combined Code with regard to keeping good "internal controls" in their companies, or having good audits and checks to ensure the quality of financial reporting and catch any fraud before it becomes a problem.

This report ensures whether the directors are making good decisions. This specially aims to develop the listed companies and the stock exchanges. It focuses on directors' responsibilities on the combined code. It also focuses on internal control, because if the company has good system of internal control in place, none of the problems go unprevented in future. However, revised guidance was issued in October 2005. The report was superseded by a further FRC guidance issued in September 2014.

5. Higs Report (Review Role and Effectiveness of Non-Executive Directors)

In 2003 Higs reviewed the role and effectiveness of non-executive directors. There were severe corporate scandals with the NED in the early part of the millennium such as Enron and Walcom.

6. Smith Report

This report largely followed on corporate scandal of Arthur and Anderson involved in Enron. Smith report focused on the independence of internal auditors, because again if there is a good internal control system and if the auditors monitor the internal control system and the independence of NEDs, corporate scandals should hopefully no longer happen. Thus, there will be better relationship between shareholders and directors.

The Smith Report was a report on corporate governance submitted to the UK government in 2003. It was concerned with the independence of auditors in the wake of the collapse of Arthur Andersen and the Enron scandal in the US in 2002. Its recommendations now form part of the Combined Code on corporate governance, applicable through the Listing Rules for the London Stock Exchange.

Again, it was substantially influenced by the views taken by the EU Commission. One important point was that an auditor himself should look at whether a company's corporate governance structure provides safeguards to preserve his own independence.

Global Corporate Governance Forum

The Global Corporate Governance Forum supports regional and local initiatives to improve corporate governance in middle- and low-income countries in the context of broader national or regional economic reform programs. The Global Corporate Governance Forum is the leading knowledge and capacity building platform dedicated to corporate governance reform in emerging markets and developing countries. The Forum offers a unique collection of expertise, experiences, and solutions to key corporate governance issues from developed and developing countries.

Governance and the Role of Government

Government policies definitely affect corporate governance, for policies and their enforcement shape the environment for corporations. Government is not just a policymaker; it may be a partner, a lender and even an owner.

Findings of the Corporate Governance Reports

From the above reports we see that though various reports have been discussed from the different viewpoints, main finding is to ensure the ultimate responsibilities of

the board, such as responsibilities of Chairman, CEO, Non-Executive directors and Executive directors. If the responsibilities of the above corporate leaders are ensured properly, there is highly likely to reduce the corporate scandals which lead to the maximization of the stakeholders' benefits.

Conclusion

In the last decade, many emerging markets have reformed parts of their corporate governance systems. Many of these changes have occurred in the aftermath and as a response to crises. Many countries, for example, have adopted voluntary corporate governance codes. In Bangladesh there are lots of companies who are also implementing and realizing the necessity of corporate governance for accountability of the management. Nevertheless, these reforms can be useful for identifying the importance of corporate governance. Indeed, researchers have analyzed the specific features of these reforms and other actions to quantify their impact on firm-level performance measures.

Acronyms

- | | |
|--------|------------------------------|
| 1. ED | Executive Director |
| 2. NED | Non-Executive Director |
| 3. CEO | Chief Executive Officer |
| 4. FSA | Financial Services Authority |

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Women's Political Role in *The Al-Qur'an*: An Analysis

Dr. Md Helal Uddin*

Abstract

The Holy Qur'an urges women not to make dazzling display publicly as practiced during Jahiliyyah (*Al Qur'an*, 33: 33). It also asserts that men are the protectors and maintainers of women (*Al Qur'an*, 4: 34). The Prophetic tradition commonly cited in this regard proclaims: "No nation will ever prosper if a woman is assigned to its highest public office" (*Bukhari*, no. 4073, 6570). On the other hand, *The Qur'an* acclaims the Queen of Saba for her just rule. The research will critically evaluate the validity of the quoted *Hadith*, and examine the circumstances surrounding the said *Hadith* to know its real perspective. It will make a comparative analysis between the classical and the contemporary scholars to see how the changing realities affected their stand on this crucial issue and what should be the objective standpoint on the political role of Muslim women.

Keywords: The Quran, Muslim Women, Political Role, Traditional Texts & Realities

Introduction

The political status of Muslim women is debated by Muslims and non-Muslims alike. Non-Muslim writers assert that Islam not only deprived women from political rights, but also neglected them in Islam socially, economically and culturally. Traditional Muslim writers assert that Islam raised the status of women in all aspects; but their focus is only limited to social status of women. They do not accept that a woman could hold the leadership role or the topmost public office of a nation, as it was extremely discouraged in a famous *Hadith* of the Prophet (SAAS), "No nation will ever prosper if it assigns women to its highest public office".¹ They also express reservations in women running independent business activities. On the other hand, the feminist Muslim writers support women vehemently and urge them to enjoy full rights like men. In this respect, they also urge women to disregard Islamic ruling of *Hijab*², let alone *Niqab*³.

An analytical reading of this widely discussed topic indicates a common phenomenon that the western discourse on this issue normally makes generalizations based on cases from Middle Eastern Arab nations, with population less than 30 million and whose total population is less than one Muslim majority country like Turkey. The majority of Muslims today live in Asia such as Indonesia, Pakistan, Bangladesh, India, Turkey and some other south-Asian countries. So, in studying the issues of similar nature, one must make a clear distinction between cultural and religious behaviors and principles, and emphasize on correct methodology of reading the Islamic texts, e.g. *The Quranic* verses, prophetic traditions and the views of the classical and contemporary jurists.

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Historically, women were normally confined to their homes except in some rare matriarchal social systems, scattered throughout the world. Regarding the political role of women Aristotle (384 BC-322 BC) said, "Men are more compatible for leadership than women, so the control of men over women is a natural matter".⁴ The statement of Democritus (460 BC-370 BC) is even a clearer expression of discriminative perception about women where he said, "We use the prostitutes for comfort so that they produce legal inheritors for us".⁵

In this paper, the main focus will be on the political rights of women if the women were allowed to run election for public representatives or the premiership of a state. The study will depend on the texts from The Qur'an, the sayings of the Prophet (SAAS), and the juristic opinions of classical and modern jurists in the light of current realities and changes in the world.

Women's Political Role in the Al-Qur'an

In the Qur'an, Allah (SWT) made no distinction between men and women in general activities. Women were regarded as parts of men and asked to participate in all important matters alongside their male counterparts. Allah (SWT) has confirmed that all virtuous deeds from men and women would be accepted and that Allah (SWT) will grant them a good life and noble reward (Al Qur'an, 16: 97, Al Qur'an, 3: 195). Not only that, Muslim sisters are charged to carry out the mission of *Amr bi'l Ma'ruf and Nahy 'ani'l Munkar* [enjoining for virtue and forbidding from vice] alongside their Muslim brothers. They would be granted the Mercy and Forgiveness of Allah (SWT) as a reward (Al Qur'an, 9: 67, 71). This noble mission by sisters is especially important; because in absence of their active roles, un-Islamic forces will drive Muslim sisters out of Islam.

Rashid Rida, a prominent Islamic thinker, mentioned that the *ayah* made it obligatory for both men and women to command for virtues and prohibit from vices. It could be done through verbal words or in written forms. It also includes criticism of the un-Islamic acts of the rulers and the Kings. The women in the time of the Prophet (SAAS.) knew this, and participated in this actively.⁶

Women's Political Role in the Al- Qur'an: An Analysis

The Qur'an also quotes the examples of two *Kafir* [non-believer] ladies who lived as wives of the prominent Messengers of Allah, Noah and Lut, (may Allah's peace be upon them), but did not accept the message of Allah. On the other hand, the Qur'an also acclaims a Muslim lady, wife of Pharaoh, who not only believed in Allah (SWT) and Prophet Moses (AS), but also confirmed her place in *Jannah* [Heaven] beside Allah (Al Qur'an, 66: 10-12).

Bay'ah of Women

The Qur'an asked the Prophet (SAAS) to take the oath of allegiance from both men and women. They made *bay ah* to the leader of the state for allegiance. Also Allah asked the Prophet (SAAS) not to return the Muslim immigrant women who ran away from persecution of the *Mushriks* and took refuge in Islamic state; the Prophet (SAAS) did not allow returning them to the *Mushriks*. Al Quran Says:

"O ye who believe! When there come to you believing women refugees, examine (and test) them: Allah knows best as to their Faith: if ye ascertain that they are believers, then send them not back to the unbelievers" (Al Qur'an, 60: 10).

Queen of Saba

The Qur'an acclaims the story of an important lady who ruled her nation with justice, fairness, *Shura* and mutual dealings and reached decisions through consensus. She was the Queen of Saba. Allah (SWT) records her story in Al-Qur'an and says: She said: "Ye chiefs! advise me in my affair: no affair have I decided except in your presence" (Al Qur'an, 27: 32). Her just rule was praised in the Qur'an and her sound decision led her nation ultimately to accept the divine religion through the Prophet Sulayman (AS.).

Men as the Protectors of Women

It was claimed by many scholars that the Qur'an made the men protectors of women and their guardians. So, they are not qualified to rule over men. Allah (SWT) says in the Qur'an: Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means (Al Qur'an, 4: 34). And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them. And Allah is Exalted in Power, Wise (al Qur'an, 2: 228). These *ayats* [verses] refer specifically to the family matters that he is given the authoritative role. One of them should hold the authoritative role based on *Shurah* and consensus, and not based on dictatorial rule. The Prophet (SAAS) asked men to consult their wives regarding their daughters. This role of 'guardianship' in the family was due to his role and the responsibility of expenses for the family. Wife could be the Dean, director or even the supreme executive of a particular office, and the husband might be a simple officer in the same office. He has to obey her commands in the office; but at home he is superior and she has to follow his decisions reached through consultation.

Women's Leadership Role in the Sunnah of Prophet (SAAS)

In the *Hadith* of the Prophet (SAAS), the women were not isolated from the political activities of the state. They remained actively involved in the political affairs of the Islamic state of Madinah. They joined the missionary activities of Islam, migrated to Abyssinia and later to Madinah to preserve their Islamic identity. At times, their husbands turned apostates, but they remained firm and steadfast in Islam. They suffered from persecutions, tortures and even got killed, but not ready to sacrifice the religion of Allah (SWT). They played active roles as advisers to their spouses, participated in the battles to take care of the injured, provide first Aid services to the warriors. For instance, Umm Haram bint Malhan was reported, when the Prophet Muhammad (SAAS) prophesied about his Ummah crossing the sea to earn the banner of Islam to the other parts of the world, to have appealed to the Prophet (SAAS) that Allah (SWT) makes her one of them. The Prophet (SAAS) prayed. It is historically proven that she joined the Muslim warriors crossing the sea during the time of Caliph Mu'awiah (RA)⁷. Rubay' bint Mu'awwidh also says: "We participated in the battles with the Prophet (SAAS). We provided the warriors with the water and necessary medications. We also helped in carrying the dead and the injured to Madinah."⁸ Umm Sulaym bint Malhan was reported to have guarded the Prophet (SAAS), during the battle of Hunayn with a dagger. She said, "If any *Mushrik* comes closer, I would slit his belly using this dagger".⁹ Umm Sulaym accepted Islam before Abu Talhah, her husband. When the latter proposed to marry her, she said, "I may only marry you if you accept Islam. If you do so, that would be dowry. She married on the dowry of Islam".¹⁰

Umm Salamah Advises the Prophet (SAAS)

During the Hudaibiyah Treaty (6 AH), after the apparent unfavorable treaty with the *Mushrikin*, the companions were extremely upset and 'Umar (RA.) expressed his anger to the Prophet (SAAS), for which he later repented. Muslims became unhappy due to its humiliating terms and conditions. Upon confirmation of the treaty, the Prophet (SAAS) asked them to rise, slaughter their cattles and shave their heads. They did not move even though the Prophet (SAAS) repeatedly asked them thrice to do so. He came to Umm Salamah and expressed his disappointment over the incident. She advised him like an experienced and wise advisor. The Prophet (SAAS) did exactly the same as advised by Umm Salamah (RA.). Accordingly, he went out to slaughter his own camel, shaved his head without uttering a single word to any. Seeing that, the companions quickly rose, and did the same as done by the Prophet (SAAS). They were extremely upset for not obeying the commands of the Prophet (SAAS), so much so that they were even cutting the heads of each other. It shows that she acted wonderfully as an intelligent advisor to the Prophet (SAAS).¹¹

Umm Haniy's Political Asylum

On the day of Victory of Makkah (8 AH), while the Prophet (SAAS) was taking bath, Umm Haniy bint Abi Talib came to meet him. She complained about 'Ali bin Abi Talib that he wanted to kill a person whom she granted asylum, son of Hubayrah. The Prophet said, "We uphold the refuge of Umm Hani".¹² This shows that the Muslim ladies enjoyed full political rights to the extent of giving refuge and asylum to the non-Muslims.

Zaynab bint al-Muhajir's Concerns about the Fate of Muslims

Caliph Abu Bakr (RA.) met Zaynab, who vowed to observe the fact of speech, and decided not to talk to anyone. Caliph Abu Bakr (RA.) asked her to speak, as it was a *Jahily* [uncivilized] practice. She then asked the Caliph, "How long could we live in this virtuous religion that Allah has gifted us after Jahiliyyah?" He said, "You will continue to be in this righteous religion so long as your leaders remain virtuous."¹³

Ayishah (RA.) Leads the Battle of Camel

Ummul Mu'minin 'Ayishah (RA.), the wife of the Prophet (SAAS), together with Talhah and Zubayr (RA.) led the Muslim army in the battle of *Jamal* [Camel] demanding the Qisas [retribution] of the Killing of 'Usman (RA.). Putting aside the debate, Whether she was right in this particular incident, it undoubtedly establishes the fact that women could also participate in the political affairs of an Islamic state, and even could lead them.¹⁴ Asma' bint Abi Bakr (RA.) voiced against Hajjaj, the murder of 'Abdullah bin Zubayr. The tyrant governor Hajjaj bin Yousuf wanted Asma' bint Abi Bakr (RA.), mother of Abdullah, to meet him. She refused. Hajjaj threatened that if she persists, he would drag her. She said, I shall not go and meet him even if he drags me. Hajjaj himself came and met her. She told him without any fear: "Listen, the Prophet (SAAS), told us that in Thaqif tribe, there would be a liar and also a destroyer. We have already seen the liar (referring to Mukhtar bin Abi 'Ubayd Thaqafi, who claimed to have received revelation from Jibril), and I believe the destroyer is none but yourself."¹⁵ Hajjaj, without saying a single word, rose and left.

These are some incidents which clearly mark that the women in the time of the Prophet (SAAS) were not detached from the political affairs; rather they were perfectly involved in almost every matter.

Lack of Intelligence in Women!

In this regard, a famous *Hadith* is quoted to discredit women from leadership role. The Prophet (SAAS) was reported to have visited the women after Eid prayer and encouraged them to donate in charity. Because, the Prophet (SAAS) said, "the majority of the dwellers of Fire consists of women." It was due to their frequent curse, and showing no gratefulness to their spouses. "Yet" the Prophet asserts, "I have not seen anyone more deficient in intellect and religion than you, but are able to captivate the hearts and minds of highly sensible men".¹⁶

Qaradawi believes that this *Hadith* was said in a light moment by the Prophet (SAAS), during bid prayer. So, it should not be read literally. The Prophet (SAAS) encouraged them to donate in charity, and also indicated that they could easily captivate the hearts of men and overcome the rational mind of men by their emotions and sensitivities.

Even though the Prophet said the *Hadith* in a light moment, he did not say something which is contrary to truth. The statement has reality that women could not perform prayers and fasts during certain duration of every month. And her testimony in court (in financial matters) is regarded as half of the men. This *Hadith* should not be used to discredit women from political role. Rather, it is a transitory affair in women.

Abu Bakrah's Famous Hadith

The only *Hadith* of Prophet (SAAS) where he is reported to have condemned the leadership of women is narrated by Abu Bakrah, which reads as follows: Related Abu Bakrah: "A word that I heard from the Prophet Muhammad (SAAS), helped me on the day of Battle of Camel¹⁷, and I was about to join the battle. The Prophet Muhammad (SAAS) said when he came to know that the Persians crowned the daughter of Kisra (Persian monarch) on the throne: A nation can never prosper if it assigns women to the highest political post."¹⁸

The *Hadith* has other chains of narrators, all of which meet Abu Bakrah.¹⁹ It is narrated in the same wording. But Imam Ahmad narrated differently than what is narrated in *Sahih Bukhari* and other *Sunan* books of *Hadith*. Imam Hakim authenticated this *Hadith* and Dhahabi also confirmed it. Imam Tirmidhi says, "This is a *Hassan* and *Sahih Hadith* (sound and authentic). As the *Hadith* is reported in *Sahih Bukhari*, it guarantees protection from *sanad* [reference] deficiencies and criticisms. Though some of the narrators of the *Hadith* are questioned and debated, it does not affect the authenticity of the *Hadith* as a whole.

The background of the *Hadith* is that the Prophet (SAAS) was informed about a political turmoil and unrest in Persia, when its King was assassinated by his own son, and the son was also killed by a plot of his father planned before the latter's death. The son was able to hold the reign of power for only six months, after which he was killed by the pre-arranged plot of his father. The collaterals of the King did not

want to be ruled by others than the royal family. Therefore, Buran, the daughter of the King Shirwayh bin Kisra bin Parvez, became the Queen of Persia.²⁰

Hakim provides a strange report about the King of Persia and his daughter, as he mentions that it relates to the King Zi Yazan, and about a lady who ruled the kingdom after him.²¹ Qurtubi furnishes even more strange report than this. He narrates: "Abu Bakrah says: Bilqis was mentioned before the Prophet (SAAS), upon which the Prophet (SAAS) said, "No nation would prosper if it places woman in the highest public office".²² Qurtubi, however, was silent about its origin and source.

Critical Analysis of the *Hadith*

The majority scholars of the past and the present rejected women's rule for a nation based on this *Hadith*. They took it in the literal meaning of legal prohibition for a woman to assume the rule of authority. Though the *Hadith* does not literally prohibit assigning women to the rule of authority; the opponents took it in a strict rule of prohibition, as the *Hadith* literally declares destruction of a nation that assigns women to the leadership position.

There is another dimension in the criticism of the *Hadith* based on its *sanad*, i.e. chain of narrators, and not based on its text or relating it to special incident. Fatimah al-Mar'isi, in her book, *Al-Hareem al-Siyasi* (Political Woman), debated extensively on the personality and reliability of Abu Bakrah, to whom all reports on the matter evolve.²³ She claims that Abu Bakrah was punished for 'false' testimony by 'Umar bin Al-Khattab (RA.), and hence his testimony is rejected. His reports therefore could not be considered. The '*fisq*' or straying from the right path, could be tolerated while learning *Hadith* (*tahammuT*), but not while delivering it to others (*Al-Ada'*). Abu Bakrah (RA.) learnt this *Hadith* in pure *Iman* as a companion of the Prophet, but while delivering it to others, he lost his trustworthiness. He was involved in a testimony against Mughirah bin Shu'bah (RA.) which could not be established until today. He and two others testified against him, but the fourth withdrew from his testimony as the matter was not evident to him. 'Umar (RA.) rejected all their testimonies and punished the three for such testimonies. As it was mentioned in *Surah al-Nur* of Al-Qur'an that whoever brings a charge against a person, and does not produce four witnesses, they should be flogged with 80 stripes, and their testimonies would be rejected in future (Al Qur'an, 24: 4). They are strayed but if one repents. Abu Bakrah did not repent and he was insistent that he was right in his testimony.

This issue has other dimensions and the statements of the scholars are diverse on this. The books on legal ruling provided details for it. The most important matter here is that Abu Bakrah was punished by the command of the just caliph 'Umar bin al-Khattab (RA.). It made him loose credibility in testimony, and narrating *Hadith* is like giving testimony. If someone's testimony is not accepted, his reported *Hadith* would also be rejected. However, the *Hadith* and *Fiqh* scholars did not raise questions about the reliability of Abu Bakrah (RA.), as all companions are just and trustworthy beyond any reasonable doubt. This incident did not affect his *Iman* and trustworthiness; hence it did not tarnish his image as an acceptable narrator of *Hadith* of the Prophet (SAAS).

Theological Debate on Women's Leadership Role

The scholars debated over this issue extensively. They debated if woman has any political rights such as voting rights, or getting elected as leaders, such as members of the parliament or a minister. Their debate also continued if she could be elected as the premier of a particular state.

The scholars are in general agreement that the women should or could exercise their political rights by electing their leaders and representatives, though some traditional scholars did not like that the women should come out of their homes to exercise this right. For example, Mustafa Siba'i mentions that women as citizen of a nation should exercise this right in electing their representatives to voice their concerns. Since there is no prohibition in *Shariah* about it, the right should be recognized and implemented.²⁴

Women as Representatives

Since women, according to some scholars, could exercise their rights in selecting their representatives, they should have full rights in getting elected as well. On the basis of *Shariah* principle, *Al-Aslufi al-Ashya' al-Ibahah* [the basis in everything is validity], Dr. Siba'i asserts that women's participation in running for elections is perfectly valid. There is no text in *The Qur'an* that prevents women from exercising this right. Rather, they were regarded in *The Qur'an* and Sunnah as the counterparts for males.²⁵ The Prophet (SAAS) clearly states, *Al-Nisa' Shaqa 'iq al-Rijal*²⁶ [women are men's counterparts]. Therefore, it could be derived that the women should exercise the same rights as men based on her credibility, and not based on gender.

Dr. Siba'i believes that though there is no text preventing women from running for elections, women stay out of it due to *maslahah* or public interest.²⁷ According to Qaradawi, it is against public interest that the women should stay away from running the election. Rather, they should run the election side by side with secular women who run for elections and get elected at times. Dr. Qaradawi admires the step of *Ikhwan al-Muslimun* or 'Muslim Brotherhood' in Egypt in selecting some female members to run for the election. Specifically he mentions Sr. Jeehan, who ran the election from Alexandria of Egypt.²⁸

The opponents raise the issue of *Ummuhat al-Mu'mineen* or Prophet's virtuous wives where they demanded extra expenses from the Prophet (SAAS), which led to the seclusion of the Prophet for a complete month. *Qaradawi* argues that this should not be treated as a negative permanent character in women. As the men also committed some things that Allah did not like and hence they were criticized in *The Qur'an*. Their engagement in business transactions leaving aside *Jumu'ah* prayer was condemned. Likewise, their desire to gather wealth on the battle of Uhud was also highly rebuked in *the Qur'an*. For example, In *Surah Jumu'ah*, Allah (SWT) says: "But when they see some bargain or some amusement, they disperse headlong to it, and leave thee standing" (*Al Qur'an*, 62: 11). In *Surah Al 'Imran*, He says: "Allah did indeed fulfill His promise to you when ye with His permission about to annihilate your enemy, until ye flinched and fell to disputing about the order, and disobeyed it after He brought you in sight (of the booty) which ye covet. Among you are some that hanker after this world and some that desire the Hereafter" (*al Qur'an*, 3: 152). As

these incidents did not discredit men from political leadership role, the women should also not be barred from political participation.²⁹

Saddadh-Dhara'i':

Some people raise the point that the women should be barred due to '*Saddadh-Dhara'i'*' or preventive measures. But it will lead to '*Sadd ash-Shara'*' or preventing *Shariah* itself. If the limit is exceeded in '*Sadd adh-dharai*', it will lead to extremism in '*Path adh-Dhara'i'*' or opening the means to evil acts.

Should one avoid cultivating the grapes, lest it may result in producing wine? Should one stop studying Chemistry, because it may teach him how to produce wine, and may get engaged in this? Should one not live in a neighborhood assuming that the neighbors may have daughters and his sons will or may get corrupted.

Imam Abu Hanifah allowed women to be judges and *Muftis* to issue legal verdicts except in financial and criminal matters. Tabari, Ibn Hazm also said that they could be judges in all issues. Ibn Hazm, though known strictly to follow the texts literally from *The Qur'an* and Sunnah, reported to have said that 'there is no traditional text in *The Qur'an* and Sunnah that prohibit women from being Prophets. Had there been any text, Ibn Hazm should be the first one to accept and defend'. So, if they were allowed in principle, to be the prophets (SAAS), they could also be the leaders.³¹

Women as the Top Premier of State

Generally, all Muslim scholars agree that women are exempted from this tough responsibility, primarily assigned to men. The nature of job, and its quality need men to hold the premiership of state. It needs *Jihad* [war] and *Ijtihad*, for which men are qualified. It also requires a Caliph who should lead them in prayer. And it is unanimous among scholars that women cannot lead men in prayers. They could only lead women in prayers. 'Ayishah and Umm Salamah (RA.) led women in prayers, and they stood in the middle of the line, and not in the front.

Al-Mawardi identifies seven necessary qualifications for leadership that include, particularly the ability to do *Jihad* and *Ijtihad*.³¹ Ibn Khaldun also refers to five important qualities for *Imamah* where specifically he refers to lead the congregational prayers.³² This also shows that he believes that the post of *Imamah* is reserved for male.

Turabi asserts that women can hold any high position in state including Ministers, but not the premiership of a state.³³

The following is the list of scholars who prohibit women's leadership though some of them allowed her to assume the role of chief justice as held by Abu Hanifah and Tabari:

1. Abu Hanifah (d. 150 H) allowed her to be chief justice, but not the premier of state.³⁴
2. Malik bin Anas (d. 179 H) also allowed her to hold the position of justice in one report.³⁵
3. Ibn Hazm Zahiri (d. 456 H) says that women in general cannot assume the post of a ruler except the ladies of the Quraysh. He also viewed that she could hold the post of justice.³⁶

4. Imam Ghazali (d. 505 H) did not allow woman to hold the post of *Khilqfah* though she may be more qualified than man. Like Imam Shaffi, he did not allow her to hold the post of justice.³⁷
5. Ibn al-'Arabi al-Maliki (d. 543 H) did not only prohibit woman to hold the topmost public office of a state, he also condemned the authenticity of the reports that are attributed to Abu Hanifah and Tabari that they allowed woman the post of chief justice. To him, these are the fabrications of innovators in some *Hadith*.³⁸
6. Kasani (d. 578 H) allowed her to issue verdict of justice excepting *Hudud* and *Qisas*. Because her witness is invalid there.³⁹
7. Qurtubi (d. 671 H) followed the opinion of his mentor Ibn al-'Arabi.⁴⁰
8. Ibn Kathir (d. 747 H) presented from historical perspective that the women are not qualified to run the state affairs. He also added that she should be barred from holding posts in the court of justice.⁴¹
9. Shawkani (d. 1250 H) says that it is not valid for a nation to charge her with the state premiership. For, he says, it is compulsory to avoid things that carry failure and collapse of a nation.⁴²
10. Abul A'la Mawdudi (d. 1979 AC) declared manhood as a precondition to be rulers based on *Hadith*. He views that women's engagement in the political world is destruction for the family institution. Family is the natural domain for women's activities. Likewise, the politics, state affairs and military services etc. are exclusively meant for men.⁴³
11. Sayyid Muhammad Rashid Rida (d. 1935 AC) excluded the premiership from the political posts that women could hold.⁴⁴
12. Imam al-Baqillani opposed women's supreme leadership in his book *al-Tamhid*, by saying that this is one of the attributes of the *Imam* to be experienced about war strategy, management of the army and the administration, protecting the oppressed and who will not be soft and emotional in practicing the *Hudud* punishments.⁴⁵
13. Mustafa Siba'i believes that the *Hadith* is clear in prohibiting women from the post of premiership; and the same ruling should be applied for similar political posts of extreme significance.⁴⁶
14. Muhammad Hussain Fadlallah, a Shi'i scholar interprets the *Hadith* of Abu Bakrah that it is related to the dictatorial regime of Persia. The rulership just required general competence, whereas today it requires government machinery, experts and consultative council and so on. He concludes that women should not hold the post of top leadership; but she could participate in other activities beside man provided that she is well-equipped to protect her from emotional and sentimental attachments.⁴⁷

Many other scholars also prohibited women from assuming leadership role based on this *Hadith*. Among those scholars are Al-Qaradawi⁴⁸, Abu Shiqqah⁴⁹, Bahansawi⁵⁰, Abdul Karim Zaydan⁵¹ and others. They repeated the same arguments presented by the scholars mentioned above. There are other scholars who permitted women to be the top leaders. It might be Imam Tabari (d. 310 H) alone who allowed women to assume the post of rulers and also judges among the earlier scholars. There are some modern scholars who also upheld the same view like al-Tabari, such as the following:

1. Muhammad al-Ghazali believes that the *Hadith* refers to a particular incident in a particular country. It is wrong to generalize it on all Muslim women let alone the women of the world.⁵²

2. Hibah Ra'uf 'Izzat also reiterates the same reason that the *Hadith* is exclusively meant for Persian nation. It is a glad tiding for the victory of Muslims.⁵³
3. Al-Khamlishiy claims that there exists no religious text in Islamic *Shari'ah* that prevents women from holding topmost political posts.⁵⁴

This could be noticed here that all these scholars generally related the *Hadith* of Abu Bakrah with a political event occurred in Persia and they rejected to generalize it for today's events. There are other contemporary scholars who ignored the *Hadith* totally and did not deal with it while discussing the issue of women's leadership role.

Some other scholars argued based on the analysis of Al-Mawardi in his book *Al-Ahkam al-Sultaniyyah* that women could be the supreme leaders as al-Mawardi did not mention that masculine is one of the seven conditions of being Caliph".

A deeper analysis shows that there is no *Shari'ah* prohibition to this effect. Rather *The Qur'an's* acclaimed mention of the Queen of Saba shows that woman has the right to contest for election. It is her ability and quality that matters, not the gender of a particular candidate.

It has been observed that sometimes women are more qualitative than men. Their quality should be taken into consideration, and not the gender. Islam is not gender biased.

The *Hadith* of Abu Bakrah refers to a particular incident of Persia that the Prophet (SAAS) prophesied about the destruction of that particular nation. This proves his accuracy of prophecy and that he was divinely inspired. The daughter of Kisra or the Persian monarch was not qualified to run that powerful state. And it collapsed ultimately.

Conclusion

The Qur'an honors humankind as a single unity, and makes no distinction due to blood, color, race or gender. All human being is equal in the eyes of Allah. This is established in *The Qur'an* and also in the statements of the Prophet (SAAS). The Qur'anic command of *Shura* includes both men and women. Women actively participate in commanding for virtues and prohibiting from vices. The Prophet Muhammad (SAAS), (peace be upon him), consulted with his wives in making important political decisions. He also upheld the political rights of women by confirming the protection granted by Umm Hani (RA.) during the victory of Makkah. Some of the female companions also got actively involved in sociopolitical issues. Some of them were actively involved in battles.

Again, women are part of human society. As Islam grants equal rights to them, the political rights should also be granted equally. They have full rights to compete with their male counterparts and get elected with their own abilities. It is not the gender to rule for leadership, but the qualities and gifted attributes should prevail in selecting leaders.

It should not be useful to propagate that Islam grants men and women full equal rights while even not allowing women to vote and participate in the election

process. Some Gulf States do not allow their women to participate in the election process. Majority of these states are run by dictatorial regimes, which is abhorred in Islam.

The *Hadith* of the Prophet (SAAS)—"No nation should prosper if it assigns women to its highest political post"—is said in a particular context, where Persian monarch was killed, and a lady was made Queen. The Prophet (SAAS), being divinely inspired, prophesied about the fate of that nation that it would ruin ultimately in the hand of the Queen. It should not be generalized to all nations, as the Prophet cursed the Persians due to their arrogance and tearing of the letter of the Prophet (SAAS). Moreover, the Queen of Persia was devoid of necessary qualities to be the ruler of a powerful nation. So, it was not due to her gender that made her incompetent, but due to lack of qualities to be the leader. The same principle would be applied to the males. Many incompetent males were responsible for the destruction of their nations.

Meanwhile, *The Qur'an* mentions the story of a noble lady, the Queen of Saba, who led her nation towards prosperity, happiness and success. She ruled over them with success, decided matters through *Shura*. She was wise and full of knowledge that led her nation towards firm faith in Allah (SWT) and ultimate success in both the Worlds.

In the 20th" century, the women rulers did not face much trouble from nations, and we could get the instances of some iron ladies who ruled the country with strength and vitality. The people did not hesitate to reelect them in the top public posts in countries that were regarded to be highly developed in its economy and politics. For instance, Britain elected Margaret Thatcher as Prime Minister for a number of times. There are many more examples in the history of modern world.

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Causes behind Students' Unsuccessful Efforts in Developing Proficiency in English: An Empirical Study

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Abstract

After ten years' schooling of English, most of the students in Bangladesh fail in English in the S.S.C. examination. Even if they pass, they get very poor marks. The students who pass and get good marks are incapable of showing their achievement practically, i.e. they can neither speak fluently and naturally nor can understand English. They pass the examination but actually they are unable to use the language. An empirical study of the causes of the secondary students' failure in learning English is done. Schools are visited, and data are 'collected through questionnaire surveys and interviews of the teachers and students; data are analyzed, and finally presented to reveal the causes of learners' failure in developing proficiency in English.

Introduction

English, the language of communication in twenty first century, now which is practiced almost in every single civilized corner of the globe through diplomacy, trade, education, cultural exchange and so on. Here in Bangladesh, we use English as a foreign language (Rahman, 1999; Ainy, Banu & Sussex, 2001). But due to some mysterious causes we are still struggling to prove our competence in reality almost in every single sector. Quader (2000-01, p. 6) says, "Despite learning English for 1600 hours at the pre-university level, students cannot use English, and have been perceived to be at least six years behind the proficiency necessary to perform at the tertiary level of education." In Bangladesh, English is introduced as a mandatory subject at the primary level and continues till the higher level of education (Hamid, & Baldauf, Jr., 2008). A student has to study English as a compulsory subject for ten years to qualify the Secondary School Certificate (S.S.C.) examination. The secondary level of education starts from class six and continues till class ten.

Here the researchers choose the students of class ten as their samples, and they mean them when they refer to secondary students because they are at the final stage of the secondary level and they have a complete experience of undergoing that level. They are mature enough to speak about themselves and to evaluate and express their opinions regarding their education.

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However, everyone knows a language course is different from any other courses as it is skill-based whereas the other courses or other subjects are more or less content based. As for English, different pedagogical techniques and procedures have been followed to teach and the learners are expected to master the language through them. Considering the negative outcome, several changes for the development of learners' learning process have been suggested. In the history of the language teaching, some principles and techniques got success and popularity. In Bangladesh, the traditional Grammar-Translation Method (GTM) was used in teaching English but due to the huge success of the Communicative Language Teaching (CLT) Approach. CLT was adapted here in 1995 (in Roshid, 2008-2009, p. 178) and first introduced in class IX and X in 2000 and 2001. Class IX must be mentioned here as the textbooks of all subjects of class IX and X are the same and both the curriculum and the syllabus follow a shuttle program throughout these two classes. While in GTM, the knowledge of language- its grammar and rules are focused, communication or the ability to perform in real life situation is emphasized in CLT. CLT is a modern approach that focuses on the development of communicative competence of the learners and thus attempts to serve the real purpose of using any language as Edge (1993) says, "Communication is at the heart of modern English language teaching" (p. 17). Now the language teachers are teaching English to their students to communicate spontaneously and moving away from their earlier typical knack for teaching the definitions, patterns, structures, grammar, vocabulary, literature, translation and so many things about the language other than the language itself. Presently, English is taught, learned and practiced as a compulsory subject till the higher level of education; Not only viva-voce but also written tests of almost all the organizations are held in English. All the universities and all of their subjects except for the ones on specialized languages, i.e. Bangla, French, and Japanese etc. are in English. After twelve to above years of learning English as compulsory subject, the primary objectives are not reached i.e. students proficiency level is not developed (Rahman & Rahman, 2012). Thus, students are not learning English according to their expectations.

Literature Review and Background Study

At present, English is used as a foreign language in Bangladesh, which is a monolingual country. Before 1971, when Bangladesh was a part of Pakistan, English possessed the position of a second language and Pakistan was a multilingual country. Even before that in 1947, Pakistan was a part of the British India. However, the great 1952 episode brought a huge rise to the use of Bangla; the importance of English was decreasing. From the nationalistic perspective of Bangladesh, English was not welcomed as it was the language of the colonizers. It is replaced by the fame of Arabic and Persian which are thought to be sacred languages to the Bangladeshi Muslims, the religious majority. "Secession from Pakistan in 1971 ushered in a wave of nationalism which not only threw out Urdu but also displaced English, resulting in Bengali (the first language) taking precedence at all levels of the bureaucracy, education, administration and later on, the judiciary" (Moniruzzaman 1979 cited in Rahman, 1999). Bengali identity became very influential and as a result the use of Bangla took unprecedented rise in all spheres of life. Nevertheless, the importance of English was not totally ignored as the country's constitution was written and published in both Bangla and English. Later on, it was highly welcomed as for being the most popular international link and lingua franca. As for the topic of our paper, the relevant literature is huge. A brief survey and discussion is necessary.

Our general understanding of the term 'learning' does not go with that of the linguists'. Learning is not an automatic and spontaneous process. It is directed by and dependent on teaching. For Bigge states, “. . . teachers can do little to influence the maturational pattern of students . . . their most effectual area of endeavor always centers upon learning” (1976, p. 1). However, teaching is not directed and controlled by the teacher only. While on one hand, they have to go by the aims and objectives of the syllabus, textbook and education policy, on the other, a teacher is not a programmed robot, but a human being with his own personal traits, characteristics and limitations. Teaching is a kind of performing arts that is also affected or influenced or interrupted by the philosophy of the teacher who is not a born teacher but who is taught by their teachers as well. Hence the teacher has a preconceived idea of teaching from the experience that they had when they were taught. “A teacher simply taught the way he/she had been taught when he/she was a child or youth. But the learners have their roles as well. We cannot make the horse thirsty . . . only to the degree that a student is willing to think for himself, can he (she) emerge from his studies with something worthwhile” (Bigge, 1976, p. 4). However, apart from the educational policy, each and every teacher has his or her own theory of learning. It plays a vital role in his or her teaching. As we already know, teachers can vary from one another according to their personality; students, similarly can differ from one another. They also possess their own differences according to their age, sex, motivation, attitude, expectation, and socio economical background. Ellis (1994, p. 472) presents a lists of factors influencing individual learner differences in language learning in three surveys done by Altman (1980), Skehan (1989) and Larsen-Freeman and Long (1991). He also identifies three sets of interrelated variables related to learners' beliefs, affective states and other general factors; learners' strategies and language learning outcomes. Ellis (1994) also mentions seven factors of individual differences of the learner: belief, affective state, age aptitude, learning style, motivation and personality. Bigge (1976, p. 303) mentions, "When a person develops a state of tension resulting from unsatisfied need, we say that he is motivated". He also adds, "Obviously, motivation plays a central role in learning. Consequently a teacher who can keep his students well motivated has won more than half the battle." Ellis (1994, p. 508) asserts, "Language teachers readily acknowledge the importance of learners' motivation, not infrequently explaining their own sense of failure with reference to their students' lack of motivation. SLA research also views motivation as a key factor in L2 learning." However, motivation can be chiefly of two types: integrative and instrumental motivation. In short, Ellis says (1994, p. 513), "Learners with integrative motivation are more active in class and are less likely to drop out" and ". . . learners with an instrumental reason for learning an L2 can be successful". However, it is not possible to say which learning style works best. In fact, it varies from learners to learners. Learner's personality is important too. The learner can be extrovert or introvert and this fact can affect the learning system. Eysenck and Chan (1982, p. 154) say, "Extroverts are sociable, like parties, have many friends and need excitement; they are sensation-seekers and risk-takers like practical jokes and are lively and active. Conversely introverts are quiet, prefer reading to meeting people, have few but close friends and usually avoid excitement."

Another important thing in favorable teaching –learning context is material design and its selection. Since, practitioners' do agree that any language course cannot be fully content based and we cannot learn a language always met linguistically. For learning or practicing, we have to bring some tasks and also contents supporting the

language items. According to Bigge (1976: 370), "A teacher's program of evaluation not only governs his students' study habits, their manner of interaction in class, and the number and quality of their learning, but it also greatly influences the teaching-learning level upon which their learning efforts proceed." Hence, practice materials for classroom interaction and their use in class in making students interactive undoubtedly play a vital role.

The classroom is yet another important factor for language learning. Van Lier (1988, p. 47) says, the classroom is "the gathering, for a given period of time, of two or more persons for the purposes of language learning". Quader (1995, p. 3) says, "To bring about better and faster language learning, the classroom can give rise to interaction, particularly with qualified interlocutors who can give learners good quality input as well as accurate feedback for improvement."

Hence the need for the change of method occurs. She mentioned the English Language Teaching Improvement Project (ELTIP) that aimed at communicative language teaching:

They (the teachers) will use the language practically, focusing on its 'use' rather than 'usage' as they have been doing so that they get over the 'fear of English' that teachers report in all learners. Students should be aware and involved in learning. This would be very different from the existing mode of teaching where students sit passively bored as they listen uncomprehendingly to the teacher and later fall back on memorisation for examinations.

(Quader, 2000-01, p. 8)

We find that the examination system plays an influencing role in learning in Bangladesh. And, as she said about the teachers' duties, she also mentioned that the teacher could not do it alone. A teacher does not enjoy much liberty in taking decision about learning. Qudaer (2000-01, p. 7) says, "Here in Bangladesh, it would be the teacher in the classroom, the person who has autonomy over the classroom processes. But the person is inextricably bound to the role culture since the teacher works within the hierarchical system of the school, the head teacher, the other teachers, the syllabus, the larger society of parents and students." Therefore, the teacher is at the centre of power and of the more powerful surroundings at the same time in Bangladesh. Quader reveals some interesting factors related to the teaching condition in Bangladesh. She reveals that syllabus completion is more essential to the learners and their guardians than learning the language. Examinations are given maximum priority. She also mentions, ". . . some senior teachers (who did not welcome change) told them that English was the language of Christian foreigners. If the students used English to talk to people, they would not remain good Muslims any more: they would become Christians (p. 12)". In this regard one head master said, "Teaching language without teaching grammar first is never going to succeed" (in Quader, 2000-01, p. 14). We can easily realize Markee's statement that innovation in language learning will not work if people do not expect change to happen.

In a study, Rahman (1987) presents an overall condition of the Bangladeshi learning condition. He says, "Most of the students at the primary and secondary levels of education are not well motivated because of lack of success in learning English and of their inability to see any immediate implication of what they are learning" (p. 53).

About the teachers, he says, 50% primary and secondary school teachers do not have any professional training. Their command of English is poor and oral proficiency is quite poor. Teachers are unaware of modern methods of language teaching. About the classroom condition, he reveals, "classrooms at most schools and colleges are ill planned. There are usually a blackboard, a chair and a table for the teacher and a few benches for the students. Six or seven students are huddled together on one single bench. The rooms are not spacious and do not permit any movement for any language activity. The usual number of the students in any class at the schools level is 50; at the college it may well exceed 300." So, he comments ". . . on the one hand we have bad working conditions, untrained teachers and inadequate teaching materials; on the other, we have students with low motivation and unfavorable learning situations. This contributes to inefficient learning. It is difficult to think of any methodology that would work in such a situation" (p. 54). His final comment is "A new development does not entirely supersede what preceded; it co-exists or is adapted in such a way that we can see old practices in a new light of language" (p. 54). However, he also says, students hardly use NCTB textbook; a few students use dictionary or other supplementary texts. The classroom wall is bare and the teachers mostly use no teaching aids. Hence, we find all the variables of the learning process are inappropriately prepared in Bangladesh. In this regard, we can say, Selim's (1987, p. 64-78) findings of these four variables completely match with Rahman's findings. He further mentioned that the teachers were teaching privately and students were interested in using notebooks more than the textbook.

Therefore, we find, according to the modern concept of language learning, learners are the most important variables on which the focus should be. However, in Bangladesh, we have a lot of shortcomings in implementing all the essential conditions needed for the variables of learning to work together unanimously and successfully. Learning is like a film, making the success of which, depends on the proper manipulation of skill or merit of all the crews, but it is the actors, like the learners, who are in the focus, sharing the praise and enjoying the clapping of the audience.

Research Hypothesis

In our country, students at secondary level are unable to learn English successfully because of their fear of learning English. They consider it is a difficult subject. They do not see any benefit in learning it. Their primary objective is, not to learn, but to qualify the examinations only. That is why they cannot emerge as efficient language users. The research is based on the hypothesis that it is the right kind of attitude that the learners lack and thus fail to make effective attempts in learning the English language.

Justification of the Study

The researchers became interested in this study because a lot of students fail in English every year. They cannot be called weak students as their results in other subjects are very good. But their only failure in one subject causes them to lag behind. Hence, the finding of the causes can initiate a change in the curriculum, teaching techniques, content selection and most importantly the methodology of teaching in bringing about a positive change. Hence, the researchers intended to make an investigation of the teaching-learning situations of English in Bangladesh.

Methodology of the Investigation

An empirical research approach was adopted where we accommodated both quantitative and qualitative methods. Here quantitative method of data collection was used to elicit learners' views on a set of close-questionnaire. Whereas qualitative method was employed to conduct interviews on both stakeholders namely teachers and students. Further to facilitate and strengthen the study outcome, classroom observation technique was adopted. Therefore, the tools for data collection employed for the study were –

- 1) Classroom Observation,
- 2) Students' Questionnaire Survey & Interview,
- 3) Teachers' Questionnaire Survey & Interview.

Classroom Observation

A classroom observation schedule was made for observing classrooms. It included statements on various aspects of teaching and learning English in the classroom. It also contained statements on teachers' role and students' participation. The main points considered for classroom observation are the number of the students, size and condition of the classroom, medium of interactions of the students, method of teaching used in the classroom, classroom activities, teaching of the basic language skills, grammar, vocabulary and pronunciation, lesson aids, standard of the English used and so on. Classroom observation was done in 8 lessons of 8 different teachers who were the respondents of the survey. For this, their permission and the permission of the heads of the schools were taken.

In most cases, the lessons of the book were taught in English. Only grammar was taught in Bangla. Students hardly talked in English. However, the teacher-student ratio was not ideal; it was more than 1:40. As according to Locastro, "students preferred classes of 10-20 students, and instructors suggested that the ideal class would have 19 students. Instructors reported that at 39 students problems began to arise and that a class of 51 students was impossible". Teachers did not use any audio-visual materials. The teaching method was GTM in most cases. Sometimes, teachers used CLT according to the direction of the textbook. No variation in teaching method was found. All the teachers took their classes traditionally. The classroom was teacher-dominated. Interaction was lesson based. Teachers' own English was not good and their pronunciation was not correct. Skills were not focused; instead, lessons were followed traditionally. Therefore, students were unable to develop language skills. Grammar was taught through lecture and doing exercises.

Four schools were visited (pseudonyms are used here)—Two from the urban area and two from the rural area. For the questionnaire survey and interview of the students, the students of class ten were particularly chosen because they were at the final stage of the secondary level and they were mature enough to express their problems more specifically. However, these respondents were chosen purposively considering class-time which match both schools and researchers' convenience and we found students from the Arts background. The survey was conducted on 96 students out of which 58 students were from urban schools and 38 students were from rural schools.

Category of Schools	Name	Students present in the Class	Number of Students	Percentage
Urban	Padma High School & College	31	48	64.5 %
Urban	Meghna High School	27	39	69.2%
Rural	Jamuna High School	20	35	57.1%
Rural	Karnaphuli High School	18	37	48.6%

Table- List of the schools and numbers of students selected for students' questionnaire survey

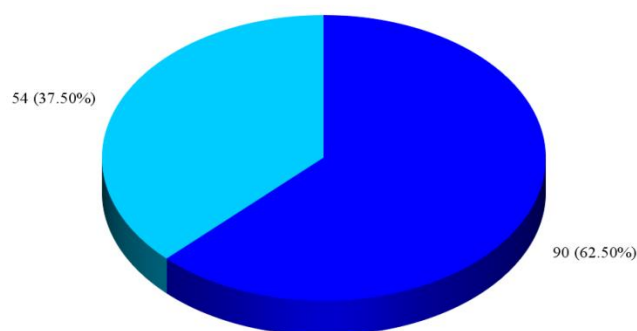
Students' Questionnaire & Interview Analyses

In the set of students' questionnaire, (1-4) questions were closed out of 8 questions and the rest (5-8) questions were open. 96 students took part in the survey and they were interviewed well. Among them, 38 students were from rural area and 58 from urban area.

Q.1. "Did you pass in English in the last examination at your School?"

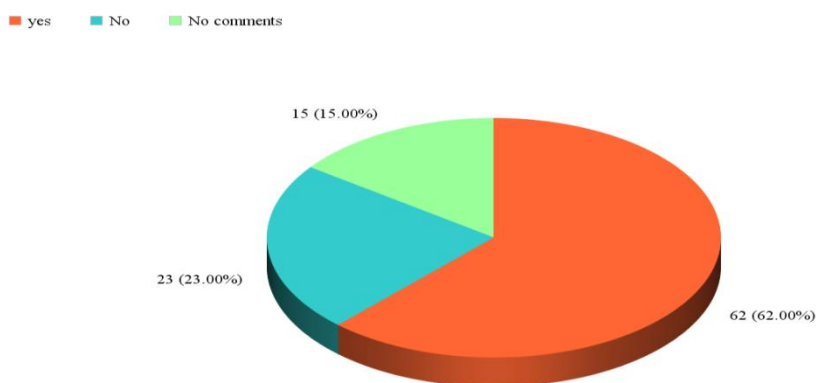
The data we got in the urban school was 90% of the students passed in English whereas in the rural school, the rate of passing was 54%.

■ yes ■ No



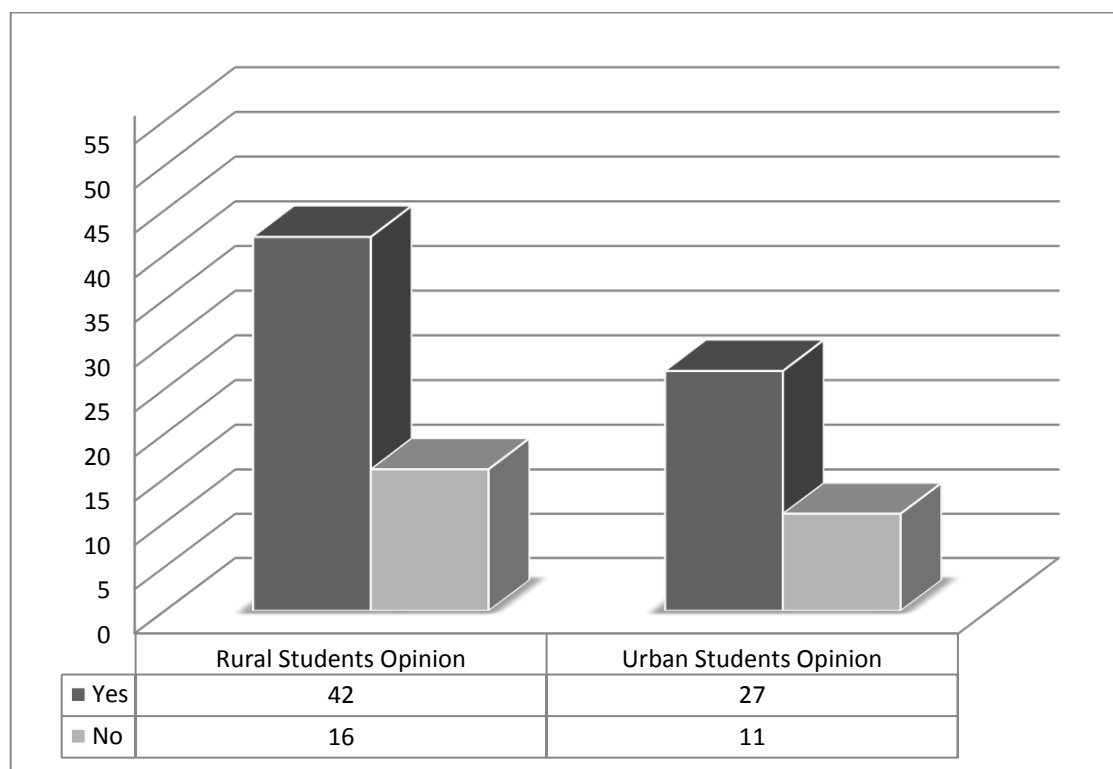
Q. 2. "Do the teachers help you with extra work?"

62% students said (Yes) that the teacher helped them with extra-work. About 15% of them did (No Comments) not express their opinions, and rest of 23% strictly said (No) that teachers did not help them with extra work.



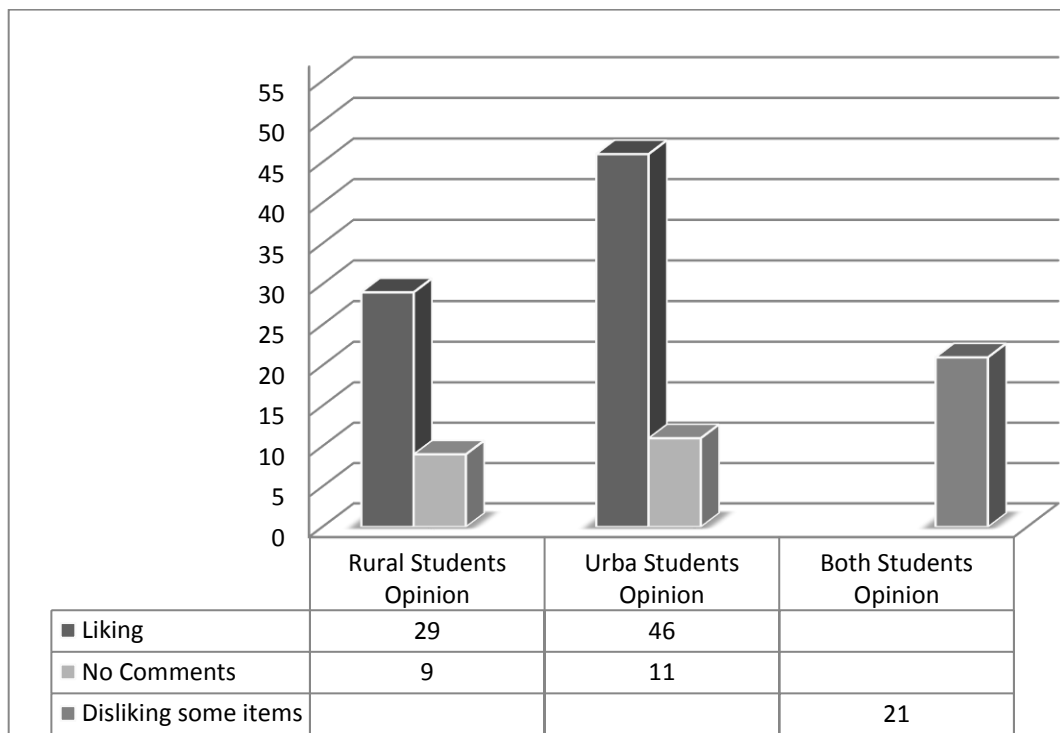
Q.3. “Do teachers try to improve your skills in English?”

Out of 58 rural students, 42 students said that the teachers tried to improve their skills. But, in the case of the urban students, 27 of 38 students said that teachers did not try to improve their skills. Hence, it is evident that the performances of the urban teachers are different from those of the rural teachers. This could also be an example, which exemplifies that urban students might have different perspective and insight on teaching style and assimilation pattern.



Q.4. “How do you like your textbook?”

Out of 38 rural students 29 expressed their likings for the textbook. On the other hand out of 58 urban students 46 liked their text books. Most students liked the textbook for its stories and biographies. They liked its pictures, tables, dialogues, true/false exercise, Mina’s story, tables and realistic adventures. However, 21 students both from rural and urban said that they disliked some items of the text book such as fill-in-gaps, poems, some diagrams, pictures, some boring items, tables, some chapters like junk food, re-arrangements of sentences, preposition, Feroza’s story and difficult vocabulary.



Q.5. “To what extent do you think English is hard?”

All the students gave similar types of answer, “English is very hard.” Only 13 students from the two schools of urban area said that English was a bit hard but interesting to learn. And 17 students assert, “English is hard due to its grammar”.

Q.6. “Why do you consider English is hard?”

All students said that English was hard because of its grammar, vocabulary and pronunciation. One student said, “It was hard for lack of regularity in study”, while another said, “English is not my mother language so all time I cannot practice it.” However, of those 13 students, one said, “I think English is not a very hard subject and I am interested in learning English.”

Q.7. “How do you expect the teachers to help you to eradicate your fear?”

About all the students said that teacher should use interesting techniques. They should interact with the learners using English rather than Bangla. Most of the time teachers read out the texts and translate it into Bangla. But when teaching grammar they use Bangla throughout the lesson. They also said that their own labor, dedication and attempt were needed. They wanted a combination of all these things to eliminate their fear of learning English. However, one said that the teacher must behave well with them.

Q.8. “Are you satisfied with the classroom situation?”

All the rural and urban students liked their classroom situation but 18 of the 58 urban students did not like it and 4 of them did not pass any remarks. When they were asked the reasons, the rural students said – classroom situation was very good. It was cool. There was a good flow of air, good light, and no outside noise. But the urban students gave different opinions. According to them “If we talk in English, other learners laugh”. Then they have added “System of our classroom is not good and it is small”. They continued on telling “Teacher’s talking is boring”.

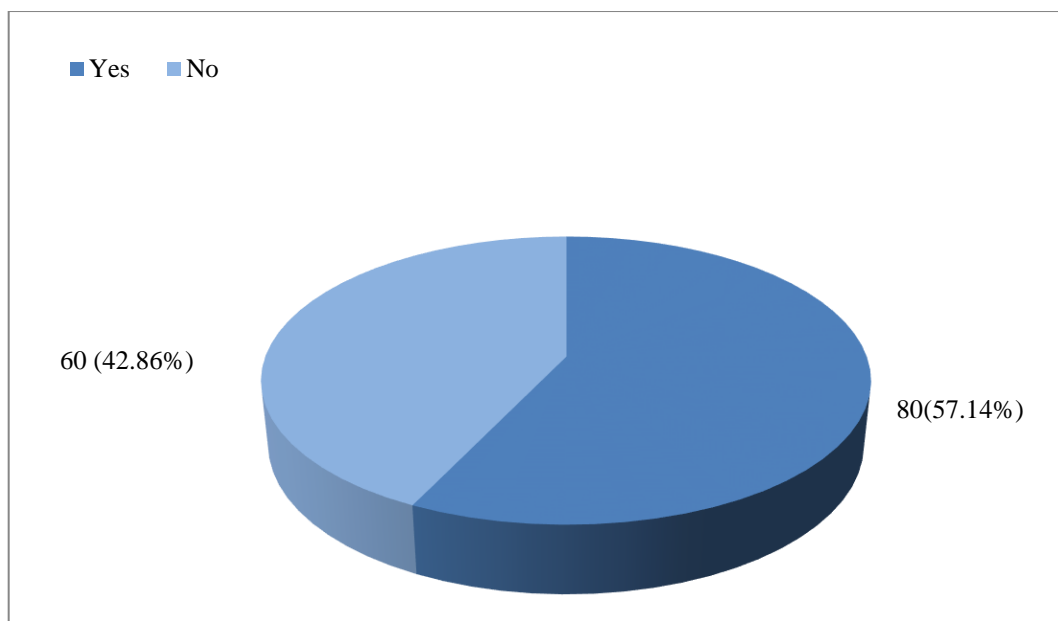
So, by the classroom situation the rural students understood the physical factors, location etc. On the other hand, the urban students had a different interpretation.

When the respondents were asked to comment about the questions, most of them kept silent as they thought they would have to speak in English. But when they were allowed to speak in Bangla, they became interested. The data collected here were similar to the data gathered through the survey. Only one thing was more obvious that they studied English mostly to get marks though they knew its importance. Some students came to the classroom with their guidebooks. Some students also accepted that they did not have the textbook; they only read guidebooks. Most of them went to private tutors to learn English better as they thought the school-based teaching was not sufficient for them. One student expressed her interesting remarks saying that, the same teachers taught English better when they taught them privately than when they taught in the classroom.

Teachers’ Questionnaire Survey and Interview Analyses

Eight teachers took part in the survey and they along with some other English teachers were interviewed. According to the school category that is followed in the research, four teachers from the rural schools and rest are from the urban schools which were selected for the questionnaire survey.

The first question was about the teachers’ educational qualification; all the teachers except the teachers of the rural schools have M.A. in English. It is a matter of regret that in rural area, English teachers have no degree in English. The second question was about their training in English language teaching. In case of the urban schools, 80% of teachers said “Yes’ but 60% teachers of the rural schools said “No”.



reasons for the students, they mentioned different things such as a) Most of them suffer from fear in English, b) They are lacking in four skills, c) The syllabus itself is faulty and d) Lack of skilled teachers.

The fourth question was about teachers help students with extra work or not. All the teachers said that they helped students with extra work while they were asked about it. Some of them said that they tried to take the class in CLT method. Through this method, they frequently involve students to develop their four skills. It includes describing pictures or events, story telling, dialogue making, fill in the gaps, paragraph and composition writing, rearranging etc. All the teachers said that they taught new words, spellings, sentence patterns, speaking, writing, asking questions and giving answers, vocabulary through pair work, group work and elicitation techniques. However, one of them said, "...before examination, I help them pass or cross the examination."

Next question was about the textbook. In answer to this question, three out of four rural teachers expressed their satisfaction with the textbook. One of the rural teachers in the group also stated that the class hour was very short for a lesson in the textbook. However, the last rural teacher of the four directly contradicted with the previous three teachers and claimed, "The textbook, especially for class IX and X is not suited for developing the four skills." However, all the urban teachers expressed their dissatisfaction.

The sixth question focuses on class activities, whether they are result-oriented or skill-centered. The urban teachers said that their classroom activities were skill focused. One of the four rural teachers said that four skills are not always focused. Another teacher vitally remarked, "Skills are focused at the beginning of the term but the lessons gradually become result oriented before the examination as the mentality of the students and guardians force me to do so." Most of the teachers said that skill-based learning, method-based teaching, good preparation of the teacher and the students, combined efforts of the teachers and the students- all of these can help them getting better results.

Next Question was about the classroom situation. Only two teachers were satisfied with the classroom situation because of proper ventilation and traditional seating conditions. They also proudly referred to the atmosphere of the classroom and of the students. However, the other six teachers did not like the classroom situation because of so many students and lack of place. They also said that the objectives of the book could not be fulfilled in such a condition.

Last question was about the number of the students and how the number affects the teaching-learning situation. In the rural schools, the number of students was about 35-37 in each of them and the teachers could not equally concentrate on all of them. In the urban schools, the number was about 70 and both the teachers showed their inability to put equal effort to all students and to engage them in activities that affected the learning. One of them said that the negative impacts are obvious because pair work, group work and monitoring are not possible to practice in such huge numbered classes.

Recommendations

Among some general recommendations, first comes the question of skilled, trained and motivated teachers. To bring about positive results, highly qualified and passionate teachers are the key. Rahman claims, “The three absolute necessities of language-based learning - small class size, appropriate materials, qualified ELT practitioners...” (1999). Teachers of English may use modern teaching methods instead of traditional methods. Audio visual aids could be used such as language lab, pod casts, video and audio clips. English courses should be made compatible with present time by updating syllabus and textbooks time to time; teachers may be encouraged to get training on better linguistic knowledge and teaching. CLT approach should be followed strictly. Good infrastructure, resources are also imperative in enhancing learners’ conversational skills.

For developing all four skills, we practitioners are well aware about the importance of practice and researchers also believe that there is no short-cut and effective alternative to practicing. Based on this research and also on teachers and some practitioners’ ideas that we have come across from the interviews and the researchers’ practical experience, following recommendations are suggested:

With every group or class of students, initial proficiency test results can contribute on syllabus and classroom material selection. Needs analyses are highly recommended to incorporate student-population’s ideas, their expectations from any program or course. Based on needs analysis, and proficiency result secondary teachers can adopt suitable strategies for the development of all four skills. On top of all these, course instructors also have to bear in mind that even when everything is set and yielding positive outputs, they are expected to update teaching and learning techniques every now and then. They could further accommodate new ideas from research, articles, reflexive dairies and so on to keep their pedagogical strategies the most up-to-date.

As for speaking, for speaking some of the common and effective strategies are leaving the teacher’s platform for students where they can deliver monologues on given topics, or initiate dialogues with chosen partner or partners, arranging debates by dividing the class into some groups followed by some token gifts such as

chocolates, candies and pens etcetera. Some more resource types could also be considered for secondary schools. Among them, interesting movie cuts in pod-casts and sometimes in cell phones could be played and students might go for role plays. Furthermore, instructors at secondary schools can download video clips and might experience students' intrinsic motivation to do all simulations and fun could be an integral part of the classroom. As resources, adventurous to family dramas, YouTube videos, Radios, live news shows, even TED Talks and Star World serial clips with very advanced students or towards the end of the course could be exploited in class. Games, picture description, reporting incident, narrating daily routine to different experiences are just a few examples that could serve as effective classroom activities.

For Reading, apart from text books, printed copy of news (that could be easily followed) downloaded from different and multifarious sites, such as BBC world news, ABC News, National Geographic, Readers Digest and news ranging from travel to entertainment world, business to politics, technology to editorial- particular for reading and speaking, with self-prepared questions for those news handouts, Instructors' could practice summary writing to question answer sessions. These could be done sometimes in pairs and in groups and they often go for peer evaluation, students' votes for the best group or on pair performance might also be counted. This may increase healthy competition and enhance autonomy in learning. Teachers may often ask them to read aloud passage summary and question answers. First few classes could be focused on students understanding of the reading passage, topics, and the arrangements of paragraphs, their purposes and links to the passage and encouraging into creating a graph on meaning. Then gradually speed reading practice might be executed in class with students. Here instructors might remember variety is a crucial key not only for material selection but also for teaching techniques. Every time there will be something new in terms of not only materials but also pedagogical strategies; pair work to group work (three persons to six persons then whole class could be even divided into four or five groups depending on students' number). Not every time hard copies of different books or journals should be employed, teachers' can also show on projector interesting short-stories, cut piece of famous dramas to novels, magazines, famous leaders autobiography or biography to transcriptions of their interviews.

For writing, students have to write in class. In every class, they will write on different topics and different kinds of writing could be practiced, small paragraph to big paragraph, then kinds of paragraphs, to composition, and different types of essay. Lines adding and completing paragraphs or completing stories with clues also could add fun flavor to school level writing class. Teachers' will return copies in the next class with only positive feedbacks on it. This means they will make necessary correction of papers, however only write a line or two about some bright sides of the papers. Gradually when at some point of their learning, students will grow comfortable with writing, then they can find some common mistakes and after that they can discuss those mistakes on white board generally without pointing at any particular student. This will help comparatively strong students to realize their mistakes. And for weaker students those who need one to one help, class time can be segregated like last 15 minutes and tutorial time to help them to get over their problems and later on developing proficiency in writing skills. At home, students could also be inspired for diary or creative writing which may harness their independent thoughts and creativity.

Finally for listening, from very basic alphabet, letter, word sound to week days, dates, and then sentence listening to gradually short stories, audio-video clips, music, animation movies, audio version of good movies, live news interviews to even English poetry recitation on YouTube. Series of books on listening from elementary to intermediate to upper intermediate books with CD or DVD are nowadays available in the bookshops. Online listening practice and self-practice sites are also loaded with listening clips on various subject matters from weather discussion to tutorial discussion, movie watching experience to defining characteristics of numerous topics. These could not only be very rich resources for classroom practice but also teaching body can encourage students' to use their cell phones for achieving proficiency in listening.

For all skills, one very significant aspect is no correction in the beginning, letting students to use all four skills randomly without slightest concern for grammar or accuracy. In order to do this, teachers have to be just friends who will be easily approachable for almost anything, which help create safe zone and help develop students' skills. Another important consideration is initially teachers population have to start with culturally familiar topics and something which students do or know such as Bangladeshi English language learners would know travelling by bus better than by the plane, shopping at a market than one stop shop like meena bazaar (rural students have almost no idea or vague idea about these city one stop shopping outlets).

In every school in our country, for speaking practice, for feedbacks on written pieces, for sharing useful and interesting reading & listening materials online forums could be formed with teachers, volunteers and students. Caution should be taken to discuss only education or education related matters. This could be possible providing that a cheap or free internet connection is ensured in every classroom. Digitalized classrooms with the internet and Wi-Fi, language labs, language clubs can accelerate language learning and contribute directly to developing students' communicative competence. Annual events from that clubs inter and intra school competition on language use and subsequent prize such as certificates and medals can also create miracle in learners language use and may result in transformation in traditional ELT landscape in Bangladesh.

Conclusion

“As learning a language is like riding a cycle, so learners must learn English through riding (practicing) it” (in Shahidullah et al, 2001, p.37). Through our research, firstly, we found that secondary students learn English for instrumental purposes—to pass the exam only. In addition, from the second question, we found that they fail in learning English not because of their fear but they fail due to their lack of motivation, the teaching method, teacher's inefficiency to teach, the syllabus and the textbook, the learning situation, guardians' lack of awareness, use of guidebooks and finally high competitiveness and commercialization of education. In regard to our last question, we found that their failure was due to the fact that these factors had an impact on the learners. They neither can learn the language nor can they pass the language course. Somehow, if they get good marks, they forget the linguistic data they had acquired as they do not practice it and cannot find any practical application of those in their life. Therefore, our hypothesis is partially justified as fear is one of the many reasons for their failure in learning English. But the problem lies in many other factors mentioned above. For learning English successfully, students must be

helped to form the right kind of attitude towards learning it. Finally, lessons should be presented interestingly as “Laughter lubricates learning” – as the proverb goes.

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Appendix

Questionnaire for the Students

1. Did you pass in English in the last exam at your School?
2. Do the teachers help you with extra work?
3. Do teachers try to improve your skills in English?
4. How do you like your textbook?
5. To what extent do you think English is hard?
6. Why do you consider English is hard?
7. How do you expect the teachers to help you to eradicate your fear?
8. Are you satisfied with the classroom situation?

Questionnaire for the Teachers

1. What is your educational qualification?
2. Did you get any training in English language teaching?
3. Why students fail in English?
4. Do you help your students with extra work?
5. How is the textbook?
6. Are your class activities result-oriented or skill focused?
7. Are you satisfied with the classroom situation?
8. What is the student's number in your class and how does this number affect teaching-learning situation?

Great Expectations: A Reflection of Victorian Society

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Abstract

Great Expectations is a time conquering master piece of Charles Dickens. In this novel, he touches on expectations in the life of diverse characters, the greatest of which being the expectation of Pip, the protagonist of the novel. An overwhelming number of expectations are at work at various levels of the story of *Great Expectations*. Through these expectations, working in the minds of various characters and the existing picture of the Victorian society of Dickens' time are vividly portrayed. As for methodology, analyzing both the primary and secondary sources of information the researchers have tried to explore—how do the great expectations of some characters represent the contemporary Victorian English society? This article focuses especially on how the novel depicts a process of maturation and self-discovery through experience as its central character Pip moves from childhood to adulthood.

Keywords: Expectations and Frustration, Victorian Society, Money and Class, Inferiority and Superiority Complex, Desire and Rejection, Artificial Sensibility, Lawlessness

Introduction

Great Expectations depicts the journey of Pip from childhood through often painful experiences to adulthood. In his Journey from Kent Marshes to commercial London, he encounters a variety of outstanding characters ranging from Magwitch to Miss Havisham, and the latter's arrogant beautiful adopted daughter Estella. Pip once suffers from 'inferiority complex' because of his poor financial background. This is the ground on which he is rejected by his most expected Estella. The ambitious life at London opens up huge scope before Pip. He begins to see through the coloured spectacles. He starts floating on an imaginary boat. His life at this stage in London is certainly enviable to a great extent. So, he begins to suffer from 'superiority complex'. Pip cannot think of lowering himself to the level of Mr. Joe who was once a benefactor and a good friend of him. In fact, we cannot realize Pip's real feeling in this regard. His real feeling is in between the inferiority complex and superiority complex. Dickens takes us into the dimly lit corridors of Pip's inner world. A highly developed sense of guilt to his attitude towards Mr. Joe and Biddy eats into the vitals of him. His change of position from a helpless boy to an ambitious person has mitigated his sufferings to a great extent.

Victorian Society in Dickens's Lifetime

Great Expectations is set in early Victorian England, a time when great social changes were sweeping the nation. To review its context as *Sparknotes*,

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The Industrial Revolution of the late eighteenth and early nineteenth centuries had transformed the social landscape, enabling capitalists and manufacturers to amass huge fortunes...the divisions between rich and poor remained nearly as wide as ever...More and more people moved from the country to the city in search of greater economic opportunity. Throughout England, the manners of the upper class were very strict and conservative: gentlemen and ladies were expected to have thorough classical educations and to behave appropriately in innumerable social situations...These conditions defined Dickens's time, and they make themselves felt in almost every facet of *Great Expectations*. Pip's sudden rise from country laborer to city gentleman forces him to move from one social extreme to another while dealing with the strict rules and expectations that governed Victorian England. Ironically, this novel about the desire for wealth and social advancement was written partially out of economic necessity.

Literature Review

In a study published by *Literary Articles*, we find that

Great Expectations reveals Dickens's dark attitudes toward Victorian society such as its inherent class structure, flaw of judicial system, contrast between rural and urban England and immorality of high class...there also existed class distinction or class consciousness. The people of the upper class, so called gentleman did not mix with the people of the lower class...The shocking fact was that the people of the higher class or gentlemen also got the different treatment from the judicial system. They were highly punished, while the people of the lower class got the comparatively harsh punishment...People specially the members of the upper class became immoral. A number of characters in *Great Expectations* are dominated by a greed for money.

(www.literary-articles.com)

Again, *Marked by Teachers* reveals in an essay,

Charles Dickens wrote *Great Expectations* because he wanted to expose the injustices of the class system...his book portrays his dislike of a number of aspects of Victorian England...His concerns centre, however, on the class divide of Victorian England and how difficult it was for a lower class person to become a gentleman (upper class)... Overall Dickens shows that in Victorian England life for the upper class was easy but they were very bad people; but in contrast life for the lower class was hard work and painful but they were the good people...With his novel Dickens provided the ammunition for the growing movement for social reform to fire and begin an attempt to change Victorian England's society for the better.

(www.markedbyteachers.com)

Title of the Novel

A title is the reflecting glass of any work of art. It gives maximum exposure to diverse aspects of any literary work and thus gives a satisfying and meaningful end to it. Our selected title is 'Great Expectations'. This title is very well-chosen resulting in an insightful look into the novel. While dealing with the text we would notice that various types of expectations are at work at various levels of the novel; particularly the major being in the case of Pip, the hero of the novel *Great Expectations*. Miss Havisham's adopted daughter Estella holds all the attention of Pip. He cannot think of

anything else except her. He had a great expectation of winning her heart and then marrying her. But when he is rejected by her on the ground of his poverty, he aspires after being rich in some ways and thus winning her heart.

Miss Havisham is betrayed by her fiancé because he had expectation of being wealthy through her property. After his desire being fulfilled of getting a large sum of money and other things from her, he abandons her. Miss Havisham had the expectation of getting married to her beloved and thus ensuring security to her life and property. Estella had the expectation of using her beauty to attract people of different kinds. She taunts and hates Pip at the same time. She had the expectation of getting married with a rich and wealthy man.

Miss Havisham's relatives often visit her in the expectation of winning her sympathy and getting some shares of the wealth and property that is left by her husband. On the other hand, Magwitch wants to make a gentleman of Pip. For that reason, he has the expectation of sending Pip to London to improve his condition. Thus, there are a bewildering number of expectations working in the novel at various levels of *Great Expectations*. So, we may unhesitatingly express that the title of the novel *Great Expectations* is rightly and argumentatively chosen.

Cover Page of the Novel

The cover page of the novel shows a small boy leaning against a created wall of stone talking to a man. The boy here is Pip and the man is Mr. Magwitch who shows him (Pip) the prospects of a rich and ambitious life going to London. The man seems to be very friendly and co-operative while the boy, Pip enjoys talking to such a friendly and lively person. The atmosphere in which the conversation is taking place is very lively and fresh. There are green grasses in the place which indicates the rejuvenation of Pip's mind after having a prospect of being rich from Magwitch.

Gist of the Novel

Pip is an orphan boy taken care of by Mr. Joe, an innocent black smith and his wife, Mrs. Joe Gargery. While Mr. Joe has a very soft corner for Pip and takes every possible effort to make him happy, Mrs. Joe Gargery despite being the sister of Pip is very rude to him. She reminds him of all the pains she is taking for looking after him. So, in a word, Mrs. Joe has made Pip's life very fed up.

The presence of Estella in the life of Pip introduces diversity into his life. Estella holds all his attention. He wants to win her at any cost. But the sudden rejection by Estella makes Pip very disappointed. So, he desires to be rich in every possible way to ensure the acceptance of Estella. At this moment, an opportunity comes from Mr. Magwitch. He intends to make a gentleman of Pip. This possible fortune makes Pip thoughtful of his bright future.

Pip now leaves Mr. Joe and goes to London with tears in eyes. Going to London, he begins to earn huge sum of money. He has now become an artificial man. He never thinks of Mr. Joe who was his main benefactor in his childhood. He does not visit the low neighbourhood of England. Many persons come to Pip and flatter him in the hope of getting money from him. Pip neither sends any money to Mr. Joe nor even asks anyone about him. It is money which has made such a great reversal in Pip's life. Pip is now what money has made him. In a way, the whole story of the novel is solely

dedicated to represent the role of money and class consciousness in the Victorian England. This is true not only in the case of Pip but also in the case of almost all the characters of the novel. Along with this, the artificial sense and sensibility, the hollowness, the collapse of morality and lawlessness also form the basic ingredients of the novel.

The Strong Side of the Novel

Great Expectations by Charles Dickens is an outstanding novel holding a faithful mirror to the depiction of social faults, foibles and hollowness. He has very profoundly delineated the inner social working of the Victorian England in his time. The class consciousness, crime, guilt, innocence and various other factors of the society have been depicted through the projection of different characters. Class consciousness has been depicted with the portrayal of Estella's attitude to Pip. Pip cannot gain Estella's acceptance only because of his grinding penury. Pip is tormented by Mrs. Joe and others only for his poor condition. Pip is now what the circumstances have made him. But when Pip becomes rich after going to London, he also becomes conscious of his class. Pip feels a sort of inner guilt for his silence towards Mr. Joe who has always been a good friend to him. He also suffers from remorse and guilt for his attitude towards Biddy who has also been helpful to him in a number of ways. However, Pip cannot be made solely responsible for all these. Pip is, to a great extent, what the bitter experience of his childhood has made him. The biting experience of his childhood has made him behave the way he is behaving now.

Again, the moral collapse of the people of Victorian England has been depicted with great compassion. Mrs. Havisham is swindled by her lover. The greed for money makes her victim of the bad circumstances. Mrs. Havisham's relatives visit her only in the hope of gaining some money from her. Pip is visited by his relatives only for their greed of money. The worse law and order condition of the society has been depicted through the untold sufferings of the prisoners. The lawyers are in the habit of turning the day into night merely for money.

Suggestions

The novel seems to be solely dedicated to the depiction of one character and that is Pip who can be considered to be the other-self of Dickens himself. If the activities of Pip are taken away from the novel, the novel will remain only some bones containing no flesh on it and will lose its true colour. But a great work of art should not be focused exclusively on the portrayal of any single character. Rather, a great work of art portrays almost all the characters with novel compassion and finesse. The characters in the literary work are like glittering stars by following each of which a reader can find his way out. Though *Great Expectations* is a great literary work having achieved worldwide acclamation, it may be to some extent shown defective in that it is seen to be focusing solely on the delineation of Pip.

Symbolic Significance

The symbols used in literary work add extra dimension. These symbols go a long way to the interpretation of the literary work. Along with the symbols some motifs such as crime and criminality, disappointed expectations, the connection between weather or atmosphere and dramatic events doubles such as two convicts, two secret benefactors etc. also pave the way for understanding the theme of the novel.

The stopped clock at Satis House symbolizes Miss Havisham's attempt to stop time. The many objects such as gallows, prisons, handcuffs, policemen, lawyers, courts, convicts, chains, files etc. symbolize the theme of guilt and innocence. Satis House represents the upper class world to which Pip longs to belong. Bentley Drummle represents the grotesque caprice of the upper class. Joe represents affection, loyalty and simple good nature. The marsh mists represent danger and ambiguity.

Great Expectations is also a novel displaying a bewildering number of foreshadowing. The narrator uses images of intimate objects to describe the physical appearance of characters – particularly the characters with whom the narrator is not intimate. For example, Mrs. Joe looks as if she scrubs her face with a nutmeg grater, while the inscrutable features of Mr. Wemmick are repeatedly compared to a letter box.

Conclusion

According to Dr Andrzej Diniejko, "In his novels of social analysis Dickens became an outspoken critic of unjust economic and social conditions." Indeed, the novel *Great Expectations* puts its bright focus on different aspects of human life through the characterization of Pip and other characters. Throughout this novel the same themes of discontent are present. As more of Pip's 'great expectations' are recognized, he becomes more and more unhappy with all the wonderful blessings that he has. Pip is constantly ashamed of his home and his family when really there is nothing to be ashamed of. Pip could have a good relationship with Biddy yet he chooses to love Estella, and gets his heart broken. Pip would have been held in high estimation before us if he had loved Biddy. In fine, we may postulate that the more the expectations the higher the frustrations. Pip learns the hard way that the grass is not always greener on the other side and that he needs to be more content with what he has. In fact, through his protagonist, Dickens criticizes economic, social, and moral abuses in the Victorian era. So, we must not give a loose rein to our expectations and let them eat into our vitals.

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The Use of Students' Mother Tongue inside EFL Classrooms

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Abstract

Using students' native language (Arabic in this case) inside EFL classrooms is one of the most controversial issues for decades. A number of language teaching methods emerged with great emphasis on this particular point. This study displayed and compared different viewpoints of linguists and ELT methods that stand for utilizing L1 in EFL settings, as well as those who oppose this act completely or partially. The findings of this study showed that teachers no longer prefer the over-use of L1 in their classes since they believe it hindered students' linguistic growth. On the other hand, they agreed on the rejection of the over-prohibition of speaking L1 in EFL classes. The study clarified that L1 can be used in some narrow passages to simplify some grammar rules and to deliver the meaning of abstract vocabulary items. Arabic can be utilized according to the findings to make it easier for teachers who are less proficient to accomplish their mission.

Keywords: Mother Tongue, EFL, Classroom

1.1 Introduction

For decades, the issue of using the students' first language (L1) in teaching the target language (L2) has been one of the thorniest issues in the history of teaching L2. A considerable number of researchers have conducted studies on the use of L1 in the process of teaching L2. On one side there are linguists, researchers, teachers and students who support the idea of including the mother tongue (L1) of the learners in teaching second languages (L2). They claim that this would be helpful for the learners to acquire the target language by creating a connection between their L1 and L2 (through the comparison between the two linguistic systems). On the other hand, there is another attitude represented by many linguists, EFL teachers and methods of teaching that call for excluding L1 from the process of teaching an L2. The monolingual approach advocates the belief that this would enhance learners' abilities of learning an L2 when they are being exposed to the target language (L2) only. The issue this paper is going to examine in more details is whether or not the use of students' L1 in the classroom by either the teacher and/or the students hinders the learning of a second language (L2 which in our case is English) or facilitates the learning.

Many researchers have carried out studies on the disadvantages of using L1 in the L2 classrooms. For example, Krashen (1985) believes that using the native language (L1) of the students in the EFL classroom prevents them from acquiring the valuable input in the target language (L2). Phillipson (1992) introduces the monolingual fallacies- two inter-related tenets and states, "English is best taught monolingually" and "The ideal teacher of English is a native English speaker" (185). Cook (2001) supports the monolingual approach strongly assuming that using only the L2 in the classroom results in successful learning and the learners must be aware of

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that the more they are exposed to the target language, the more they get to improve their language skills. A warning to the teachers of the negative impact of using the mother tongue in EFL classroom comes from Deller and Rinvulcri (2002) who strongly support the monolingual approach.

Nevertheless, Phillipson's view was over argued by linguists and researchers for its bias for native teachers of a language. And many studies tried to prove that the use of L1 helps learners to learn the target language more effectively. According to Celce-Murcia (1991) and Hadley (2001) the use of the native language (L1) of the students usually plays a significant role in most popular language teaching methods, especially in cases of EFL or ESL classrooms where English is the target language. Cole (1997) confirms that using the mother tongue (L1) of the students presents a great help for beginners and lowly leveled ones since their knowledge of L2 is so limited. He states that the use of L1 could be due to many reasons. For example, it can be used to introduce the major differences between the L1 and the L2, to introduce the meanings of the abstract words, and sometimes, to motivate students and to help them reduce their anxiety. Meyer (2008) points out that native language (L1) of the learners could positively enhance their learning, depending on the similarity of the two languages i.e. some languages share words, "cognates", and have the same structure, and in this case, we can obviously notice the advantage of using the mother tongue. In Saudi Arabia, a considerable number of EFL teachers support the use of L1 (Arabic here) inside their EFL classes, whereas some teachers feel guilty to use it.

1.2 Research Objectives:

This study intends to determine the:

- i. Advantages of using L1 (Arabic) in teaching L2 (English).
- ii. The disadvantages of the use of L1 in L2 classes.
- iii. Better for the students and the learning process.

1.3 Purpose and Significance of the Study:

Using students' native language in EFL classrooms has been a foggy area in language teaching. There is no agreement among the teachers regarding this particular issue. In spite of all the disputes, arguments and existence of the two attitudes, the Saudi students' proficiency in English is still not up to the mark. This may result in hindering their learning in university later on, because most of the scientific majors are instructed in English. This study aims to find out the advantages and disadvantages of the use of L1 (Arabic in this case) in EFL classes and to determine which is better for the students either to use the L1 or not.

1.4 Research Questions:

The research intends to answer the following questions:

- i. What are the advantages of using L1 (Arabic) in L2 classes (English)?
- ii. What are the disadvantages of using L1 (Arabic) in L2 classes (English)?
- iii. Is it better for the students and the learning process to utilize L1 in L2 classes or not?

1.6 Limitations of the Research:

This research is limited to the discussion of using the L1 (Arabic in our case) in EFL classroom. Advantages and disadvantages of using the L1 are included. In

addition to that, the researcher will try to provide a solution which he considers the best for the learners and the learning process.

This research is limited only to the theoretical side of the discussion of using students' native language inside EFL classrooms due to shortage of time. Thus, the researcher recommends a study to examine "the use of Arabic inside EFL classrooms in Saudi public schools" for more accurate and reliable results. In spite of the massive dispute regarding this issue, little number of similar studies has been carried out in our country. Such studies are of a great value to EFL teachers. They help them develop their teaching skills.

Literature Review

This section focuses on the previous studies that were conducted in order to provide background information on the use of students' first language in ESL/EFL classrooms.

2.1 A Historical View of the Issue

The history of using an L1 in teaching foreign languages in general and EFL in particular is full of arguments whether it enhances or hinders the learning process. A hundred years ago, the bilingual approach was the 'norm', which means that students learn through translation. The use of L1 to learn L2 was commonly accepted due to the emphasis that language teaching placed on the written words above the spoken one. For decades, Grammar Translation Method (GMT) was commonly used to teach a foreign or second language (L2). However, the results were not satisfying enough as the students were not able to use the target language (L2) fluently in spite of studying it for long. As a result of that, the use of L1 in the EFL classroom started to be seen as uncommunicative, boring, pointless and irrelevant (Harmer, 2001). In other words, this method was challenged for doing "virtually nothing to enhance students' communication ability in the language" (Brown, 2000, p. 16). The over use of students' native language led the advocates of the Direct Method and the Audio-lingual method to ban using L1 in EFL classroom. This emphasized avoidance of L1 was mainly based on a notion which views L1 and EFL as separate entities that should not be linked to prevent "mother tongue interference". A great contribution was presented by the emergence of the Direct Method during the 1970s to consolidate the idea of the exclusion of the students' native languages in EFL classrooms (Harbord, 1992, and Pennycook, 1994, p. 169). Within the same context, Krashen (1981) suggested that comprehensible input should provide opportunities for subconscious and implicit learning, which leads to achieving language competence (as cited in AL-Nofaie, 2010, p. 66). Therefore, the superiority of L2 may indicate prohibiting L1 in the classroom. EFL lessons should be focused on to enhancing communicative skills and to activate conscious and unconscious learning as some theorists and researchers believed. In addition to this, they asserted students' abilities to comprehend the messages despite their ignorance sometimes of the exact meaning of words or sentences. This shows us vividly that they are not in need to understand every single word they read or hear. Krashen greatly supported the 'maximum exposure' to the target language. He stated that all the lessons should be as much as possible presented in L2 (English in our case) (1985, p. 14).

Subsequently, the use of students' first languages in teaching English as a foreign language was totally banned. According to the communicative approaches,

during the 1970s and 1980s, the use of L1 in EFL classroom was still not in favor (Mahmoud, 2006). This trend was encouraged by linguists, researchers and teachers who believed that learners acquire L2 the same way they acquired their native language through lots of oral interaction, little grammatical analysis and no translation. The Direct Method was soon discredited when it failed in the public education system, but it would have a lasting influence on ESL/EFL classrooms (Brown, 1994, p. 44). As a matter of fact, a considerable number of people belonging to the community of language teaching still have second thoughts regarding the use of L1 in EFL classroom. This suspicious stand is due to their fears that this would limit students' exposure to the target language and keep them unable to think in English.

Nowadays, the prohibition of L1 use in EFL classrooms is falling apart. Attitudes regarding the L1 use in EFL classroom changed positively after recognizing that some learners use their first languages as a communicative strategy to master and use the L2 (James, 1998; Odlin, 1989; Gill, 2003; and Cook, 2001). A new method which uses the L1 in EFL classrooms on purpose emerged. It was called the New Concurrent Method in which teachers use the students' native language and create some sort of balance between L1 and L2 (Faltis, 1990). Here, students' mother tongue might be used possibly in introducing new item, revising previous lessons, and asking students to pay attention and reinforcing them.

Furthermore, as research continued, it has been obvious that in addition to negative language transfer, positive transfer also seems to be significant, which means that learners might benefit from being exposed to the similarities of the two languages.

2.2 Major ELT Methodologies Using L1

This issue has been one of the most important things to be discussed in second language methodologies (Medgyes, 2001). According to Nazary (2008), there are three common kinds of methods that take the role of L1 into account in EFL classroom. These methods are the Traditional methods (Grammar Translation Method (GTM), Direct Method (DM), and Audio-lingual Method), and of course there are alternative methods such as (The Silent Way, Suggestopedia, Total Physical Response, and Community Language Learning) and current Communicative Language Teaching approach (CLT). As shown by Mukattash (2003), in the Arab world there were only three teaching methodologies that were used in EFL classrooms. These methods were the Grammar Translation Method (GTM), the Direct Method (DM) and the communicative approach. Now, let us discuss these methods and approaches in details.

2.2.1 Grammar Translation Method (GTM)

The GTM is a method used to teach foreign languages (English in our case) which was originally used to teach Greek and Latin. It is referred at as the (Traditional way). In grammar-translation classes, students are supposed to learn the grammar rules and then apply them by translating sentences from or to their native language. As they get to advanced levels, they might be required to translate texts to the target language or vice versa. This method aims to achieve two main goals. First, to enable students to read and translate texts (mainly literature) written in the target language. The second goal of this method is to enlarge students' general knowledge.

As Celce-Murcia (1991) indicates, L2 is used in very narrow passages and L1 is used mainly as the medium of teaching in the GTM. Grammar-translation classes are usually conducted in the students' native language. Teachers explain grammar rules deductively; they teach grammar rules by rote, and then practice the rules by doing grammar drills and translating sentences to and from the target language. Students are asked to translate texts in the tests and they are evaluated on the quality of forms and the correctness of translation.

Concerning listening and speaking, they are almost neglected and there is hardly an attention paid to pronunciation or any other kind of communicative aspect of the language. Reading was the most exercised skill, and only within the context of translation. During the 17th to the 19th century, The grammar-translation method was the most common and preferable way of teaching foreign languages even with the attempts at reform from people like Roger Ascham, Montaigne, Comenius and John Locke.

In grammar-translation method, teachers are less stressed to some extent and they will not be much troubled searching for resources as they might be in other approaches. In addition to that, GTM requires less involvement of the teacher. There is no much attention paid to classroom activities or learning games. This method does not require a very competent teacher. If the teacher's fluency in English is abet low and his fluency in students' mother tongue is high, then it is possible for him to teach English using this method since the focus is mainly on the written words and translations rather than the spoken ones. There is a reduction of communication between the teacher and the students which help to avoid misunderstandings and prevents language barriers that might happen in a method with so much emphasis on the communication between teachers and students.

Another advantage of GTM is that it pays so much attention to Grammar, Sentence Structure and Meanings of the words. On the contrary of LT verbal methods, grammar translation method is well-known of its emphases it places on the correct application of grammar rules. This is something of a great value since it helps students to read and write the foreign language. This enables them to know more about the shapes and forms of words in different tenses. The GTM's way if teaching grammar is preferable by students since it reduces the stress on them. New vocabulary items are learned by translating them to the students' mother tongue. New EFL words are compared and translated directly to their equivalents in students' native language.

Regarding the disadvantages of this approach, students in the grammar translation method are passive and rarely participate. Students- teacher relationship is very limited. The sources of knowledge are the teacher and the textbook. Lessons in the textbook are not interesting and less engaging to the students and the reason behind that is because the lessons irrelatively to students' culture and background (mainly FL literature). Moreover, students are asked to participate in any activity involving communication with each other or using the language to communicate with the teacher. This results in students' inability to use the EFL in real situations and they will only possess the knowledge of how to translate between the two languages.

Normally, children begin acquiring languages by learning how to speak first and then comes reading and writing. This natural order of skills learning is ignored

and totally reversed in grammar translation method. In this method, teachers teach students only how to read and write with almost no attention to speaking, pronunciation and communication. This focus on reading and writing might possibly affect students' abilities to speak the target language fluently. Furthermore, this focus on reading, writing and the accurate application of grammar rules may negatively affect students' abilities to take parts in real conversations in everyday life. Another problem of the grammar translation method is that there are some words in the TL that have no equivalents in the students' native language. Therefore, the translations might not be completely true. After the GTM proved its failure, some linguists such as Vietor, Passy, Berlitz, and Jespersen started to attempt reforms. They began to search for a new foreign language teaching method. They focused mainly on certain points that grammar translation method missed. As it appears on TEFLPEDIA.COM "They supported teaching the language, not about the language, and teaching in the target language, emphasizing speech as well as text. Through grammar translation, students lacked an active role in the classroom, often correcting their own work and strictly following the textbook". However, GTM is still used nowadays in hybrid forms in many countries around the globe including the Arab world countries.

2.2.2 Direct Method

As a reaction against the grammar translation method, a new method of teaching languages appeared. This method is called the Direct Method (DM). This method focused on enabling students to speak and communicate using the target language spontaneously. Students were motivated to think in the foreign language. On the contrary of GTM, teaching and giving instructions were fully addressed in L2. The natural way humans learn languages was taken into consideration. The DM was mainly based on imitating the way children learn their mother tongue. Any interference of the students' native language was prevented. Practitioners of the DM were primarily aiming to enable students to communicate and to think completely in L2.

Teachers using this method never translate to students' L1. Unlike the GTM, grammar rules are taught inductively through presenting many examples. Question and answer exchanges between teachers and learners are used to teach oral communication skills. The new points to be learned are presented orally. Regarding vocabulary, concrete words are presented using visual aids such as pictures, simple drawings on the board, body language and so on; abstract words are presented through the explanation and association of ideas. The presentation of abstract vocabulary is a weakness of this method since teachers are forbidden presents the meaning in students' L1 and they had to keep explaining the meaning in L2 exclusively. The DM pays so much attention to the correct pronunciation. Students are motivated to correct their own mistakes and errors. Once more, unlike the GTM, students in the DM are active and they are considered as partners of the teachers in the learning process. Teachers direct and supervise activities that take place in the study hall. Students get bigger chances to interact with each other.

One of the DM advantages is that the natural order of language skills learning is taken into consideration (the way children learn their mother tongue) i.e. they begin with listening, speaking, reading and then writing. Another advantage of the DM is the massive focus on oral skills. It motivates students to think in the TL and to use it for communication. Students are not passive and are involved in many activities in the

classroom. The direct method is attractive to the learners who seek to speak the target language fluently because it places a considerable emphasis on speaking. Classes are actively done which is a highly motivating aspect to the learners.

Critics who observed DM came up with some disadvantages. They state that the acquisition of the foreign language differs from that of mother tongue because children learn their native language with no prior experience of language learning while learners of L2 do. Another disadvantage is that this method requires a very competent teacher. This teacher has to be of highly active in the classroom. Unstructured situations might be a kind of trouble to the learners soon. There is little systematic structural practice in this method.

2.2.3 Communicative Approach

The communicative approach appeared after many desperate attempts to develop language teaching methodologies. According to (Michael Byram, 1989), there are two basic elements that are considered to be the tools and the highest aim of learning the FL. These two elements are interaction and problem solving. This explains the reason of the tendency of this method towards the focus on activities such as role-play, pair work and group work. Students are not passive any more as teachers are no longer the center of the classes. The use of language to communicate is emphasized. Teachers are allowed to use the students' native language but in narrow passages to clarify and simplify some aspect in the FL (Richards & Rodgers, 1986; Celce-Murcia, 1991; Auerbach, 1993 and Hamdallah 1999). "In the CLT judicious use of the native language is acceptable where feasible" Hadley (2001, p.117). In CLT, students are ought to learn the skills that enable them to communicate using the target language. Therefore, there is no much attention paid to some grammatical aspects. On the other hands, pronunciation and high fluency is emphasized. The standards of the students is their level of communicative competence not their explicit knowledge.

It is more of an approach or philosophy than a highly structured methodology. David (Nunan1991) famously listed five key elements to the communicative approach. As cited in teflpedia.com, these elements are "An emphasis on learning to communicate through interaction in the target language, The introduction of authentic texts into the learning situation, The provision of opportunities for learners to focus not only on the language but also on the learning process itself, An enhancement of the learner's own personal experiences as important contributing elements to classroom learning, and An attempt to link classroom language learning with language activation outside the classroom".

Concerning the advantages of the communicative language teaching, there are many. It contributes greatly in increasing the fluency of the students in the foreign language through a considerable number of communicative activities. It enables them to speak the target language with confidence. Lessons and activities are related to the students' culture and their daily life events which attract and motivate them to learn. A great deal of student-teacher interaction takes place in the classroom.

One major disadvantage of the CLT is that it might be hard to apply in crowded classes. It requires a teacher who is highly competent in both the students' native language and the foreign language. The communicative approach places emphasis on fluency but not on accuracy. Teachers applying the CLT do not prefer to

correct students' mistakes specially if are made in a middle of a communicative activity. Therefore, the weaker students are going to make the same mistakes repeatedly and might end with giving up. It might be difficult sometimes to evaluate each student especially in crowded classes.

One last point regarding this approach, it requires teachers to prepare the lessons very well before they teach them. They should try their best to make the material motivating and creative as much as possible to attract the students' attention and to prevent the feeling of boredom.

2.3 The L1 in the EFL Classroom

In this part of the research, the researcher will try to display in details the two main arguments appeared regarding this issue.

2.3.1 Studies Conducted against the Use of L1 in the EFL Classroom

In spite of the resistance of the followers of the monolingual approach, there are linguists and educators who are keen on using L2 only in the EFL classroom. Researches of foreign language teaching always refer to the importance of providing the suitable environment that increases the students' exposure to the foreign language (Duff & Polio, 1994; Ellis, 2005; Hendrickson, 1991; Krashen & Terrell, 1983 and Turnbull, 2001). Interference of the native language has always been a common argument against the use of L1 in EFL classrooms. Ellis (1997, p. 51) refers to interference as "transfer", which he says is "the influence that the learner's L1 exerts over the acquisition of an L2". He believes that transfer takes place depending on two elements, what items students think that can be transferred and the students' level of progress in the L2. Dulay, Burt & Krashen (1982) define the interference "as the automatic transfer, due to habit, of the surface structure of the first language onto the surface of the target language". According to Richards (1971) and Cook (2001), the students' native language should be separated from the L2 in learning the target language to avoid the great difficulty created by the interference of the MT and/or L1. Another argument is about the negative effect of using L1 on the students' learning process. According to Polio & Duff (1994), Turnbull (2001) and Deller & Rinvoluceri (2002), the use of L1 limits the students' exposure to the target language which may result in limiting their chances to use the foreign language. As pointed out by Krashen and Terrell (1983), due to the similarity between the way students learn the foreign language and the way they acquired their mother tongue, they need to be exposed more to the target language and thus the use of L1 should be excluded. According to Cook (2001), linguists who support the exclusion of the L1 use in teaching an L2, believe that it can be harmful to learn through translation because students will soon be troubled trying to find equivalent words in both languages while there are not many. The bilingual approach users might argue that the explanation of grammar rules can be difficult to be done in the target language entirely especially, for teachers of average competency or lower leveled students. Thus, the use of L1 is needed. As a response to that, the monolingual approach supporters state that this is not true since a considerable number of grammar rules can be taught using L2 with no need to resort to L1 through the use of realia and other visual aids (Pachler & Field, 2001, p. 92). Kharma and Hajjaj (1989) studied Arab students learning EFL in the Arabian Gulf region. They state that students need more exposure to the target language in order to fulfill the aim of teaching English which literally declares that students are supposed to reach an "approximate near-native competence" (p. 228). In

addition to that, they believe that the use of the students' native language affects the target language learning negatively providing less motivation to the students and it may make the students think that using L1 is a useful technique to learn the foreign language.

Another caller for the necessity of more exposure to the target language is Phillipson (1992) who states that "the more English is taught the better the results" (p.185). Auerbach (1993) agrees with Phillipson (1992) entirely and believes that "the more students are exposed to English, the more quickly they will learn; as they hear and use English, they will internalize it and begin to think in English" (p. 14). In agreement to the previous viewpoints, Polio and Duff (1994) clearly state that the use of the students' mother tongue "prevents students from receiving input they might be exposed to in social situations outside the classroom" (p. 322).

There seems to be one area that gives the monolingual approach a great support. It is the case of "multilingual classroom" where students come from various backgrounds and speak different languages.. If the teacher does not master all the students' native languages, no benefit will be gained from using L1. In this particular case, the use of L1 would really affect the L2 learning process negatively. This one specific area hardly exists in our Arab world (Saudi Arabia in our case).

2.3.2 Studies Supporting the Use of L1 in the EFL Classroom:

The bilingual approach is supported by a considerable percentage of linguists, teachers and students who consider the use of the students' native language as a helpful instrument in the FL learning process for both teachers and students. Researchers like Atkinson (1993), Macaro (2001), Deller and Rinvoluceri (2002), Widdowson (2003), Aurbuc (1998), and Harbord (1992) support the bilingual approach and believe in the usefulness of utilizing the students' MT and/or L1 to sustain their learning of the foreign language. In spite of that, they still warn educators from the overuse of L1. According to Briggs (2001), there is a general tendency of students of preferring teachers who master their native language and utilize it to teach the target language. As believed by Atkinson (1987) the use of the students' mother tongue needs to exist in the learning process, because as found "The use of L1 can be very effective in terms of the amount of time spent explaining" (p. 242). According to Auerbach (1993), "when the native language is used, practitioners, researchers, and learners consistently report positive results" (p. 18). Phillipson (1992) considers the impracticality as a major disadvantage of the monolingual approach (as cited in Miles, 2004).

The exclusion of students' mother tongue is seen as impractical due to many reasons. First, the majority of EFL teachers are not native speakers. A considerable number of these teachers do not master English perfectly. Due to that weakness, they face problems in communicating with their students and consequently this affects their abilities to teach (Pachler & Field, 2001). This exclusion of L1 sometimes might be inappropriate or impossible in some situations and might create a barrier between students and their teacher. Teaching abstract vocabulary items can be a clear example of those situations.

The use of L1 is seen by Macaro (2001) as a very important language learning tool and students should not be deprived from using it. In agreement to that, Aurbuch

(1998) (as cited in Sharma, 2006) clearly supports the use of the students' mother tongue and/or L1 in L2 classroom and believes in its positive role to enhance the learning process. Aurbuch (1998) also acknowledges that L1 can be very useful in a number of areas such as teaching new grammar rules, correcting students' mistakes, checking understanding and classroom management.

In this situation, many linguists, teachers and even students believe that the students' native language can be utilized as a powerful teaching aid to facilitate the foreign language learning and thus the use of L1 should not be banned. In the following lines, the researcher shall display a number of viewpoints that strongly support the use of the MT and/or L1 as a facilitating tool to teach/learn English as a foreign language and/or L2.

Harbord (1992) states that despite all attempts of many teachers to isolate the students' MT and/or L1 in their EFL classrooms they failed to deliver the meaning. As a result of that, students were not able to understand the taught material fully and began to dislike the class. The use of L1 to teach English as a foreign language as seen by Mukattash (2003, p. 224) can be affectively utilized to " facilitate both teaching and learning, systematize comprehension of EFL structures and items and hence leads to meaningful learning."

The belief of that the extra exposure to the target language results in a better learning is another problem of the monolingual approach. As indicated by (Pachler & Field, 2001), there is no clear evidence that using L2 only always results in better learning. They point out the exclusion of the students' MT and/or L1 may not be of a great help to learn L2. There is no doubt of the importance of the quantity of the exposure to the target language. However, there are other several things of more importance than the quantity of exposure to be taken into consideration such as well-prepared teachers, quality of the textbooks and the suitable teaching method to be used (Phillipson, 1992). Burden (2000) assumes that in English language classes, the replacement of simple instructions or explanations in their native language with English could possibly lead to add more frustration to the struggling lowly-leveled students. There is no denial to the fact that using the target language in teaching is helpful, yet the total negligence of the mother tongue could possibly hinder learning (Pachler & Field, 2001).

As found in Mukattash (2003, p. 224) " the native language can be used as a teaching technique particularly in those areas where there is marked discrepancy between L1 and EFL system". The use of the students' native language is considered to be a useful and fast way to learn EFL by Harmer (2001). Atkinson (1993) wraps things up by advising teachers to "Use English where possible and L1 where necessary".

2.4 Teachers' Attitudes towards the Use of L1 in the EFL Classroom:

In this section of the paper, the researcher displays a number of teachers' viewpoints (elicited from several studies) regarding the utilization of the students' MT into teaching in EFL classrooms. As cited in (Hamdallah, 1999), a field study was carried out by Tushyeh (1990) to examine the status of teaching English as a foreign language in the West Bank, Palestine. He used two questionnaires. The first questionnaire was handed to 131 EFL students. The other questionnaire was given to

93 universities EFL teachers. The aim was to measure the extent to which Arabic is used in English classrooms. School teachers admitted that they urge their students to use the target language during the class time. Yet, they do not deny their usage of Arabic in teaching EFL. Regarding the university teachers, (Hamdallah, 1999) reports that "the results indicated that 2.50/0 of the instructors always use Arabic in English Language Teaching (ELT), 64% use Arabic sometimes, 5% rarely use it, and 25.5% never use Arabic in ELT. Arabic is not generally used in teaching English at the university level in West Bank; 12.8% of the respondents use Arabic for contrastive purposes only".

Many other researchers have conducted studies in many countries including KSA regarding what teachers think of the using L1 in their classes. In his study in Oman, Al-Buraiki (2008) found out that teachers consider the use of the students' MT and/or L1 as a useful technique that could be used to teach EFL to young students. Apparently, Korean EFL teachers and students agree with those of Oman as showed in Kim and Petraki (2009) who stated EFL teachers and students in Korea believed in the positive role played by L1 in enhancing EFL teaching, especially among young children.

Al-Nofaie (2010) mentions that Crawford (2004) examined the same issue at primary schools level and revealed that 54% of the teachers do not believe in using the mother tongue (L1) as the main medium of teaching. The results of the study conducted by Sharma (2006) regarding the viewpoints of Nepali EFL teachers and students showed that almost all of the participants preferred the use of L1 when needed. In addition to that, they stated that the occasional use of the native language is helpful since it simplified EFL learning and made students learn in a better way.

2.5 English in the Saudi Context:

This section of the research discusses the history of English in Saudi Arabia and its current status.

"The Kingdom of Saudi Arabia has undergone great political, social and economic development. To meet new challenges, the Ministry of Education has introduced English as a Foreign Language (EFL) in schools since 1925" (Al-Ahaydib, 1986). English is the commonly used language in advanced sciences, diplomacy, navigation, international affairs and a shared language by people speaking different languages around the globe. But Saudi Arabia is lagging behind in English learning. As showed by Al Hajailan (2003), since the beginning of teaching EFL in Saudi Arabia, two series of textbooks were introduced to suit the aims and objective of teaching English as a foreign language in the country. In 1987, the ministry revealed the first series of textbooks to be taught in schools. He literally stated *The new series English for Saudi Arabia* was published in 1410H (1989) by a group of authors collaborating with the King Fahd University of Petroleum and Minerals (KFUPM). The new books employed the latest methods and approaches of teaching 'the communicative approach'. He pointed out the new series of textbooks were "modified by the department of English in the Directorate of Curriculum under the Ministry of Education in 1421H". Nowadays, several series of EFL textbooks are taught in Saudi Arabian schools. These series are produced by well-known publishing companies such as 'Macmillan, Oxford, and McGraw Hill'. The new series are made especially for Saudi Arabia and in a way they suit the Saudi learners in their linguistic needs.

The Saudi education policy took teaching English as a foreign language into account way long back when they realized the importance of the language. The education policy as cited in Al Hajailan (2003) clearly states that the aim of TEFL is "Furnishing the students with at least one of the living languages, in addition to their original language, to enable them to acquire knowledge and sciences from other communities and to participate in the service of Islam and humanity".

Currently in Saudi Arabia, students start learning English as a compulsory subject since the fourth grade elementary stage at the age of nine and this continues through intermediate stage till the third grade which is the last year in the secondary stage. It is also compulsory in the preparatory year for the students who get admitted in the university. The number of classes in the elementary grades is 2 per week, while the number increases to 4 in intermediate school and 5 in secondary school. English in Saudi Arabia is considered as a foreign language and it is not used that much for communication except in some workplaces such as companies or hospitals where its use is required. The Ministry of Education keeps updating textbooks of English and provides workshops for teachers to train them on the new strategies of English Language Teaching (ELT) in order to increase students' level of proficiency in English. Despite this, the level of Saudi students in English is still below the desired one.

2.5.1 Previous Saudi Studies in the Field:

A number of Saudi researchers have carried out studies concerning this particular issue. The first study to be looked at was carried out by Arishi (1985). The study examined "EFL Teacher's Behavior in EFL Classes in Saudi Arabia" which is designed to analyze the teacher-student interaction in EFL classes in Saudi Arabia in order to develop an objective systematic analysis of the teacher's behavior. Teacher-student interaction patterns were coded live and audio-taped. The analysis involved 20-minute observations of "30" randomly selected EFL Saudi intermediate school teachers. Among the findings of the study is that the use of English by students is generally mechanical in nature and Arabic is regularly used by both the students and the teachers. The time spent for that is (13.29%) of the time for teacher-student verbal interaction. Another finding is that the students use Arabic whenever they ask questions or take initiative (Arishi, 1985).

Another study was provided by Al-Twajiri; Abdul Aziz (1982) investigated the adequacy of students' preparation in English as a foreign language in the Saudi schools. He found that the method of teaching English failed to motivate the students. The study indicated that the teachers' usage of Arabic in class activities was quite noticeable and more than actually needed. The researcher recommended that teacher training colleges in Saudi Arabia had to improve their programs for graduating English language teachers. Surur, Radi who entitled his study as "A Survey of Students', Teachers' and Administration's Attitudes toward EFL in the Saudi Arabian Public School" showed that teaching of English emphasized rote learning and memorization of sets of drills, questions, answers and sentences. Further, teachers of English use Arabic more than English in explanation.

Al-Ahaydib, Mohammad (1986) conducted a research to identify the strengths and weaknesses of the English syllabuses of the intermediate and the secondary stages through the perception of supervisors, teachers and the third grade intermediate and

secondary students. The study also surveyed the interests, needs and complaints of students, teachers and supervisors. The study conclusions were that the students' participation in class activities was very little due to the dominant role that the teachers played and there was an emphasis on teaching grammar explicitly and in detail- coupled with translation of rules into Arabic. One of the most important findings of the study was that the teachers of English tended to speak Arabic more than needed.

Recommendations and Conclusion

3.1 Introduction:

In this section of the research, the researcher reveals the findings which he came up with through reading and comparing view points of previous researchers and studies conducted regarding the issue of his research. In addition to that, the researcher shall offer recommendations out of what he inferred from reading related literature and from his 3 year experience in teaching English as a foreign language.

3.2 Discussion and Findings:

Throughout the display of a reasonable amount of literature regarding our issue, the researcher found out several points.

- i. The grammar translation method is no longer preferable by EFL teachers. They reject using it because of its over-use of students' mother tongue and because of its limited abilities to develop students' linguistic skills. The same rejection applies to the Direct Method and that is due to its over-prohibition of L1 use and because of its failure to enable students to acquire some language areas, such as vocabulary. English-only classes do not suit beginners and mid-level students because they need to understand what they are ought to do in class.
- ii. The communicative language teaching approach seems to be a compromise to such a problem. This approach calls for using L1 and L2 together in EFL classes. Such an approach suggests that teachers use students' MT and/or L1 in narrow passages where its use is necessary and unavoidable.
- iii. Students' native language and/or L1 (Arabic in our case) should be used in a limited way (when needed only) to simplify the two processes of delivering messages and receiving them. Furthermore, it could be used as a helpful technique to save time and use the saved time to do more classroom activities. Whenever the teacher attempts to use a new way of teaching, it is better for him/her to use L1 to explain the new method especially for young learners and (of course if needed).

Here are some areas where L1 (Arabic here) can be used "if needed":

- i. It is a well-known fact that using visual aids, body language or even simple drawings on the board is the best way to teach vocabulary, but such words like 'Hope, Loyalty and Joy' cannot be taught unless by translation to save time and effort.

- ii. In peer talking during class activities, students' native language can be allowed sometimes. It is a highly productive technique when the teacher asks learners to compare and correct the work of each other. It encourages the sense of cooperation and constructive criticism. It is not harmful to let students in the elementary or even intermediate stage to use L1 during such activities and help them use EFL gradually till it becomes almost prevented in secondary and university stages.
- iii. The native language can be used to bridge the gap in teacher-student communication. The explanation of an activity might be sometimes highly complex for some EFL teachers. In order to avoid time and effort loss, the use of the students' mother tongue and/or L1 is recommended.
- iv. Teaching the grammatical aspects of the language is a part and parcel of any EFL course and therefore, should be taught in English. Yet, some teachers face difficulties in explaining the whole thing in clear and correct English. As a result of that, they tend to use L1. This tendency could be due to many reasons such as, low competency of those teachers or inadequate training in using alternative was to teach grammar such as time lines or concepts map. In such a situation, teachers can apply the use of the mother tongue and/or L1 as a useful technique to present the new grammar rules, but they should be aware of over using it.
- v. L1 can be used to check students' understanding. The teacher can ask such a question "How can you say ... in English?". Such a way of checking understanding saves time and effort.

3.3 Recommendations:

The researcher here recommends several areas for further research and a number of points for the teachers to apply in their EFL classroom.

The actual amount of students MT and/or L1, either by the teachers or by the students can be examined in EFL classrooms in Saudi public schools for more accurate results since all similar studies have been carried out in the 80s and 90s.

The source of the Saudi students' weakness in learning and using English is still a mystery in spite of the great budgets specified to English language developing programs (teachers' training programs, updating textbooks, in addition to providing audio and visual aids of the textbooks). A study could be carried out to help the Ministry of Education to locate the area(s) of weaknesses to be improved.

Teachers' trainers should tell EFL teachers that there is no harm to use their students' MT and/or L1 with the awareness of the overuse of it. The narrow use of L1 in EFL classes requires competent teachers. EFL teachers' supervisors can standardize their teachers' fluency in English. Developing EFL teachers' linguistic and communicative skills will be helpful for teachers, students and the learning process.

EFL teachers should encourage their students to use English during classes especially, when they need to ask for simple things such as an extra pen or permission

to leave the classroom. Students should not be using their MT and/or L1 all the time to help them develop their communicative skills.

Conclusion:

To summarize what was mentioned above, Communicative Language Teaching approach (CLT) seems to balance the extremism that the Grammar Translation Method and the Direct Method advocate. Hence, the researcher suggests that teachers should stand in-between. Teachers should not feel guilty for using L1 inside their classrooms, but again they should be aware of the negative effects of the over-use of it. Concurrent methods seem as a 'compromise' in this situation.

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The Impact of Test Anxiety on Test Performance of English Language Students at the Higher Secondary Level

Saima Akter*

Abstract

The paper reveals the effects of test anxiety on young learners' performance in English language tests at the higher secondary level in Bangladesh. It also unveils the teachers' awareness and attitude towards the problems that the learners face due to anxiety. The article uses a partial presentation of data and literature of an elaborated research work that is still under progress; the reduction has been done in order to limit the objectives and findings in accordance to the field work that could be covered at the initial stages of the research. In order to meet the objectives, a medium scale research was conducted among 40 students and 8 teachers from 4 reputed colleges at Dhaka, following a mixed method approach. However, the shocking revealing from the data is that the learners feel less anxious when it comes to the English language tests; it is not because they are very skilled in using the language rather because of the predictive nature of the questions which entails a negative backwash effect on the learners that result into poor skills in the language.

Keywords: Test Anxiety, Test Performance, English Language Test, Backwash Effect, Predictive Nature of Test

Introduction

Test anxiety is a universal phenomenon that is an uneasiness or apprehension experienced by the test givers before the exam. Tests of any sort in general are taken as a matter of fear, especially when the medium of the test is a foreign language. In a country like ours, where the majority speaks in only one language, it is a great issue to attempt an exam in a completely different language. Now, as English has a reputation of being the international medium of instruction for education (Sultana, 2014), so it is expected from the learners of every country to achieve a minimum level of proficiency in the language. However, in Bangladesh, it is not a medium of instruction at the general primary, secondary, or higher secondary level of education¹ but it is given the status of a compulsory subject to be covered within the first 12 years of education by all the students of the country irrespective of their age, religion, and socioeconomic background. And therefore, the courses to teach English are not taken as a mere second or a foreign language course rather as papers to be passed with good marks to achieve a superior social image by the learners. As a consequence, English language learners suffer from anxiety before taking the exams. And the result of this is never pleasing as it affects the learners' production of the language in the exam

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¹It is a medium of instruction in the English medium and English version schools and colleges as well as at the tertiary level (in the private universities) of education in Bangladesh. (Rahman, A. 2007 as cited in Sultana, 2014)

hall. Nonetheless, in our country, the effects of anxiety have not been taken as seriously as it should have been for measuring learners' performance in the tests. Therefore, a proper investigation needs to be conducted in order to find out the impact of test anxiety on learners' performance of English language in the tests. An analysis of the English language testing system at the higher secondary level in Bangladesh and learners' anxiety and its effect on their test performance was needed to be done in order to examine the tools and methods so that the relation between anxiety and English language test in our social context could be made more theoretically visible. However, the main research project includes broader issues and findings that cannot be confined into the limited width of this article. Therefore, this paper includes a preliminary report of the findings of the main research.

Research Objective and Questions

The research aims at finding the effects of test anxiety on learners' performance in the English language tests. While doing so, it hypothesizes that the learners suffer from anxiety when it comes to test their skills in English considering the facts that English is a foreign language and also the reports from previously done researches that show the lacks in our education system for which the learners get a very poor language education that hinders the development of their skills. It also attempted to find out learners' attitude towards the English language tests and their ways of solving the anxiety issues during the test. Alongside the learners, it also attempts to understand the teachers' perspectives and their attitude towards learners' anxiety and its effects on their performance in the English language tests; it has been also taken into consideration whether the teachers consider the impacts of test anxiety while grading the learners or not. In order to meet the objectives, the following questions have been set:

1. To what extent does test anxiety affect the learners' performance in English language tests?
2. How far are the teachers and test takers aware of test anxiety and its effects on the learners' performance during a test?
3. What type of anxiety do the learners suffer from before sitting for an English language test?

Scope of the Study

The research has both practical and pedagogical impacts. It is a very small attempt to address the impact of anxiety on English language tests and its limited data does not represent the overall scenario of the country. It presents data collected from the students and teachers of very affluent institutions located at the center of Dhaka, the capital city of Bangladesh. However, the scenario might not be the same in remote or rural or least developed parts of the country where education does not entail any kind of facilities or luxuries that the learners of the affluent families and institutions are given to. Therefore, it provides a ground for further research that may attempt to find out the actual situation of the learners from the other parts of the country. Again, the paper connects anxiety and performance leaving the teachers with a suggestion of considering these factors in the language classrooms as well as while grading the tests. Further, as the teachers' perceptions of learners' anxiety and its impacts on their performances are also included here thus it exhibits the teachers' awareness of the factors that affect test performances. Nevertheless, the chances of having a completely

different attitude of the teachers from remote areas are still there that can be revealed with further researches in the field.

Limitations

The study was conducted within a very short period as the colleges were getting closed because of the HSC exam, thus it was not possible to include a handful number of participants, and therefore the data is limited.

Literature Review

Slavin (2006) reports anxiety to be a constant companion to learning and it is very common for every learner to feel discomfort learning a second or a foreign language, especially when it comes to testing one's ability or achievement in the respected area. Anxiety is a very common and very humane attribute; but when it is limited to only language learning situation, in psychology, it comes under specific anxiety reactions (Horwitz, Horwitz, & Cope, 1986). Anxiety often inhibits learners' natural ability to perform or produce in a foreign or second language learning situation; however, it does not mean that the learners' are less intelligent, rather they might be very intelligent or perform greatly in other spheres of their life, even in other subjects of the school or college. But language courses are different from any other subject as they require natural production of speech or sentences rather than ideas that are already written in books or in other materials. Therefore, in language classes people may suffer from – communication apprehension, test anxiety, and fear of negative evaluation (1986). Now, test anxiety often occurs since people attribute great importance to its social value and besides, “test anxious learners often put unrealistic demands on themselves and feel that anything less than a perfect test performance is a failure.” As Horwitz et al. reported. Barrows et al. (2013, p. 204) cites Bandura (1993) that students consciously or unconsciously worry about grades and fear to fail the exam that will make them deform their social image (Slavin, 2006). However, very little of this state of mind of the learners is taken into consideration though it bears much of a greater significance in learners' performance in language tests. Barrows et al. (2013) has shown a strong relationship between test anxiety and exam grades. Researchers of different fields of education have considered anxiety as a major factor affecting one's performance. For instance, Krashen (1973) reported about the affective filter that inhibits learning and production as well and one of the major factors of the filter was anxiety or fear of the new language itself. Now, both test and learning a new language are subject to anxiety and if they are considered together then it is quite visible that there would be higher level of anxiety that will inhibit the performance of the learners (Slavin, 2006). Again, Barrows et al. (2013) stated that anxiety affects test negatively stating, “Test anxiety is detrimental to overall academic success” (p. 204) and if it is not taken care of properly then it might become more of a serious issue for the learners.

Iroegbu (2013) in his paper reported of the effects of anxiety before an exam that is a direct negative impact on the grades of the exam. He cites Seligman et al. (2001) that

anxiety is a physiological state characterized by cognitive, somatic, emotional and behavioral components which combined to create sweating, dizziness, headaches, racing heartbeats, nausea, fidgeting,

fear, apprehension and worry. There is certainly no doubt that one under this form of intense pressure is bound to be disorganized and make mistakes which invariably translates to poor academic performance. (p. 144)

Now, in Bangladesh, it is quite a neglected factor that affects learners' performance in exams and while grading the learners. And also, the situation in Bangladesh is very much different in terms of considering English just as a second/foreign language course rather it is considered as a compulsory subject like the other subjects. Therefore, the attributions on the importance of succeeding in English language tests are much more different in here than the rest of the world. Again, where in other countries the language tests cover all four skills of language- reading, writing, listening, and speaking, in Bangladesh, only reading and writing has been tested although now the speaking and listening tests are also included at the college level evaluation system since 2012² but it is still not considered at the public examination system.

The language situation in Bangladesh is a complex one- despite being used as a medium of instruction in maximum level of education alongside the state language Bangla, English still lacks the identification of a second language. This is because the language of the general mass largely contains inputs from the L1 leaving a meager percentage of English speaking population. Even this does not provide scopes of finding a completely monolingual English speaking population because as a whole, our country is “predominantly monolingual” (S. Rahman & R. Hossain, 2012, p. 233). Despite the profits that English provides in global market, Bangla still holds a higher value for the Bangladeshis since it is connected to the national identity of Bangladeshis (Sultana, 2014). As a result, the education and language policy does not give equal importance to the English language which is why the learners show similar attitude towards it. It is often taken as a normal study subject that must be passed as a requirement of getting promoted to the next class; hence, the communicative skills are often ignored. The fear of failure in English language test entails the fear of failure to get promotion that leads towards anxiety. Nevertheless, despite all the resistance, English is still hailing upon the languages of the world and it is a bearer of prestige (Akter, 2016). And now, it is one of the languages of the world that hold the global economy together and therefore, people from every corner of the world are trying to learn the language, and Bangladesh is of no difference.

The curriculum provided by the NCTB³ adopts a communicative (CLT) approach to the teaching of English and tries to promote a learner centered classroom teaching. However, the actual picture is very pretty different from this. Where, in the curriculum, all the four language skills have been emphasized, in real classrooms only; only reading and writing skills are practiced in the classroom. This is so, as the test questions only include reading, writing, and grammatical items; therefore, neither

²National Curriculum for Class XI-XII. (2012). NCTB, Bangladesh.

<http://www.nctb.gov.bd/cmp/curriculum/English1440355362.pdf>

³National Curriculum for Class XI-XII. (2012). NCTB, Bangladesh.

<http://www.nctb.gov.bd/cmp/curriculum/English1440355362.pdf>

the learners nor the teachers are interested in practicing the other skills in the class. As a result the learners fail to improve in the language. This lack of expertise in the language shakes the confidence of the learners which makes the anxiety level higher and as a result learners' performance gets affected. This goes with Krashen's affective filter hypothesis that defines anxiety as one of the factors causing the filter going up (Ellis, 1994).

Again, the question types and patterns are subject to evaluation in terms of their validity and reliability. According to the curriculum of class XI-XII by NCTB, tests should evaluate learners' communicative skills in the language; however, the purpose of the tests is not quite served by the types of questions and thus, it violates the validity and reliability of the test. There have been many researches done in order to find out the validity and reliability quotients of the tests. In addition to this, the assessment tools and techniques that we use are very summative and evaluate a learner's capabilities by evaluating only few of the skills and grade them into groups without considering their substantial conditions. As a consequence, in most case the learners' and their psychological conditions are neglected.

Therefore, a research was needed to be conducted in order to find out how it affects our learners in terms of their performance in the English language tests both at college and public level examinations. And since there is a greater pressure of achieving good marks in all the subjects for the learners' at the higher secondary level as this would decide the future area of education, therefore, it was preferred to conduct the research on the learners of this level.

Methodology

Dhaka, the capital of Bangladesh, has been selected as the study area. The selection of the city had some theoretical and personal grounding. Cities are always seen as the starting point of any advancement or revolution, thus they catch a lot of attention from people of all levels across the country. Being the capital, Dhaka also holds the prestige of a commercial city where every year people from the peripheral areas migrate to earn their fortunes. It has a metropolitan area of 360 sq. km. (Rashid, as cited in Akter, 2013, p. 6). Among the 16 million population, Dhaka alone has a population of 6.97 million (BBS, 2011) and it is ever increasing. It serves as a hub of the country where the people from every corner of the country could be found. Therefore, the sample chosen for the study can be expected to represent quite a general scenario of the urban population of the country.

Since there are not too many studies done on this topic in Bangladesh, therefore an empirical study on the subject matter was chosen to find out the best outcome of the research. A mixed method approach was chosen for collecting and analyzing the data where qualitative approach was given priority as it provides huge amount of information within a very short time. Necessary data collection tools like audio and video recorders, camera, and computers were used to accumulate, preserve and analyze data. The study includes 40 students and 8 teachers from four of the very reputed colleges of Dhaka. The quantitative data was collected with a questionnaire survey that included 10 questions that has been reduced into three major questions in data presentation sector for the ease of discussion. The qualitative data was collected by individual interview of the teachers and focused group discussion (FGD) with learners. The FGD data was collected from a coaching center at Azimpur, Dhaka as

students from all of these colleges take tuitions from there. The names of the institutions and the participants are not declared here to maintain the ethical issues of conducting such research.

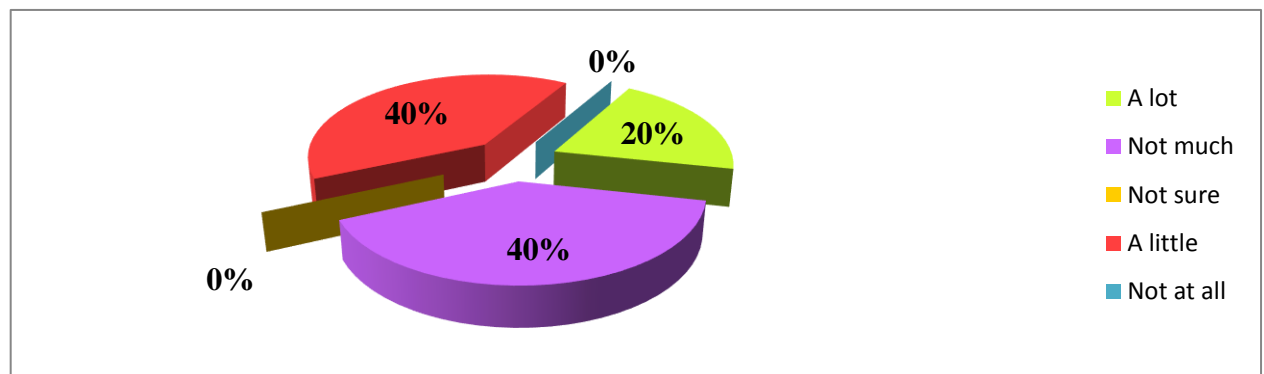
Data Presentation and Analysis

This section includes a discussion on the data collected from the questionnaire survey and from the interview of the participants. It is divided into two parts; the first presents the data collected from the questionnaire survey that was conducted with 40 students at the higher secondary level in Dhaka and includes a comprehensive study of the opinion and choices of the participants. The second part is a bit more specific as it incorporates the ideas of the student respondents and teacher in the field of English language teaching in here.

Analysis of the Students' Questionnaire and FGD:

1. How far are you afraid of English language tests?

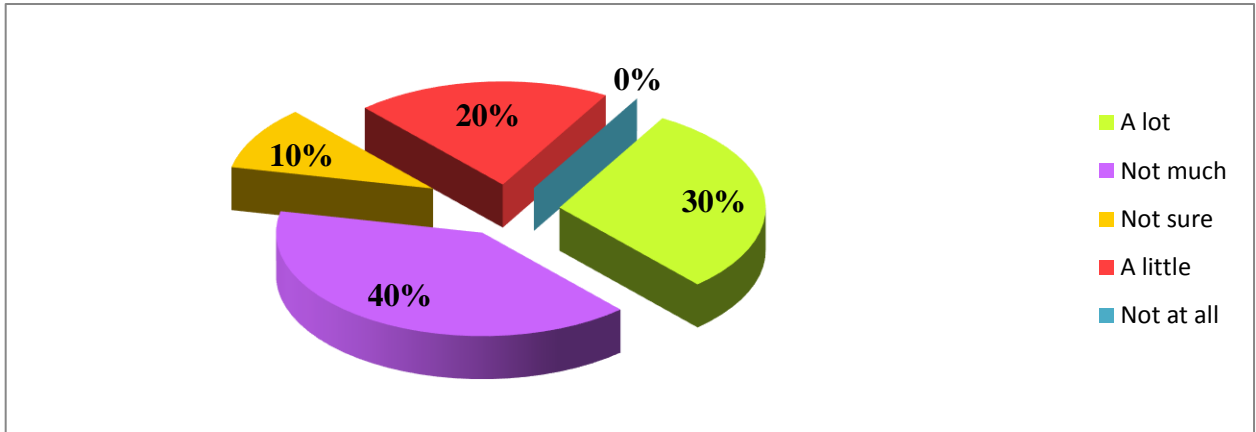
	A lot	Not much	Not sure	A little	Not at all
Number	8	16	0	16	0
Percentage	20	40	0%	40	0%



The chart above shows that the majority (40+40= 80%) of the students are quite confident at taking English language tests. Only 20% of the students fear English language test. In the FGD, when asked that why do they feel more confident in English test, it was found that the English language test is more reading and writing focused and since they practice these two skills quite rigorously in their classrooms and coaching so they feel comfortable at it. However, the students who answered negatively at the survey, they responded as they feel nervous because of they often get tensed if the questions would be common or not. They also said that it is very difficult for them to study before the night of the exam since they are often tensed about getting the questions common and they feel that no matter what they read they will get uncommon questions. However, they said that though they feel so anxious but still they have been able to cut quite good marks so far but still they are afraid of the public exam they are going to face in the next year.

2. How far do you feel at ease taking English language tests?

	A lot	Not much	Not sure	A little	Not at all
Number	12	6	4	8	0
Percentage	30%	40%	10%	20%	0%



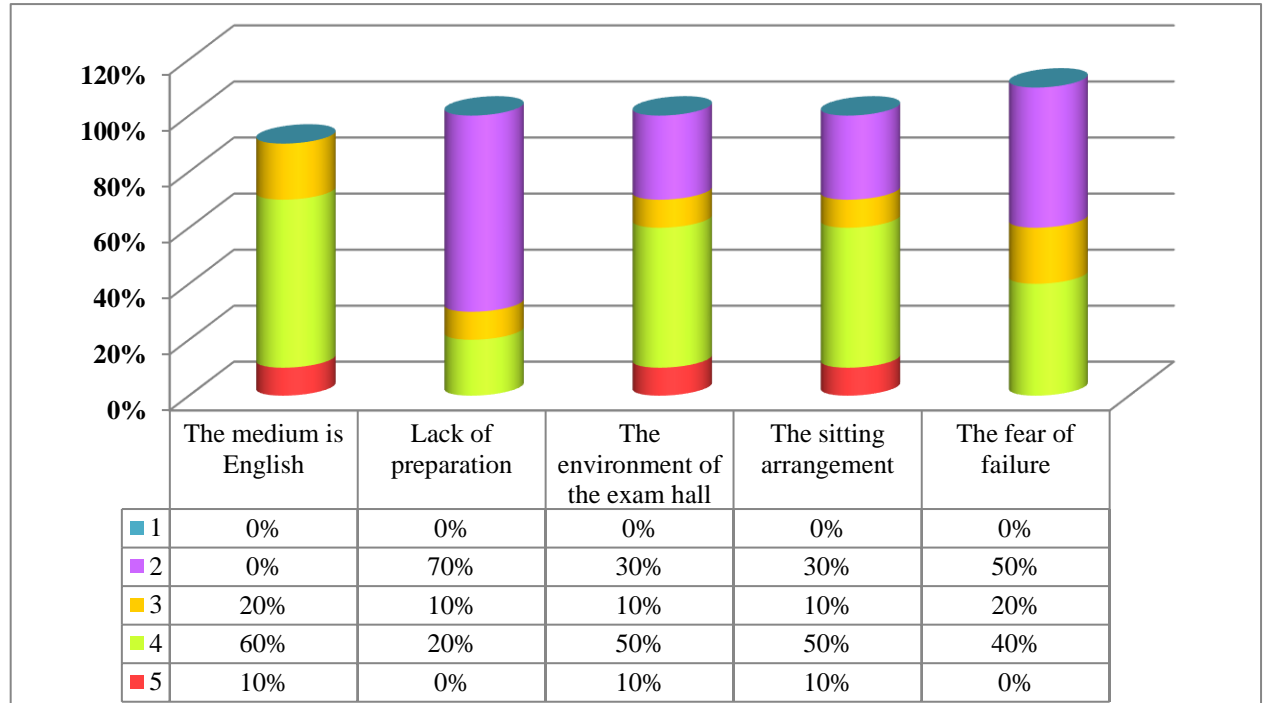
Again, the respondents showed quite positive attitude to this question. Around 70% of them responded positively that they feel quite comfortable in the exam hall and the rest of the respondents were not quite sure about their feelings. However, in the FGD, when asked the reason for this ease at the exam hall, most of them claimed that English is the only subject that they do not have to memorize like other subjects, all they have to abide by are the grammar rules and then the answers of the reading part is already available in the comprehension and the writing part is open. They also included that if it were a speaking test then they might not be this confident at taking the test as they do not have much practice in the classroom. They were also asked about listening test and again they answered negatively on this regard.

3. Rate the following factors in the scale of 1-5 on the basis of your view of them as affecting your anxiety level in tests: **5= Always, 4= Often, 3= Not Sure, 2= Rarely, 1= Not at all.**

Factors/Rate	5	4	3	2	1
1. The medium is English	8 (20%)	24 (60%)	8 (20%)	0	0
2. Lack of preparation	0	8 (20%)	4 (10%)	28 (70%)	0
3. The environment of the exam hall	4 (10%)	20 (50%)	4 (10%)	12 (30%)	0
4. The sitting arrangement	4 (10%)	20 (50%)	4 (10%)	12 (30%)	0
5. The fear of failure	0	16 (40%)	8 (20%)	20 (50%)	0

The responses to this question were much clearer in the focused group discussion (FGD) as the students could give their opinions more openly. According to their

responses, if the sitting arrangement is good that is if they get seats close to their friends, the invigilator is familiar. And thus even if they get stuck over any question either they keep it to answer later or they try to get help from their friends. However, the fear of failure is always there but according to the respondents, it is much lesser in English language tests than in case of the tests of other subjects.



Moreover, they do not have to prepare for English tests as rigorously as for the test of other subjects as they get to practice the samples at the classroom and the board exam questions at their coaching, and since the board exam questions get repeated and the college follow the board questions so the questions or at least their patterns are quite predictable.

Teacher’s Interview Analysis

The response received from the teacher’s interview was quite positive. As practitioners of the field they are very much aware of the anxiety that the learners feel at exam halls; however, they never consider it as a major factor for affecting test performance as in the case of public examination, they do not know the students personally and as far as the college exam is concerned- even if they know the learners, still they have to mark on the basis of their performance at test. And from their personal experience, they found learners feel more confident in taking English language tests and fear the other subjects more. Therefore, he does not think that anxiety affects the learners’ performance at the test that greatly as far as English language tests are considered. And this is the only subject that gives the learners a scope of getting more marks with average preparation and therefore, it is beneficiary for our learners to have English as a compulsory subject than just as a language course like the other countries of the world.

Findings

From the survey and interview, it is quite clear that our learners feel lesser anxiety and fear when it comes to English language test. This does not mean that they have better command over the language rather the real picture is something different. The learners often avoid the course-works and tasks of English language. This also occurs because the teachers do not put much emphasis on doing the tasks given in the major text books; instead, they remain busy in preparing the learners for the competitive public exams. This slackness towards the language course, results in poor command over the language on the part of the learners.

Again, since in most cases the questions are repeated, thus the tests become very predictable which entails a backwash/ washback effect on the learners and in such cases it is mostly negative (Hughes, 1989). This is actually helping the coaching business to spread so virally. And most of the coaching centers teach their learners how to pass the test instead of facilitating their learning of the language. As the questions are quite predictive, the learners are reluctant to the subject and they feel at ease taking the exam as they do not need to prepare for it that rigorously.

However, if the tests had included all the four skills then perhaps the scenario would be quite different than this as the student respondents were found to be less confident at giving answers during the FGD in English and most of the time, they required a Bangla translation of the questions. Even the teacher also blamed the new system saying that it was much better in their days when grammar translation method was in practice as nowadays even if CLT has been adopted, it is no where practiced as it should have been and the focus is still on grammar but since there is no harmony between the teaching techniques and the assumed learning outcome, there is no use of this transformation in the education system. Now, as far as the focus of the study is to find out the affective relation of test anxiety on the performance of the learners in Bangladesh, from this pilot research, it is found that because of the predictive nature of the language tests learners do not feel that much anxious at taking the English language tests and thus no relation of anxiety and test performance could be established between test anxiety and test performance.

Conclusion

Since the study was a short version of the actual study, therefore it was not possible to conduct an in-depth study and therefore, the findings of the study cannot be generalized. However, the study has revealed an interesting fact that the backwash effect of the tests, affects the learning and performance of English more than the anxiety of the learners. All the assumptions of learners' test anxiety or fear have been disapproved and a completely new revelation has come forward. Considering this, the scope of the study is enlarged to the extent of identifying, analyzing, and solving the issues of backwash effect. To sum up, it can be said that the research is not a perfect one and it has its limitations, therefore, the findings cannot be considered as generalized results that may represent the current English language situation in all over the country.

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The Pros and Cons – A Study on Private Universities in Bangladesh in Delivering Education at Tertiary Level

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Abstract

A sound growth of private universities in Bangladesh played an important role in achieving improvement at tertiary level, which has both brighter and darker sides. The main objective of this study is to explore the situation of quality education in private universities, advantages and disadvantages of the private universities of Bangladesh. The study employed a qualitative investigation included in-depth interviews with academicians and students and classroom observation at universities in two major urban areas of Bangladesh. The study found growth of private universities attributed largely to the lower quality of education of public universities, while private universities have certainly made positive contributions. While by concentrating on profit-yielding, career-related commercial studies, charging high fees, private universities create irretrievable socioeconomic inequities between the poor and rich income groups of the population. This access to higher education by lower income groups is negatively affected by the rapid growth of privatization. The study suggests the government of Bangladesh should ensure these universities are providing adequate standards of education.

Keywords: Bangladesh, Education, Private Universities

Introduction

For much of the last decade of the 20th century, government policies have focused on opening the doors of higher education in the tertiary level of Bangladesh. The result has been a qualified success that more students from all backgrounds are attending universities than ever before, but large gaps still exist in the process of getting higher education for the inhabitants who are willing to proceed. In keeping with the socio-economic and cultural transformation, that placed newer demands on the educational system with greater responsibility and accountability and increased expectations of stakeholders. The system has been pressurized to shift its focus from one in the quantitative expansion to one with emphasis on quality. Demand for post-higher education for-profit and certificate-based providers are becoming more the norm than outliers. Higher education is becoming an essential commodity which is one of the most crucial phases in the life of an individual as it not only plays a pivotal role in shaping up their career, but also is the time when a teenager matures into an adult. It is very different from the restricted school life, one gets to feel the freedom and yet responsibilities only increase.

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Bangladesh has two types of universities on the basis of ownership – public universities and private universities (PU). Establishment of private universities in Bangladesh initiated after the institution of the *Private University Act 1992* and later improved by the *Private University Act 2010*. All private universities need to be approved by the University Grants Commission (UGC) before they are given a permit to operate. Private universities play a vital role towards the human resources development of this country as tertiary level is the ending stage of higher education. These universities have been established with a view to providing higher education and ensuring quality education to a large number of students within the country. In Bangladesh, the education system is multi-divided and discriminatory. As we all know that the number of seats in public universities is limited in comparison with the number of prospective students in Bangladesh and for this reason public universities are unable to provide higher education to all the students. To make human beings as capital quality education is mandatory. So, to balance the situation, private universities have been established. Though the number of the private universities was very few before 2000 but at present it is near about 83 up to June, 2015. These universities are located not only in Dhaka but also in Chittagong, Rajshashi, Sylhet, Comilla and so on. The present scenario of education sector clearly states that these private universities are contributing to the national educational system in Bangladesh. The popularity of these private universities are increasing very rapidly due to its quality education, international standard facilities for the students, advanced research and better environment within the university premises. There has been remarkable growth in privatization during the last two to three decades. The number of private universities has increased, and enrollments increased at a much faster rate than in public institutions. Education in private universities has grown for several reasons, which can be summed up in two categories: excess demand and differentiated demand for higher education (James, 1987). First, the social demand for higher education exceeds the public supply and the private market seeks to meet the unsatisfied demand. Secondly, the demand for different quality and content in education also contributes to the growth of private universities. As with every education system, private universities in Bangladesh have both bright and dark sides. The main objective of this study is to evaluate the role of quality education in private universities and to identify and analyze the problematic areas of the private universities of Bangladesh and its possible solutions.

Literature Review

The term “quality” is derived from the Latin word “qualitas,” which means the degree of excellence of a thing (*Oxford Dictionary*, 2003). Coombs (1985: 105) defines the word quality as: Qualitative dimensions mean more than the quality of education as customarily defined and judged by student learning achievements, in terms of traditional curriculum and standards. Quality also pertains to the relevance of what is taught and learned—to how well it fits the Quality Education.

According to the UNESCO 2014 report, it is called “learning crisis”, where teachers and students do not understand each other and for that reason pedagogy is hampered. In Bangladesh, teacher and student ratio is 1:53 which is mentioned in UNESCO report 2014. It is a great hamper in private universities to provide quality education. In 2006; UNESCO and IIEP have conducted a research where progress and development of the private universities were analyzed along with financing,

management and administrative mechanism, and guideline of quality control measures in the study.

The World Bank (1995: 46) puts forth the following concept: Quality in education is difficult to define and measure. An adequate definition must include student outcomes. Most educators would also include in the definition the nature of the educational experiences that help produce thus outcomes—the learning environment.

“Quality of education” has been described by Rowley (1996: 12), from the original source by Gordon and Partington (1993) as follows: The success with which an institution provides educational environments which enable students effectively to achieve worthwhile learning goals including appropriate academic standards.

“Quality in education is an evaluation of the process of educating which enhances the need to achieve and develop the talents of the customers of the process and at the same time meets the accountability standards set by the clients who pay for the process on the outputs from the process of educating.” (Bayre and et al:2000)

Spanbauer (1992) mentioned in his writing that educational institution needs quality policies. Lamanga (2002) also mentioned three different aspects in quality education, i.e. I) The quality of teaching and research. II) Aware of the market demand. III) Impartiality.

Almost all of the private universities in Bangladesh have managed to create self-contained enclaves within our society. A large number of students from wealthy families are getting admission to this type of universities for obtaining untroubled and session jam free degree by investing a huge amount of money. The initial objectives of private universities, whatever it may be now becoming as business enterprises (Bhattacharje, 2007).

On April 27, 2011 Dr. M. Anisuzzaman, emeritus professor of Dhaka University mentioned in his speech that “in the twelve century, more universities were established in a small building in the capital cities of western countries but in the course of time their education system is put on present scenario.” Just like that in the twenty first century in Bangladesh when one is walking alone on some roads of important areas of Dhaka city, the signboards of several private universities would let assume that establishing a private university is easier than establishing a coaching center.

It is observed that most of the private universities face the acute problem of senior and qualified teachers. It is revealed that most of the private universities do not have a rich library and good computer facilities for their students. But the enrollment in the private universities hardly fulfills these expectations (Huq, 2001).

According to Mohammad Ehsan (2008) university should have 80% full time faculties than part time faculties. Another study was conducted by Abu Naser on equality, education in private universities from the perspective of faculty recourses and infrastructure. He contended in his study that existing teacher excellence is not satisfactory to ensure quality education as well as degree. Universities should have upgraded campus facilities to uphold their education system. He also mentioned about sound academic atmosphere which can be established by an enlarged campus space.

Methodology

Sample

From September to December in 2015, a qualitative investigation included in-depth interviews with academicians and students with classroom unstructured observation was conducted at six universities both in Dhaka and Chittagong, Bangladesh. I interviewed 20 teachers and 60 students from six universities. Each interview took 45 – 60 minutes, followed by a semi-structured questionnaire that included teachers' perceptions and experiences regarding factors that contributed to the pros and constraints of private universities in Bangladesh. The study participants were selected purposively and the inclusion criteria were (i) students from graduate level and (ii) teachers.

Tools

I interviewed teachers and students from private universities using a semi structure questionnaire that included perception and experience regarding factors that contribute to improve quality education in tertiary level learners and courses, classroom size, equipment which are used for teaching, lab facilities, and library facilities for improvement of the quality. In addition to that I conducted four observations of university class at tertiary level using a guideline that included classroom size, teacher per student, equipment used for teaching, available facilities, campus environment, lab facilities for teaching and learning.

Analysis of Data

For all in-depth interviews, I recorded all interviews using a digital recorder. I have translated all data into English. Manually I coded data according to my research objective which is related to the barriers to the quality education in private universities in Bangladesh perspective. After coding, I have done the thematic content analysis. I contrasted private universities and public universities with respect to the quality of education, training, syllabus, teachers' quality and campus environment.

Research Ethics

To conduct qualitative study, I made clear the amount of time that I was asking study participants to give. There were questions about academic and professional performance and knowledge and I clarified that there were no individual benefits for participating. I also informed that these topics could be sensitive or uncomfortable to the teachers as an outsider interviewing them concerning their quality teaching. Participation was voluntary during the consent process which I specified.

Limitations of the Study

During the research process, the researcher could not avoid having data contaminated by bias of one sort or another and failing to acknowledge the possibility of such limitations is unethical and unprofessional (Leedy, P. 1997).

The following limitations of this study should be noted:

- The study only involved students and academicians from the higher education institution.

- There are little literatures that address barriers to quality education at tertiary level in private universities in Bangladesh, the researcher referred to international literature for some arguments in the study.

3. Findings:

Demography:

Table 1: Demographic Profile

Group	Category	N=60	%
Gender	Male	30 (S=24; T=6)	50
	Female	30 (S=24; T=6)	50
Locality of the institution	Dhaka	36	60
	Chittagong	24	40
Age	18-23	27	45
	23-28	21	35
	28-33	7	12
	33 – above	5	8
Type of the institution	Public	2	40
	Private	4	60

Financial:

In general, private universities are financed by the Board of Trustees of the respective universities and later students are becoming the main source of fund generation for PUs. The Boards in turn derive their finances out of the tuition and other fees realized from their enrollees. Private universities do not receive any money from governments. All of their budgets are paid for by students and any donors who want to give to the faculties. Contributors often donate to the universities, too. As the government does not subsidize private school tuition, students pay much more. Interestingly, many private universities do offer significant scholarships for students who are unable to afford tuition on their own. Since private universities are not receiving tax money, they can be more creative with the scholarships and financial aid programs they offer to their students.

The private universities earn a huge profit over costs in running the private universities through charging exorbitant tuition fees and other charges which are often comparable to those in the universities of affluent countries.

Infrastructure development, teachers' salary, government tax, conducting seminars, workshops and researches, various day observations, promotion are the major sectors where PU spends its fund. Their financial stability varies from university to university, depending on reputation, number of students, fees, course and degrees offer, campus location, etc.

It was observed that universities which are located in Dhaka those are more financially solvent than universities in Chittagong. The majority of the teachers said that Private universities are paying tax to the govt. which means they are playing a vital role in GDP. Private universities are not dependent on the govt. as the universities are formed based on the Board of Trustee members for financial support.

Half of the teachers said that many students are studying in Private universities rather than going abroad.

One third of the teachers said that private Universities are not awarded a good compensation package which influences them to switch from this profession frequently. Nearly one third teachers mentioned that some private universities are not being awarded incentives like festival bonus, promotion and good environment for learning. Half of the teachers commented that many of the faculty members are female who are not getting facilities like transport, maternity leave. Three fourth teachers said that teachers should be given study leave with pay and also to encourage them to join again after their higher studies. Half of the teachers believe that adequate research facilities should be created for both the teachers and students.

Facilities:

Private universities differ from public universities in more than how they are funded. They are often smaller and quieter. They have smaller classroom dimensions which are an advantage of student education. Students are not likely to be overlooked in mammoth classes that take place in an auditorium like those at public universities. There are less session related problems which make it more likely that students will be able to get the classes they need to graduate on time. In addition to that smaller class sizes lead to more interaction with professors, another advantage. Students at private universities have more opportunities to access to the teachers to discuss their problems. They are less likely to feel isolated and anonymous and have more opportunity to build stronger relationships with their teachers.

Nearly two third of the teachers said that there are few PU where infrastructures are well organized. The majority of the teachers said Internet, multimedia classroom, recreation, hygienic cafeteria, air-condition system all are not well organized and environment friendly.

Three-fourth of the teachers said that majority of the private universities are running in an industrial or residential area which limits the interaction between teacher and students as their campuses are mostly situated on residential or commercial building, which were designed to accommodate specified programs. Even conversion or renovation of those buildings or floors is not done properly to suit the university spaces as it lacks budgets and security for future turnover of the investments. It also creates security problems for the students as the building is mixed use.

Nearly half of the teachers said that as some of the PU do not arrange any functional admission test which does not justify a student's capability to enroll to a specific subject which requires a higher amount of background knowledge.

Nearly two-thirds of the students said they have enough space in the campus with large number of classrooms, along with the auditorium, large ground, cafeteria, common room, different types of club facilities, excursion tour, etc.

Around half of the students said as private university teachers have the eligibility to design their own time schedule with course outline for this reason sometimes it becomes inconvenient for the students.

Three-fourth of the students said that private universities do not have an adequate PC and students cannot stay in the campus because of limited space. Nearly

one third students in applying science departments revealed that, the lab conditions are not satisfied due to limited financial supports. Half of the participants said library facilities are not adequate in PU. One third of the students said that important textbooks are not available in the libraries and also it is not user friendly due to limited spaces. The majority of the students said that building of the campus is not modern, classrooms are not well resourced, there is no high-speed internet or the connection quality is poor, the atmosphere is not neat and clean, no transport facility, no hostel and residence facility, no recreation, air-conditioning system is not good enough, no online registration facility, there is no stand-by generator, canteen quality is not satisfactory or unhygienic and there is no photocopy facility on the campus.

Quality:

While half of the students said that private universities can hire more qualified teachers for particular courses, especially those who have foreign degrees or Ph.D. Nearly two third students said that maximum private universities have more part time teachers than full time teachers. They found part time teachers are not regular and are not willing to give more time to the universities as well as to the students. Private universities with a limited number of full time faculty members depend heavily on part-time teachers drawn primarily from public universities, which adversely affect the quality of education in those universities.

Maximum students said that number good private universities are University Grant Commission (UGC) approved and their syllabuses are also updated. Half of the students said academic calendar is strictly maintained where midterm, final exam dates, result publish date and holiday dates are mentioned. Half of the students said that private university students are contributing a lot to the development of the nations in many other sectors in many other ways. One third of the students said that they are also participating in different welfare and cultural activities like tree plantation, cleaning the city, concert for helping poor and distress, aid for the flood affected people, warm clothes for people suffering from excessive cold in winter in our country. In this way young generations are involving themselves in constructive activities which also encourage other organization and rich people to contribute in these activities.

Most of the students said that method of evaluating also varies from one university to another. Nearly two third students said that they cannot cope up with the syllabus prescribed for them. Half of the students said that there is no appropriate strategy and procedures in tertiary education in private universities. The majority of the students said that in the fundamental course they are not developing their knowledge because there are more students in one section which is not suitable. Nearly one third said that some private universities are giving a degree without providing students proper lab training. With the advancement of the technology the computer facilities are not upgraded and there is no recreation facility for them.

The majority of the students said that in job sectors, the participation of the private university students is huge. One reason is private universities are emphasizing subjects which are job oriented and demanding in present market condition. Three fourth of the students said that not only in private sectors but also in government sectors private university students have proved their intellectuality in different competitive exams.

The majority of the teachers said that PUs have less full time professors and assistant professors. Half of the teachers said they have senior lecturers and lectures too, along with the part time teachers which is not enough for the development in education as well as the curriculum of the universities. Nearly one third of the teachers said that any students from private universities are going abroad for their higher studies and it indicates that some private universities are providing very quality education and atmosphere. Along with these students are participating in extracurricular activities which develop their mind.

Teachers should contribute to the development of the universities by participating in seminars, research, academic activities and so on. The majority of the teachers said that private universities do not have academically effective students, which is a great challenge for the teachers to ensure quality education. Students are not regular in the class as they involve themselves in many other outside activities like job or business. Around three-fourth of the teachers accept that fundamental courses in PU are overcrowded due to a large number of students in a single classroom and due to the less number of teachers. For this reason, teachers face difficulties in providing quality education to the students and getting proper feedback from the students.

Governance:

Three fourth of the teacher said that coordination is an important part in private universities. One third teacher said that there are some lacking in coordination of private universities between the administration and the Vice Chancellor which should be maintained strongly in all levels. Where half of the teachers said that lack of proper coordination would make private university vulnerable in the education industry.

Discussion:

The growth of private universities can be attributed largely to the failure of public universities, while private universities have certainly made positive contributions. Private universities are also believed to reduce the number of students going to foreign universities since their establishment. Offering good academic programs is a necessary condition, but not a sufficient condition to assure quality education. The degree requirements and academic programs may be well designed in terms of both national and international standards, but this does mean that the output will be of high quality. The well-meaning curriculum may not produce good results if the university does not or cannot hire adequately qualified, experienced and committed teachers to teach the courses. While the cases of a few universities are now strong but in general, the faculty situation is very weak. When private universities started in 1992, a few expatriate teachers from the USA and only part-time local teachers mostly from Dhaka University were hired. It was understandable in the early stages. But even today, with a few exceptions, most private universities rely on part-time teachers from public universities. To maximize their personal income, these teachers from public universities teach at several private universities, in addition to their full time job at the parent university. As a result, the effectiveness and efficiency of these teachers tend to drop at the deplorably low level. This, naturally, lowers the quality of the private universities (Hafiz G. A. Siddiqi: 2005).

Because of a limited number of seats in public universities, and high tuition fees charged by the private universities, access to university education are rather limited in Bangladesh. By concentrating on profit-yielding, cheap, career-related commercial studies, the market-oriented private universities provide vocational training under the name of 'higher education' and ignore 'broader higher education'. While, by charging high fees, private universities create irreparable socioeconomic inequities between the poor and rich income groups of the population. This access to higher education by lower income groups is negatively affected by the rapid growth of privatization.

Conclusion

In the context of massive expansion of the country's secondary and higher secondary education, a huge demand has already been created in the tertiary level education. At present, the existing public and private universities cannot meet the required demand of quality education which basically forces many of our students to go to abroad. On the contrary, maintaining quality education is becoming a vital issue for the private universities. It's no doubt that private universities are contributing to higher education, but to ensure quality education still remains a huge challenge for us. With a view to improving the situation, the government should come forward to deal with the challenges being faced by the private universities in Bangladesh.

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English Pronunciation Skills of Private University Students: A Case Study of Students from Rural Background

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Abstract

This project investigates the influence of socio-economic background in learning English, particularly, focusing on the pronunciation skills of students from a rural background studying at private universities located in Dhaka. It has been obvious in the context of developing countries like Bangladesh that knowing good English facilitates getting a good job. Evidence shows that one's proficiency in English largely influences her/his employment opportunities and it is now known that it has become an imperative to secure good career in Bangladesh as well (Khan, 2007). This research identifies the obstacles a speaker learning English from rural educational context may face due to her/his low level of efficiency in pronunciation skills. It also finds the probable reasons why their pronunciation skills are such in comparison with those who are facilitated with English medium education in urban areas, with exceptions which can be explained by multiple intelligences.

Keywords: English, Pronunciation Skill, Private University Students, Rural Background

Introduction

Pronunciation certainly makes a difference in the speaker's ability to communicate in the target language. More specifically, in the process of oral communication, it plays a pivotal role, since successful communication cannot take place without mutually intelligible pronunciation (Celce-Murcia, Brinton & Goodwin, 1996). To make their speech intelligible, it is not necessary for non-native speakers of English to pronounce English words exactly like a native speaker, whereas even if two native speakers pronounce the same word, there may be a difference due to biological differences. If their pronunciation is clear enough and close to the English sounds, only then they can be understood. Such pronunciation is termed by Kenworthy (1987) as "comfortably intelligible" pronunciation. The word 'comfortable' refers to the comfort of the listeners, rather than the speaker. Comfortable intelligibility "implies that second language learners should not only make themselves understood to their listeners, but should not irritate. This is not just a matter of pronunciation, but of general speaking habits" (Parkinson 1993: 56). There are some features of English speech (of native or non-native speakers), such as, repetitive intonation, lack of clear stress patterns, excessive hesitancy, excessive self-correction, mumbling, and speaking too loud that may be found unpleasant to the listeners. This article explores the obstacles a non-native speaker from a rural background with an 'uncomfortably intelligible pronunciation' may face and the reasons behind it.

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English in Rural Areas of Bangladesh

English is a compulsory academic subject from primary to higher secondary level, and in some cases, in higher education as well (Rahman, 2005; cited in Erling et al, 2012). Bangladesh is presently aiming to promote a shift in its economic structure from agriculture to manufacturing and to deepen integration with global markets (World Bank, 2007; cited in Erling et al, 2012). Such developments call for a sound proficiency in English (Rahman, 2005; cited in Erling et al, 2012). People who live in rural areas under or around the poverty line are likely to find such requirements particularly challenging due to the poor quality and limitations of education (including English teaching) in such areas (Erling et al, 2012).

Role of English

The status of English in the country can either be characterised as that of a second or foreign language, depending on the domains in which it is encountered (Kachru, 1994). English can be considered as a foreign language in Bangladesh since it is not native in our country. Hardly any Bangladeshi person speaks in English although many of them use it in education and business. On the other hand, there are few roles of English in the rural areas unless people with little education use part of this language subconsciously except well educated people from the same area, who use it in their education and other purposes. However, due to the emergence of media and technology as a tool for digitalization of the country with support from the Government of Bangladesh (GOB), the role of English, even in the rural areas, is increasing day by day. Illiterate people are subconsciously using English in their conversation. Sometimes they use it (English words/phrases) consciously, while most of them are inaccurate. They encounter English words in different ways, such as, watching TV or using mobile phone and sometimes imitate them resulting in an incorrect pronunciation.

Attitude towards English

Research found that overall there is a strong belief in the power of English and a desire to be one of the many who speak the language for reasons of practicality and prestige. Knowledge of English was associated with education in general, and often a good education, with higher level professions, and with providing a service to the community (Erling et al, 2012). Previously, English was considered to be an unwelcomed language which, as believed, was harmful for the religion. There was a conception in the British period that learning English can hamper their beliefs in Islam since most of the population in the country is Muslim. However, this conception no longer exists; people even in the rural areas are now more open to accept English as an important tool for development. So, English being in such a dilemma for a long period of time has now come into light and is considered to be an important part of our life from a number of different perspectives.

As a matter of fact, on the other hand, English learning in rural areas is still challenging and demands more concentration to be applied by the whole education system. As a result, students learning English from the rural institutions face more challenges in establishing their career in the urban contexts than those learning English from urban institutions where English is the medium of teaching.

Methodology

This ethnographically based research is done using interviews, questionnaire

survey, and sometimes informal conversations with private university students from a rural background, using a Likert Scale.

Data collection

Sampling and Interviewing

The researcher selects a private university located in Dhaka to collect data from a number of randomly selected students who came from different rural backgrounds with their English matured in rural areas. On the other hand, in case of questionnaire survey, the researcher gave both open and close ended questions.

Data analysis

For analysing data interviews were used qualitatively. Some important issues came out of the data analysis. They are:

- **Difficulty in understanding native English pronunciation.** Most of the participants have stated that they watch English movies and find the native pronunciation (British or American) difficult to understand. As an instant solution, they use subtitles while watching English movies.
- **Limited exposure in their early stages of learning TL.** In their early stages of learning the language most of them agreed, except some, that they had little exposure to the target language. Sometimes, they were demotivated by other people of their villages when they tried to imitate pronunciation like native speakers. This fact perhaps confined them into a more shy personality about learning and using more correct pronunciation.
- **As a matter of fact, obstacles in establishing their career.** Some of the participants pointed out that they faced several difficulties in their academic career and some other ways as well. In an interview with a student, he said that he was disqualified from a call centre due to his poor pronunciation, where he had applied for the post of a part-time sales executive. And sometimes he cannot do well in the class presentation due to the same reason, he added.

Research Findings

Role of First Language

Bangla is a syllable-time language whereas English is stressed. There is a huge gap between these two languages in terms of pronunciation and accent. On the other hand, Bangla as a first language of a native speaker has an influence on her/his English as a foreign language. In Bangladesh, sometimes it is noted that most of the speakers tend to speak syllable-time English. That is, accent is sometimes completely ignored and pronunciation receives little attention too. Again, English learning environment in rural Bangladesh is also poor. In the ESL/EFL context in Bangladesh, teaching/learning pronunciation is one of the neglected aspects. It hardly receives sufficient importance in teaching as well as learning English at any level in Bangladesh (Maniruzzaman, 2008). In this situation, what happens in the rural areas is that pronunciation is rarely emphasized in the teaching/learning situation. Among the participants, one of the students was noticed with remarkable influence of his Bangla dialect (Netrokona) on his English in terms of pronunciation.

Influence of Socio-Economic Background

Influence of socio-economic background in the development of pronunciation skills is also noticed, but there are exceptions. Most of the participants were from a lower middle class or middle class background. Students, who had good pronunciation even though they were from the same rural area, had more exposure to the target language. Especially, their family members were educated and left them with different opportunities to learn the language. These opportunities were so adequate that learning pronunciation got a special attention not only due to the better language learning environment, but due to their personal interest in learning pronunciation. The learner's concern for pronunciation accuracy is often the result of personal motivations and attitudes established well before the student enters the classroom (adapted from Purcell and Suter, 1980, in Pica 1994: 72). That is, it is not teachers who can control students' pronunciation, but it is themselves who can intentionally improve pronunciation by being aware of sounds, accents, and rhythm of English.

On the other hand, those who had poor pronunciation were also from different socio-economic backgrounds. Some of them were from lower middle class and some from middle class. There were also some participants who had poor pronunciation skills even though they had got a more facilitated environment for learning English and scopes for improving pronunciation skills even in the rural area. But their skills are poor because they had lack of personal motivations and attitudes. In fact, pronunciation has an important socio-cultural value (Gelvanovsky, 2002) which helps the speaker to create a distinct identity and remarkable attitudes.

Obstacles

Students, who have poor pronunciation no matter which socio-economic background they are from, are academically and professionally a bit challenged. Some of the participants in their interview shared that they could do better in their academic records if they had good pronunciation skills. They also said that those who had better skills in pronunciation got better marks in their presentation tests. Apart from academic perspective, there are some other obstacles found in the professional contexts with those students who have poor pronunciation skills. Sometimes it is difficult to communicate with speakers who do not have that mutually intelligible pronunciation. If the level of the skills is too low, the comfort of the listener (according to Kenworthy, 1987) is hampered. Thus, they face problems to communicate with others in the target language due to their pronunciation skills which are not mutually intelligible.

Conclusion

The study shows that there are partial influences of socio-economic background on the pronunciation skills of private university students from a rural background. The research did not find any clear evidence to show that English pronunciation skills solely depend on socio-economic background. Rather, the vague role of socio-economic background in the development of pronunciation skills indicates the spotlight to the whole hearted interest and attitudes of the learner towards pronunciation as a feature of language.

Recommendations

Certainly there is a ground for saying that the socio-economic background of the learner influences her/his language learning, but this is of no evidence that came out from this study that having a better socio-economic background will always facilitate developing pronunciation skills. However, this research recommends for further investigation of what specific individual factors there are that make a difference in the pronunciation skills of two different students from the same background—both rural and urban.

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Strategies for Teaching Writing Skills in English at SSC Level in Bangladeshi Rural Schools

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Abstract

The primary concern of the present study is to investigate the strategies for teaching writing skills in English at the SSC level of rural schools in Bangladesh. The researchers have collected data from a rural school. They have observed 2 classes on writing skills in English of the same teacher. After observing the classes and taking interview of the teacher as well as the students in the form of focused group discussion, the researchers have realized that their instruments and methodology are appropriate for this research. They have found that the strategies of teaching writing, one of the basic skills of English language, is not so effective due to the limitations of the infrastructure and the teacher's lack of sufficient training. Therefore, the ELT practitioner and educators should take major steps for improving that.

Keywords: Teaching Strategies, Writing Skill, English, SSC Level, Rural Schools

Introduction

The British rule this Indian subcontinent no more but English does. The all-pervasive use and ever-expanding nature of English language have compelled people to accept the reality that efficiency in English language is essential to gain access into the modern age. Today an individual is not confined to any national boundary because the entire world is considered as one's home. This being the reality, whatever be the field—science, commerce or literature—English is the chief medium of communication. A good command in English is indispensable to maintain our political, commercial, economic and cultural relations with other countries of the world as well as with international organizations and associations. So, it is a clear proposition that a student should furnish himself with a good level of proficiency in English to prove his worth as a modern individual.

However, English language has not enjoyed a smooth progress in Bangladesh, as it has been labeled sometimes as a secondary and sometimes as a foreign language, though it enjoyed the status of official language in British India. Also, the first Education Commission in Bangladesh, popularly known as Kudrat-e-Khuda Education Commission (1998), recommended Bangla as the medium of instruction at all levels. Moreover, the commission suggested that English as a language should be studied from class six and students up to class five would learn only Bangla language.

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English was virtually sacrificed at the altar of 'Bangla Only' policy. In the mid 80's English language was made optional at Bachelor's Degree level, thereby dropping its standard to such an abysmal depth that efforts to uplift it have been proved futile so far. As Kudrat-E-Khuda Education Commission's report got buried before its implementation, the status of English remained undecided, prompting people to term it as a 'foreign language', for not having its mandatory use in official activities.

In fact, the knowledge and skill of English among the learners in the mainstream education are below satisfactory level. Most of the students are weak in all the four basic skills of English language. As a consequence, the results in general public examinations (e.g. university admission tests) indicate that the students perform poorly in English with high failure rate (Habib & Chakraborty, 2014). In fact, CLT has allegedly failed to produce the desired effects in non-native English speaking context as the local teaching-learning contexts escaped attention and consideration (Shahidullah, 2008). Subsequently in Bangladesh also, basically at the SSC and HSC level both teachers and students are not at ease with CLT, and failing to conform to this method they are adhering to the previous GTM either knowingly or unknowingly. The tradition of memorizing texts is still in vogue as it is producing the best output due to the evaluation and examination system (Khan, 2008).

To be candid, people need all four basic skills to communicate with the world. But the students are mostly judged and evaluated by their writing skills in Bangladesh. Here, writing ability is mandatory for academic and professional success. This is why, the researchers want to explore how English writing is being taught at the Bengali Medium Schools of rural areas in this country. And by doing so, the present study will attempt to evaluate the teaching techniques and strategies of written English at the SSC level in rural schools. In this research, 1 secondary school and 2 English writing classes have been observed. Again, one English Teacher's interview and one FGD has been done.

Rationale of the Study

In Bangladesh the national curriculum indicates that students would study English for ten years at school before appearing at the SSC examination. Even after this long period of study, no significant change in the majority of students' writing skill is observed (Chaudhury, 2001). After passing the SSC examination a vast majority of the students cannot attain the desired proficiency in English, basically in writing skill. These days, writing is considered to be a complex on-going process, not merely correct the product (ibid). Most teachers mark students' writing on the basis of holistic impression in which there is hardly any scope for the learners to see their specific drawbacks. The only time the writing is much stressed is when the examination is drawing closer, and limited practice is designed only for memorizing some useful expressions, sentences and testing tricks, instead of improving English writing as a whole (ibid).

In a typical mainstream English writing classroom, the teacher normally assigns a writing topic, gives lectures and explanations and then asks students to complete the writing task individually within a given time. Finally, the students submit their papers to the teacher for evaluation or scoring. But as our curriculum

suggests, we should follow CLT and there will be engagement and interactional setting. However, in a typical classroom in Bangladesh, it never happens.

Objective of the Study

The major objective of this study is to find out the effectiveness of the strategies used in teaching writing skills in English at SSC level of education in rural areas of Bangladesh.

Research Questions

This research has two general research questions. They are—

1. What teaching strategies do the teachers use in the writing classes of rural schools?
2. How effective are these strategies for teaching writing skills in rural schools?

Literature Review

The understanding of the review of literature provides an understanding of the issues closely related to the topic. Moreover, it is a crying need to justify the research work and to find out the knowledge space in the respective field. The researcher has studied a number of books, journals' reports, and websites and so on to study the teaching of writing skill. Among them some are discussed below.

Rao (2007) in his article describes an exploratory study that investigated the effects of training in brainstorming strategy on learners' performance and perceptions about writing. The learners who received instruction in brainstorming were two complete classes of sophomores in a Chinese university. Writing performance, at the beginning and end of the study, was assessed and compared with a third group that did not learn brainstorming strategy but completed the same pre- and post-study task. The article describes the instruction that was provided and the findings of the effects of brainstorming instruction. The data demonstrated that explicit instruction of brainstorming strategy had a measurable influence on writing performance. The attitudinal survey also indicated that the students felt positive about the brainstorming strategy. It is suggested that EFL teachers in universities or colleges should move from a product-based approach to a process-focused approach in their teaching of writing as the latter may contribute towards activating students' thinking and creating ideas for a writing task.

Nunan (1989) focuses on the different characteristics of writing and he uses some texts to show the difference. He points out the range of functions that writing plays every day: action, information and entertainment. Nunan thinks that product-orient approach is more favorable for classroom activities and suggests that writing class should be devoted in the first instance to sentence formation and grammar exercise. However, Nunan also mentions that process approach confines children largely to narrative forms and it limits their ability to master text type, such as reports' expositions and arguments which are essential for academic success at school and beyond. He finally suggests both product and process approach in writing classroom. Ur (1996) focuses on the teaching process, teaching pronunciations, vocabulary, grammar, different skills of language teaching materials and lesson planning. She lists some writing tasks which are book report, book review, instruction sheet, narrative, personal story, describing a view, describing people, answering a letter, job application, news report, ideal school, describing process etc. Ur also provides some

implications for teaching the writing process. For instance, instead of recommending any right system of writing, the teacher should suggest and make available various possible strategies for encouraging individual students to experiment and search for the system that is personally effective.

Chaudhury (2001) stresses the fact that importance should be attached to teaching effective writing as the system in Bangladesh is exam-oriented. She states that despite spending enough time and energy, the result is poor. She stresses on the process approach and expects more involvement on the teacher's part. She also focuses on the changing context in teaching writing and alternate feedback technique. The author has only focused on the importance of process approach, and the article is based on secondary sources only as no empirical survey was conducted. Moreover, the article was not intended for any specific level in Bangladesh. It gives a general idea of writing scenario in Bangladesh without any statistical data.

Ahmed (2005) discusses how discourse analysis can facilitate the goal of teaching effective writing. She presents a brief discussion on product and process approach of writing and then emphasizes on the importance of viewing writing as culturally and socially situated. She concentrates on written texts and the two major points related to teaching writing: cohesion and text pattern. She briefly describes the importance of cohesion in a text as cohesion is the relation of meaning within a text. She also stresses on the fact that students have different cultural backgrounds and they need to be shown how English texts are organized for effective writing. She believes that text patterns can help students construct paragraphs on texts logically. She suggests that different text patterns can prove to be useful guidelines for outlining essays, academic texts, reports, assignments and research papers. Thus, in this article the writer comments on the overall situation of writing in Bangladesh and prescribes some tools of discourse analysis in a bid to improve the situation.

Piller and Skilling (2005) investigated teacher behavior, lesson delivery and sequence of content and learning expectations used by K5 teachers at one school in New Delhi, India. This research brings broader understanding of strategies for teaching English reading and writing to students whose first language is not English. Result reflects analysis of classroom observation, field notes, face-to-face interviews with 33 teachers and administrators and digital photo journaling. The theoretical framework for this study is drawn from Colliers Conceptual Model. The study is confined to primary school. Equal emphasis is given on reading and writing: writing skill was not analyzed separately and critically. Moreover, no comparative scenario has been portrayed that could reveal whether all the teachers are using the similar kind of strategies and how much relation is there between the strategies of teaching writing and writing skill development.

Shahidullah (2008) focuses on the role of teachers and learners. The writer briefly discusses the problems that are hindering implementation of CLT. He cites the examples of India, Pakistan, Cambodia, China, and Brazil. It is observed that CLT did not prove to be fruitful as a method in these countries. What has been identified as the main obstacle is that it does not seem to take account of learner's socio-cultural variables. He states that CLT originated in the western culture and points out that the cultural differences are creating immense impact on the implementation of CLT. This

is why the result is not effective in the non-native context. The writer has used examples of many authors and used different contexts.

Khan (2008) explored the common mistakes and errors that occurred in student writing in an EFL classroom of undergraduate level at East West University, Dhaka. The writer delineates the present situation of teaching writing, basically at SSC level. He holds that writing is not taught in process approach; rather teachers mark the students without providing any constructive comments for correct writing. This study was conducted on 28 students present in an English class who were asked to write a paragraph. The author focused on the sentence level problems that fall mainly into grammar, vocabulary and mechanics areas. The author did not put any emphasis on organization, cohesion and coherence. Content has been fully ignored in the study.

Reviewing literature suggested that there are books on writing skill and language teaching and learning. Those books basically emphasize on the method, approaches, techniques and other language components. Books based on theory helped the researcher to form an idea about language teaching and writing component. They will be of immense help to formulate the questionnaire and these books will be used in different ways and at different progresses. However, articles available in Bangladesh and retrieved from websites and reviewed here give the impression that there is a knowledge gap in the field, where the researchers have intended to conduct this study.

Justification of the Research

Most of the studies are concerned with the methods and hardly pay heed to the strategies used in the classroom in teaching writing skills in English. Indeed, studies focusing on the effectiveness of strategies used in teaching writing skills in English have hardly been conducted in Bangladesh. The upsetting part of the literature is that no research has been conducted in rural context. And here is the shadow line between the literature and the present study. There are approximately 8432 secondary schools in villages (Alam, 1992) and the attendance rate for secondary level is 57.7% for boys and 56.6% for girls (USAID, 2002). These large portions of students are being neglected by the researchers, educators and ELT practitioners. So, here is the researchers' attempt to find out the actual scenario of teaching writing skills in villages.

Research Methodology

Research Approach:

This study is descriptive and evaluative in nature. It tends to answer questions like who, what and how of teaching English. It deals with the education system, events, learning situation and learning reality. The research questions and objectives demand that there should be an evaluation. So, this research will be both descriptive and evaluative. This research can be divided into two parts, library work and empirical survey. An extensive library research is being conducted in order to explain the techniques, methods, approaches and procedures of writing. The empirical investigation will be done in order to collect information about the current situation of teaching writing in English at the SSC level in rural school.

Sources of Data Collection:

Primary Sources of Data

Primary data are collected from one secondary school in Gurudaspur thana of Natore district. The researchers would not disclose real names of the teachers and students for ethical issues. An observation checklist is followed for observing the classes.

Tools of Data Collection:

The instruments that are used for research are given below:

- 1) Classroom Observation
- 2) Teacher's Interview
- 3) Student's focused group discussion (FGD)

Data Analysis

Finally the data have been analyzed through primary and secondary sources. The data analysis has gone through some relevant articles and preferred books and the empirical survey. The researchers' practical experience has got preference as well.

Research Findings

The findings of the research have been discussed in three parts. The first one is through classroom observation. The second one is teacher's interview and the third one is students' interview which is FGD (focused group discussion).

Classroom Observation

For ethical issue the name of the school would not be disclosed. The researchers have taken two days for classroom observation and it would be discussed by Day 1 and Day 2.

Day 1:

The class was at 3 pm, and already the teacher and the students were exhausted. That was the 5th period and the immediate class after Tiffin. The time was only 30 minutes. The students' number was 45. The teacher and the students both greeted each other. The teacher's voice was good enough to be heard by everybody. It was scheduled earlier to the students that the teacher would teach them composition writing. The teacher told them to open the composition book which was Chowdhury and Hossain's *Advanced Learner's Communicative Grammar* book. Everyone started to read the composition as if they were memorizing the Holy Quran. After 10 minutes of revision the teacher told them to write on a paper; so everyone started tearing their scripts (*khata*). The teacher gave the students 20 minutes for writing the composition. They started writing 'Journey by Train'. When the bell rang the students submitted the copy. Most of them could not finish the writing. The teacher collected the scripts and left the classroom.

Day 2:

The second day the researchers observed the same teacher's class. This time the class was taken before Tiffin period. It was the second class. The weather was very hot and there was only one 1 fan in the classroom. The accommodation was a problem as 5 students had to seat in one bench. The teacher said that on that day he was going to teach dialogue writing. The topic was 'write a dialogue between two

friends about their future plan.’ This time the teacher told them to look at the sample dialogue from the book ‘Chowdhury and Hossain’ and asked them to write in their own words. The class timing was 40 minutes. The teacher gave them 15 minutes to write. After 15 minutes he collected the scripts and started checking. Unfortunately, the bell rang. So he took rest of the scripts with him.

From the class observation the researchers found out that—

- Timing is an important issue because the class after tiffin was more effective
- The setting is a problem because the excessive heat was disturbing which demotivated the students to learn. Their faces were very reluctant as the teacher told them to write a composition.
- The female students were more motivated towards learning as their attitude was positive and they did not show reluctant faces.
- Teacher’s mood can be an important factor as he remained idle in the classroom. (Day-1)
- Giving instruction and sample helps the students.
- The task should be challenging. The teacher told them to write by their own and discouraged rote learning.

Teacher's Interview

The teacher was friendly and very young. He passed his undergrad from National University just a few months ago. Still now, he has not got any training. He did his Honors degree in English literature. However, he was not feeling comfortable in speaking English. So, the researchers told him to switch it to his mother tongue. He was speaking standard Bangla (not the dialect). He told that reading and writing are the most important skills because in the end, assessment is done in these skills. The researchers asked, "How do you teach writing skills?" He said, "*I tell the students to read the books and memorize it (paragraph and essays). I also tell them to learn new vocabulary and make sentences with them. I think the best way to develop writing skills is to practice translation.*"

Focused Group Discussion

Focused group discussion is a very good way to know what students think about something. The researchers have taken 6 people in a group: 3 girls and 3 boys. The students were not nervous at all and they were quite friendly. Everyone said that they liked English and it was tough. So the teacher conducted the research questions in Bangla. They said that writing skill was very important. Some students said that they were very poor in English and that is why they felt very nervous in English. They did not have well access for English books, newspapers and songs. One of them was very enthusiastic about English language; so he tried to read English books. The researchers asked why he liked English. He replied, "*Modern ar esmart hote chai*" (he wants to be smart and modern; that is why he wants to learn English). However, they could not deny the importance of English.

Conclusion

This research has been conducted within very short time and the sampling is very little to justify the real condition. It was just a piloting for further research. And the further research will bring the actual scenario of the present condition of teaching writing skill in English at the SSC level in rural areas of Bangladesh. However, from this sample research we can understand that the present teaching and learning

situation is not up-to-date and effective. Hence, the ELT practitioner, curriculum management and educators should take steps like provision of teacher's training and ELT materials etc. for improving the approaches and methods of teaching writing as a basic skill of English language.

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The Role of Public Interest Environmental Litigation in Conserving the Environment of Bangladesh: An Analytical Overview

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Abstract

There are many laws that specify public duties and liabilities of private persons in cases of environmental injuries but all these steps have failed to play an effective role in conserving environment. Based on the constitutional provisions of Bangladesh, mainly relating to fundamental human rights, The Supreme Court of Bangladesh is constantly attempting to show its strong and impressive role in conservation of environment by way of Public Interest Litigation (PIL). This article considers the evolution of environmental management together with the role of PIL. Institutional arrangements are described, including the development of authorities responsible for conserving environment. The article focuses on the right to healthy environment which has been recognized through case laws and the Constitution along with related issues of Public Interest Litigation (PIL) and Public Interest Environmental Litigation (PIEL) with case references. Finally, this article highlights the emergence of PIEL and evaluates the role of PIEL in conserving environment.

Keywords: PIL, PIEL, DoE, BELA, *suomotu*, *locus standi*, BLAST

1. Introduction

The conserving of environment is an essential part of development. Without adequate environmental conservation, development is undermined; and without development, resources will be inadequate for needed investment and environmental protection will fail. Environmental pollution has become a matter of great concern all over the world as well as in Bangladesh. The existence of human life mainly depends on environment and sound environment is a must for sound health. Considering the importance of sound environment as well as its continuous trend of degradation, more and more people are becoming aware of these environmental concerns and trying to discover the proper measure to conserve the environment. Traditional environmental legislation empowers relevant Government agencies and relevant Court to take action in matters concerning environmental injuries. But these institutions have little success in conserving the environment of Bangladesh because of ineffectual legal provisions for dealing with environmental problems. “One popular method in addressing issues relating sustainable development and environment is the initiation of Public Interest Litigation (PIL) which is again categorized, according to their nature, as social action or class action litigation or citizens’ suits. In the field of environmental jurisprudence,

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they are also called Public Interest Environmental Litigation (PIEL). The highest Courts of many countries have evolved the emerging environmental jurisprudence.”¹ The Supreme Court of Bangladesh, based on constitutional provisions mainly relating to fundamental human rights, is constantly attempting to show its strong and impressive role in conservation of environment by way of PIL. This PIL deals with environment that is PIEL.² In Bangladesh, such attempts have been made especially using the Writ jurisdiction of the High Court Division of the Supreme Court of Bangladesh.

2. Rationale and Objectives of the Study

The main objective of this study is to give preference on encouraging the maximum utilization of PIEL for preventing environmental degradation. To fulfill the main objective, the following mentioned objectives have been taken into consideration:-

- i. To make focus on the reasons of environmental degradation in Bangladesh.
- ii. To examine the existing legal frameworks of Bangladesh for identifying loopholes.
- iii. To provide suggestive legal measures constitutionally for sound environment.

3. Research Methodology

Methodologies for this research study was done through qualitative data collected from publications of concerned authorities, available books, research studies, articles on related topic, key note paper presented in conference, newspaper reporting and internet.

4. Major Environmental Issues Being Faced in Bangladesh³

Like most other developing countries, Bangladesh also faces the whole spectrum of environmental problems including environmental degradation mostly arising out of environmental offences. Major environmental issues being faced in Bangladesh are:

4.1. Regional & Global Issues:

- i. Ecological changes due to shared water disputes.
- ii. Maritime boundary dispute and a weaker regime on marine resources.
- iii. Greenhouse effect and its consequence on Bangladesh through global warming.
- iv. Ecological effect caused by transfrontier activities.

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¹Farooque, Dr. Mohiuddin. “Environmental Order the Security of Survival”, Bangladesh Environmental Lawyers Association (BELA) published (First edition: December, 2004), page-277.

² Justice A M Mahmudur Rahman. “Existing Avenues for Public Interest Litigation in Bangladesh”, Public Interest Litigation in South ASIA, Rights in Search of Remedies, (Dhaka: The University Press Limited, 1997), page-79.

³Mohiuddin Farooque. Environmental Order the Security of Survival, Bangladesh Environmental Lawyers Association (BELA), Edition 2004, page 3-4.

4.2. National Issues:

- i. Population and poverty.
- ii. Degradation of resources (anti-people and Uncoordinated).
- iii. Conflict of development with environment illiteracy and ignorance.
- iv. Pollution: water, air, soil.
- v. Destruction of mangrove, tree cover and firewood.
- vi. Loss of fisheries.
- vii. Unplanned human settlement.
- viii. Unplanned urbanization and industrialization.
- ix. Loss of wildlife.
- x. Natural hazards.

5. Overview on Public Interest Litigation (PIL)

Public Interest Litigation is a totally different field of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and the other opposing such claim or resisting such relief. Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of a large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed.⁴ A new dimension has been launched throughout South Asia in recent years by PIL. The observation of Indian Supreme Court is, “Public interest litigation is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice, which is the signature tune of our Constitution.”⁵In Bangladesh such attempts have been pioneered and the observation of Supreme Court of Bangladesh is, “...The inescapable conclusion, therefore, is that the expression “person aggrieved” means not only any person who is personally aggrieved but also one whose heart bleeds for his less fortunate fellow beings for a wrong done by the Government or a local authority in not fulfilling its constitutional or statutory obligations.”⁶ So, Public Interest Litigation (PIL) describes legal actions brought to protect or enforce rights enjoyed by members of the public or large parts of it. PIL is introduced in a court of law, not by the aggrieved party but by the court itself or by any other private party. For the exercise of the Court’s jurisdiction, it is not necessary that the person who is the victim of the violation of his right should personally approach the court. In many times the victim does not have the necessary resources to commence litigation in a court of law. The court itself can take cognizance of the matter and proceed *suomotu* or cases can commence on the petition of any public-spirited individual.

⁴Justice Thakker (Takwani) C.K, “Lectures on Administrative Law”, Eastern Book Company published, Fourth Edition 2004, page- 301.

⁵Justice Bhagwati in *Bandhua Mukti Morcha V Union of India* AIR1984 S.C.

⁶Justice Bimalendu Bikash Roy Chudhury in *Dr. Mohiuddin Farooque v Bangladesh* 17 BLD (1997) AD, Page-01.

6. Provisions of the Constitution, Aggrieved Person, *locus standi* Issue and Decision of Courts of Bangladesh

The High Court Division of the Supreme Court of Bangladesh can be activated under Article 102 of the Constitution for enforcement of fundamental rights ‘on the application of any aggrieved person.’ The first part, Article 102(1), relates to fundamental rights. The second part, Article 102(2) relates to cases involving non-fundamental rights. “There are two broad types of cases under Article 102 in respect of determination of standing. In the first category are cases under clause 1 and clause 2(a) where the applicant must be a ‘person aggrieved’. In the second category are cases under clause 2 (b) where any person can apply, whether or not aggrieved. Interestingly, in cases of *habeas corpus* and *quo warranto*, the applicant is required to show grievance in cases of fundamental rights but not in cases of non-fundamental rights. This apparent anomaly, however, does not give other types of rights more importance than fundamental rights. The Court has taken the prudence of harmonious interpretation and as such no one is denied relief on this issue.”⁷ Article 102(2) (a) provides: “The High Court Division may, if satisfied that no other equally efficacious remedy is provided by law: a. on the application of any person aggrieved make an order...” Article 102 thus provides a remedy where the law does not provide for an equally efficacious remedy. Remedies under existing laws may be inefficacious for a number of reasons. In particular the poor, the illiterate and the weak may be unable to obtain access to law where they cannot afford a lawyer or pay court fees and other expenses. Besides, other remedies may be time consuming and numbersome in procedure. The writ jurisdiction under Article 102 holds a particular promise for the poor, the illiterate and the disadvantaged. Therefore, there is no need to interpret Article 102 restrictively except for those who are preoccupied with recommended concept of *locus standi*. *Locus standi* asks the question whether the petitioner is entitled to invoke the jurisdiction of the court. This question is different from the question whether the petitioner is entitled to the relief as prayed by him. As a general rule, in order to have *locus standi* to file a petition, the petitioner should be an ‘aggrieved person’; the question, however, is—“who is an aggrieved person?” The expression denotes an elastic, and to some extent, an elusive concept. According to the traditional theory, only a person whose right has been infringed can apply to the court. But the modern view has liberalized the concept of aggrieved person and the right-duty pattern commonly found in private litigation has been given up. “The only limitation is that such a person should not be a total stranger.”⁸

7. Development of Public Interest Environmental Litigation (PIEL) in the Indian Sub-Continent⁹

This section examines the definition of PIEL, the necessity of PIEL in the context of these three countries, and the development of PIEL in the 1980s and 1990s. When an environmental issue is involved, fully or partially, the legal action can be termed as public interest environmental litigation. Usually, the government agencies and the Attorney General enjoy unfettered power to bring proceedings to safeguard the public interest, stop public nuisances and compel the performances of public duties. In the environmental field, it is rarely the case. Justice, in this case, is seen to be far complex for a single person or an entity to be its exclusive guardian.

⁷Naim Ahmed, Public Interest Litigation, pp. 119-120.

⁸Bandhua Mukti Morcha v. Union of India (1984) 3 SCC 161.

⁹Jona Razzaque. Public Interest Environmental Litigation in India, Pakistan and Bangladesh; Kluwer Law International, The Hague/London/NewYork, edition- 2004, p. 47-61.

Participation of different institutions strengthens PIEL, particularly through litigation and public advocacy. It is a collaborative effort between the court, the citizen and the public officials, where procedural safeguards have a diminished utility and may be relaxed to enable relief. It is difficult to define PIEL as its characteristics are evolving each day. From the issues represented in Indian cases in the 1980s, it is clear that grounds which were thought not to be environmental are being considered as one of the environmental concerns in the recent years. Doctrine such as the public trust, issues such as patent of food grains, genetically modified organisms in food and labor rights arising from the closure of polluting industries are some of the new areas. The following paragraphs examine the development of PIEL in India, Pakistan and Bangladesh in the recent years. It shows the various categories of cases and the development of various issues devised to protect the environment. In the 1980s, most of the PIEL in India dealt with mining. The Doonvelley cases were the first involving issues relating to environment and ecological balance. The writ involved a conflict between development and conservation and the court was required to reconcile the two for the larger interest of the country. In several cases, the court dealt with mining, forest conservation, water pollution, noise pollution, gas leak disaster, development and environment, litigation concerning big dams, protection of animals, livelihood and heritage, construction of road and bridges, pollution caused by sugar factories and radiation in butter. In the 1990s, similarly the courts dealt with mining and quarrying, forest conservation, water pollution, gas leak disaster, development of projects and environment, hazardous wastes from industries, litigation concerning big dams, protection of wildlife and livelihood, construction of bridges and environmental degradation. At the same time, the court dealt with the protection of wetlands, air pollution, water pollution, noise pollution, pollution from animal slaughterhouses, access to environmental information, trade and environment, relocation of labors after the closure of polluting factories, groundwater management and development, management of city sewerage system and conservation of bio-diversity. Recently, there have been a few PIELs where the Indian Courts have dealt with water pollution, air pollution, noise pollution, wildlife protection, town planning, aquaculture and coastal zone development. In Pakistan, the first reported PIEL was initiated in a case concerning development projects and environment. Other PIEL involved water pollution, urban development and environment, wildlife protection, air pollution, water pollution, human health and environment, noise pollution, conservation of forest resources and general environmental pollution. In Bangladesh, the first PIEL was based on noise pollution created through election canvassing. However, the most prominent case concerned the Flood Action Program, a foreign aided development project, and its harmful effect on the environment. There are several cases on industrial and urban development, human health and environment, unplanned rural development, oil and exploration planning lease of open-river, urban air pollution and the need for the government to oppose unchecked pollution.

7.1. Background of Public Interest Environmental Litigation¹⁰ (PIEL) in Bangladesh

The System of governance in Bangladesh is quite chaotic in terms of its legal regime and all institutions involved are responsible. There is hardly any consistency between policy, Law and the institutional framework. The lack of synchrony itself has

¹⁰Esanul Habib. Public Interest Environmental Litigation; A Tool to Ensure Compliance and Enforcement; www.inece.org/5thvo11/habib.pdf. page 448 - 449.

created the regulatory anarchy. The law enforcers are often the violators. Public accountability is almost non-existent and hence there is the free hand. The complex and conservative legal system has seemingly weakened people's trust and confidence in it. In the back drop of such scenario, the arrogance of the defiant law enforcers can be effectively questioned, *inter alia*, by the people through the court as judicial scrutiny which is quite popularly known in most legal systems as public interest litigation initiated by concerned people or citizens, groups and non-government bodies. Until 1994, Bangladesh has no reported cases decided by the Supreme Court on environmental issues. The first such case was filed in January 1994 by the Bangladesh Environmental Lawyers Association (BELA). Since then this group has undertaken a large number of cases which have contributed to the development of public interest litigation. Various environmental problems were the cause of action in these suits in which relief was sought against anti-civic activities, industrial pollution, vehicular pollution and unlawful construction, illegal felling of public forests, razing of hills, land use and unlawful development schemes among others. Offenses against human health and dignity were also challenged in court. On two occasions the question of "standing" of Bangladesh Environmental Lawyers Association (BELA) was kept open, i.e. Dr. Mohiuddin Farooque vs. the Election commission & others¹¹ and Dr. Mohiuddin Farooque vs. Bangladesh & Others.¹² The second case relates to 903 polluting industries and factories where the High Court Division of the Supreme Court has issued Rule Nishi in the nature of Writ of mandamus. However, in Dr. Mohiuddin Farooque vs. Bangladesh & Others¹³, in which the legality of an experimental structural project of the huge Flood Action Plan of Bangladesh was challenged, the High Court Division initially rejected the petition on the ground that the petitioner (representing BELA) had no "standing". The petitioner has preferred an appeal to Appellate Division where the court granted leave to decide the *locus standi* in PIL. In July, 1996 the Appellate Division has given its decision in which Mustafa Kamal, J. said, "In so far as it concerns public wrong or public injury or invasion of fundamental rights of an indeterminate number of the public, being a citizen, suffering the common injury or common invasion in common with others or any citizen or an indigenous association, as distinguished from a local component of a foreign organization, espousing that particular cause is a person aggrieved and has the right to invoke the jurisdiction under Article 102". Although the Court has issued orders relating to a very wide range of PILs covering matters such as prisons and prisoners, the police, the armed forces, children, urban space, environment and resources, consumer issues, education, politics and elections, human rights and judiciary.¹⁴ So, the PIEL (Public Interest Environmental Litigation) is only a different form of PIL. In most developing countries governments lack resources to prosecute and investigate all criminal cases that take place within its jurisdiction. So PIEL which is only a different form of PIL can play a vital role to conserve the environment of Bangladesh. The litigations are usually brought by individuals against a violation or a threat of environmental destruction and to conserve the environment.

¹¹ 47 DLR, page- 235.

¹² Writ Petition No. 891 of 1994.

¹³ Writ Petition No. 998 of 1994.

¹⁴ Masdar Hossain v Bangladesh, 52 DLR (AD) page-82.

8. Role of Public Interest Environmental Litigation in Bangladesh

The courts' engagement in matters of environment like air, water and noise pollution, regulation of traffic in cities, endangered species, wildlife, etc. has resulted in activating the statutory machinery established under various environmental laws. The Courts' activism in this area has, however, also attracted criticism. For instance, when the Court ordered the closure of industries, it neither heard all the industries affected nor their workmen before passing the order. This has resulted in these parties approaching of court with a series of interlocutory applications, taking up an inordinate amount of the courts' time, even while leaving the aggrieved parties dissatisfied.¹⁵ Public Interest Environment Litigation generates awareness, educates the actors and creates values in the society even if the case is lost in a court of law on technical ground. Such efforts also bring changes in the behavior, however limited, which may become significant and unavoidable norm eventually. It is further an attempt to resolve the intra and inter sectoral conflicts of law on mandatory delimitation. Legal mechanism and the role of judiciary may not respond the way an activist would like (due to its own limitation), such attempts create awareness that marks the making or remolding of values in the society.¹⁶ The impact of such litigation may not always be visible but may also be the initiation of a process which in the long run would provide tangible dividends. Two examples on these points have been given here. The writ petition No. 186 of 1994, BELA vs. The Election Commissioners and other law enforcing agencies in preventing the candidates from violating laws in the name of election campaign for the post of Mayor and commissioners of the Dhaka city corporation was raised in January, 1994. All the campaigners of the candidate defaced people's property, encroached on public streets and pavements and used too many loud speakers disturbing peace for the people and creating pollution. The High court Division (HCD) directed the respondents to show cause as to why the election should not be postponed since it was not being conducted in accordance with the law. All the respondents appeared and the major political parties joined as respondents to make commitment that all illegal acts would be stopped and removed. The Attorney General ensured that funds would be placed to repaint people's properties. The impact of this case can be partly evaluated now as follows: the law enforcing agencies assessed their extent of statutory sanction; political parties, the nation came to know that what they had been doing and witnessing for more than half a century as "election culture" was not lawful and people could challenge such acts and failures. During the recent June 1996 election there was hardly any writing or electioneering boxes on public properties or rampant use to loud speakers.¹⁷ In *DR. Mohiuddin Farooque v. Bangladesh and others*¹⁸, BELA filed this Writ Petition seeking relief against indiscriminate pollution of air, water, soil and the environment by 903 industries of fourteen sectors identified as polluters by the Ministry of Local Government, Rural Government and Cooperatives (MLGRDC) through Gazette notification dated 07.08.1986. To ensure implementation of the Court directions, the High Court Division further held, "It will be imperative on the part of the Director General to take penal action against such department for persons who are responsible for not implementing the letter of the Environment

¹⁵Indian Council for Enviro-Legal Action v. Union of India 11 SCC (1997), P. 227, 312 and 327.

¹⁶Esanul Habib. Public Interest Environmental Litigation; A Tool to Ensure Compliance and Enforcement; www.inece.org/5thvo11/habib.pdf. page- 449.

¹⁷Dr. Md. Abdul Karim Khan. An Introduction to Environmental Law Principle & Practice, Isamoti Prokashoni, Dhaka, edition 2004, page-98.

¹⁸ 55 DLR (2003) p. 69.

Conservation Act, 1995.” The relevant officers of the Department of Environment (DoE) head office and DoE Dhaka divisional office could not inform the researcher about compliance with the above direction of the Court. Neither legal rights nor interests can be extinguished without appropriate compensation. Many of the adverse local social and environmental impacts induced by development projects could be avoided or minimized if the procedures of law were followed. In the context of payment of compensation for undertaking development programs, it has been in practice to award the same only to persons affected by the acquisition of land. But some laws contain provisions for claiming compensation by the affected people for damage of rights of fishery, drainage, use of water or other rights of property. The jurisdiction of the High Court Division has been invoked by BELA in *Dr. Mohiuddin Farooque v. Bangladesh and others*¹⁹ case by claiming implementation of a project in consonance with legal requirements for payment of compensation to the affected people for all sorts of losses which are legally recoverable. On hearing the parties, the High Court Division observed, “in implementing the project the respondents cannot with impunity violate the provisions of law... we are of the view that the Flood Action Plan-20 Project work should be executed in complying with the requirements of Law”. After the pronouncement of the judgment, BELA assisted the affected local people in submitting claims for compensation to the appropriate authority. In the meanwhile, the concerned authority for implementation of project has initiated steps for setting out parameters basing on which the compensation for all other sorts of damages to be assessed and paid. In *Dr. Mohiuddin Farooque v. Bangladesh*²⁰ the petitioner filed this petition against the Secretaries of the Ministries of Communication, Environment and Forest, Health, Home Affairs and Industries; Chairman, Bangladesh Road Transport Authority (BRTA); Commissioner, Dhaka Metropolitan Police, to require them to perform their statutory duties and mitigate air and noise pollution caused by motor vehicles in the city of Dhaka. Another case filed by Bangladesh Legal Aid and Services Trust (BLAST), that was *BLAST v. Bangladesh*,²¹ the court directed the respondents to phase out existing two stroke three wheelers by December 2002 and replace it with cleaner transport alternatives. The Government ultimately phased out all two stroke three wheelers from Dhaka metropolitan city. CNG driven three wheeler auto vehicles came in their place and the air of Dhaka is much cleaner now. In *Professor Nurul Islam v. Bangladesh*²² a writ petition, filed by Dr. Nurul Islam, President, ADHUNIK (Amra Dhumpan Nibaran Kori) and a National Professor of Bangladesh, the court gave several directions to the relevant authorities of the Government. Four of those directions were: (a) to take steps phase by phase to stop production of tobacco leaves in tobacco growing districts of Bangladesh, giving subsidy to the farmers; (b) to prohibit importation of cigarette or tobacco related product within a reasonable period and meanwhile to impose heavy tax for the import and to print the statutory warning legibly in bold words in Bengali; (c) not to advertise or telecast any cigarette/biri related advertisement and shall not undertake any show/program/propagating cigarette/biri smoking among the citizens; and (d) to take steps prohibiting smoking in public places. In *Bangladesh Environment Lawyers Association v. Bangladesh and Others*²³ upon hearing the petitioner BELA, the Court passed an order on 18.01.2000 and subsequently issued

¹⁹ WP No. 998 of 1994.

²⁰ 55 DLR (2003) p. 613.

²¹ 22 BLD, p. 245.

²² 52 DLR (2000) HCD, page- 413.

²³ WP No. 4098 of 1999.

several directions on 23rd April, 19 July and 20 August 2000 to take immediate appropriate measures for removing the illegal encroachment over the river Buriganga for recovering the public property and protecting its environment. Despite such repeated orders from the court the respondents failed to comply with the direction of the court. For non-compliance of the court directions by the respondents, BELA filed a Contempt Petition No. 33 arising out of Writ Petition no 4098 of 1999 on 08.04.2001. The above cases and pending cases show that the PIELs on different environmental issues have been pending at the Supreme Court for a long time. The interim decisions made in the Rule Nishi and in other interlocutory orders including injunction show that the courts are willing to be active in the matter of protection and conservation of the environment from the environmental offenders.

9. Identification of Legal and Institutional Setup & Its Loopholes to Protect Environment

Like all other nations of the world, Bangladesh has started acting to the global call for the protection and conservation of natural environment and ecology.²⁴ Different government agencies and department have been established under the framework law and some other laws to deal with various areas of environmental pollution to conserve the environment. “Laws having relevance to environment in Bangladesh can broadly be divided into two categories, sectoral laws and laws having non-sectoral approach. Among the laws having non-sectoral approach, the BECA (Bangladesh Environment Conservation Act) and The ECR (Environment Conservation Rule) are the basic Special laws while the ECA (Environment Court Act) established the law implementation legal body, that is, Environment Court. These Laws may be termed as special environmental laws because these are the first of their kind in Bangladesh covering more than one sector of environmental problems as well as action plan and policy for mitigating environmental problems in Bangladesh. Beside these special environmental laws, there are around 200 general environmental laws that directly or indirectly relate to the environment.”²⁵ Unfortunately most of these environment related laws are outdated, incomplete, ineffective and unenforceable. The Environment Court in Bangladesh is a new phenomenon for the protection of the environment and environmental resources. Under the ECA, at present three Environment Courts are working in the districts of Dhaka, Chittagong and Sylhet. In Dhaka, there is also an Environment Appellate Court. The newly established environment courts are not successful in rendering environmental justice as was expected by the nation. Though environmental offences are increasing day by day in this country, the environment courts are passing idle time as the affected people are not coming to the courts with a number of environmental litigations. The apparent reasons are many, as for example, the loopholes in the environment related laws regarding standing provisions, cumbersome procedures, inadequate legal remedies, existence of only three Environment Courts in Bangladesh, delay in the disposal of environmental cases, and no direct access to the Environment Courts by the general public.²⁶ All these factors render the Environment Courts ineffective judicial forums. On the other hand, the DoE (Department of Environment)

²⁴Mohiuddin Farooque, and S. Rizwana Hasan. *Laws Regulating Environment in Bangladesh*, 2nd edition, Dhaka: Bangladesh Environmental Lawyers Association, 2004, p. xiii.

²⁵ *Ibid.* page- xvi.

²⁶ According to section 17 of the Bangladesh Environment Conservation Act, 1995, without any written report of Inspector of DoE, no Environment Court would take cognizance of any environmental offence or entertain any suit for compensation.

is statutorily responsible for the implementation of the BECA, ECA, ECR (Environment Conservation Rule) and some other environment related laws. It is also statutorily responsible for assisting the Environment Courts in prosecuting environmental offences. In handling such offences, DoE has been given ample powers which include inspection, search, seizure, arrest, giving direction, investigation etc. But the DoE is also another failure body, to some extent, to perform its role in the field of environmental justice. The prominent reasons are *inter alia*, extremely poor manpower at DoE, lack in legal knowledge of the officers including the Inspectors of DoE, almost no skilled inspectors in handling environmental offences at courts, no supervisory and monitoring body at the DoE in dealing with environmental complaints.

10. Need to be Guaranteed “Right to Healthy Environment”²⁷ in the Constitution of Bangladesh as a Fundamental Right

The Constitution of Bangladesh, 1972 does not explicitly provide the right to healthy environment as a fundamental right. Article 31 states that every citizen has the right to protection from “action detrimental to the life, liberty, body reputation or property”, unless these are taken in accordance with law. Article 32 states that “No person shall be deprived of life or personal liberty save in accordance with law”. These two Articles together incorporate the fundamental “right to life”. The next question that peeps into mind is whether the “right to life” includes the right to an environment capable of supporting the growth of meaningful “existence of life” and includes the right to a healthy environment. The approach has been supported by the principles of state policy in different articles of the Constitution and more specifically by the fifteenth amendment, Article 18A “The state shall endeavor to protect and improve the environment and to preserve and safeguard the natural resources, biodiversity, wetlands, forests and wild life for the present and future citizens”. In two recent cases, the Appellate Division (AD) and the High Court Division (HCD) have dealt with the question in a positive fashion. The Appellate Division, in the case of *Dr. Mohiuddin Farooque v. Bangladesh and others*,²⁸ has been expounded that “articles 31 and 32 of our Constitution protect right to life as a fundamental right. It encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life can hardly be enjoyed. Any act or omission contrary thereto will be the violation of the said right to life. The High Court Division, in the case of *Dr. Mohiuddin Farooque v. Bangladesh and others*²⁹, stated that right to life includes right to fresh air and water and a situation beyond animal existence in which one can expect normal longevity of life. Hence, it appears that right to healthy environment has now become a fundamental right as per the case laws which puts additional responsibility upon the judiciary to ensure that rule of law is guaranteed in case where the sustainability of a proposed or undertaken development project is questionable and those victim of breach of public law and the judicial precedent is appropriately collated by the judiciary.

²⁷Esanul Habib. Public Interest Environmental Litigation; A Tool to Ensure Compliance and Enforcement; www.inece.org/5thvol1/habib.pdf. page- 448.

²⁸BLD, 1997, page- 1.

²⁹48 DLR, 1996, page- 438.

11. Concluding Remarks

PIEL is used as an effective tool to control acts of environmental degradation. The litigations are usually brought by individuals against a violation or a threat of environmental destruction. This has made PIEL apart of environmental protection and conservation. PIEL is playing an important role in conserving the environment because of several factors. Important among these are:

- a) In most developing countries, the legal regime of environmental laws is weak and the laws are difficult to enforce and sometimes ambiguous. PIEL can help to overcome this gap on the question of environment.
- b) PIEL is important where the government is not willing to promote and protect or conserve the environment. The government may not be willing to prosecute those who violate environmental laws and sometimes the government is a violator of environmental laws. In such jurisdictions, an injunction can be sought through PIEL to compel or stop the government from degrading the environment.
- c) In most developing countries, lack of resources of the government to prosecute and investigate all the criminal cases covering environment within its jurisdiction. PIEL enables individuals to bring action on behalf of the community when the role of the government does not play effectively.
- d) Where criminal remedies are not enough, as for example, a fine may be too nominal compared to the amount of environmental degradation. A civil suit is well suited for orders such as restitution and compensation which may not be provided for by criminal laws of a country. In this circumstance, PIEL can play a significant role to restore good environment.
- e) Where criminal remedies are not enforceable, i.e. where an environmental crime is committed by a company and the punishment for the crime is imprisonment, it becomes difficult to punish the responsible directors of the companies for environmental degradation. PIEL can provide prompt and effective actions in this type of circumstances.

Indeed, PIEL can play an important role in conserving the environment of Bangladesh and the method of Public Interest Environment Litigation (PIEL) has opened up a new horizon.

Provisions for Dispute Settlement of Rented House Affairs and Standard Rent are only Rhetoric: A Study of Chittagong and Sylhet Residential Area

Abu Shofiun Mohammad Taj Uddin*

Abstract

The House Rent Control Act, 1991 is the major statute to govern the house rent affairs in Bangladesh. It contains almost all necessary provisions regarding matters relating to house rent including provisions governing dispute settlement and fixing proper house rent. There is another enacted law named the City Corporation Taxation Rule, 1986 which provides procedure for calculating annual valuation of a house situated within the city corporation area. It is also to be noted that for the settlement of dispute related to house rent, provisions of the Code of Civil Procedure, 1908; the Transfer of Property Act, 1882; the Evidence Act, 1872 and some other legislations are also applied. Nevertheless both the tenants and house owners have been suffering from rented house problem since the very independence of Bangladesh. The main reason of this anarchy is that present provisions of laws governing rented house affairs are not efficacious to existing house rent matters and those provisions have not been amended since their enactment. Moreover a few numbers of people are aware of their rights and obligations. The main purpose of this study is to mark the drawbacks and search for an effective procedure of dispute settlement and calculating appropriate rent.

Keywords: Annual Valuation, Standard Rent, Eviction Suit, Deposit to Controller, Dispute Settlement

Introduction

Primarily house owner and tenant relationship was not so complex as today and disputes were also very few in number. The British initiated a series of legislations which in their object and purpose shows that they were introduced for temporary.¹ As the situation was not as complicated as today disputes regarding rent affairs were settled under the Transfer of Property Act, 1882. Before the independence of Bangladesh, East Pakistan as to house rent matters was ruled by the East Pakistan House Rent Control Ordinance, 1963. Later an Act was formulated in accordance with the ordinance in 1964. After the great independence of Bangladesh from Pakistani Occupier in 1971 the Government enacted the Premises Rent control Ordinance, 1986. But those old provisions of law were not enough to settle the disputes between house owner and tenants. At last the House Rent control Act, 1991 was enacted for ultimate solution by the House of Nation (Parliament of Bangladesh). At this moment this Act is the sole legislation to deal with the disputes between house owner and tenant but not exhaustive to settle the problems smoothly. There is another legislation named the City Corporation Taxation Rules which contains provisions for annual valuation of houses situated in Metropolitan area. Legislations are adopted for

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¹<http://nujlawreview.org/wp-content/uploads/2015/02/aditya-alok.pdf>> p- 85-86

the establishment of rule of law and administration of justice. These are the results of a government's endeavor to ensure the basic fundamental rights of citizens which help them to be able to contribute to worldwide peace and co-operation. But such legislations fail to obtain its objectives when the subjects are not aware of those legislations or if they try to violate the provisions of thereof. We should focus on whether a household can afford basic non-housing commodities after paying for the basic necessity of shelter because non-housing expenditures are vital investments by a household.² Housing is not affordable for a household if it excessively crowds out other expenditure and housing expenditure definitely crowds out non-housing expenditure.³ There are various fundamental variables of house prices like construction costs, personal income, population, mortgage rates, and stock market wealth which lead to increase the rent also.⁴ The size, quality and cost of housing is a key element of household consumption, social inequality and household chances.⁵ City authorities and other income groups must know that low income people are normal human beings who are part of the city system.⁶ It is guaranteed by the supreme law of the land, "All citizens are equal before law and are entitled to the equal protection of law".⁷ But the tenants are very much ignorant of the relevant laws concerning house rent. As such on availing the chance, owners of the houses have been pressuring the tenants to pay enhanced rent.⁸ But the concerned authority like the City Corporation seems to be quite indifferent.⁹ Socio-economic rights are now not only directive principles they have got the equal status of fundamental rights which should be enforced by court of law.¹⁰

Objectives of the Study

There are specific provisions in the House Rent Control Act, 1991 for the procedure of trial regarding house rent disputes including determination of standard rent. On the other hand the City Corporation Taxation Rules, 1986 contains provisions for the process regarding determination of annual valuation of house for taxation purpose. The primary objective of the study is to find out the drawbacks in existing trial system by Rent Controller under the House Rent Control Act, 1991; investigate the present figure of house rent, inquire the procedures taken by revenue department of municipal authority as to annual valuation of holdings and finally to propose an effective mean to extinguish the present anarchy in house rent disputes by court authority and municipal authority.

²Kutty, N. K. (2002). The house poor: Are high housing costs keeping non-poor Americans at poverty standards of living? Paper presented at the ENHR, conference in Vienna, Austria.

³Thalmann, P. (2003). House poor_or simply_poor_? *Journal of Housing Economics*, 12, 291–317.

⁴Mikhed, V., & Zemečik, P. (2009). Do house prices reflect fundamentals? Aggregate and panel data evidence. *Journal of Housing Economics*, 18, 140–149.

⁵Silva, E. B., & Wright, D. (2009). Displaying desire and distinction in housing, *Cultural Sociology*, 3, 31.

⁶Boonyabancha, S. (2005). Baan Mankong: Going to scale with "slum" and squatter upgrading in Thailand. *Environment and Urbanization*, 17, 21.

⁷Article 27, The Constitution of the People's Republic of Bangladesh, 1972.

⁸Sharp rise in city house rent, *Financial Express Repot*, 30th May, 2008.

⁹Sana, S. D. (2008, November 25). Government measures is necessary to control House Rent.

¹⁰People's Union for civil Liberties Vs. Union of India and ors (2001, SCC 108) & Viceconte Vs. Ministry of Health and social welfare (cause no. 31.777/96; 2 June 1998, Federal Court of Argentina).

Methodology

The study has followed Socio-Legal approach considering the research questions. This empirical research has approached two ways of primary data collection. First one is direct interview which known as qualitative primary data. Interviews were conducted with Rent Controllers, Officers of City Corporation Revenue Department and Legal Practitioners. The study has also collected data by structured questionnaire which is called quantitative primary data from tenants. The secondary data have been collected from domestic legislations, books, research papers, judicial precedents, journals, reports, and newspaper etc.

Dispute Settlement System

Provisions to Control Malicious Acts by House Owner and Remedies to Tenant:

If the rent of any premises is increased by the house owner exceeding the standard rent, the excess amount shall not be recoverable and the house owner is also bound to provide copy of receipt for the rent and retain a counterfoil of the receipt.¹¹ If he is proved guilty of these acts there are provisions for penalty which shall be imposed upon the offender.¹² If the landlord realizes any sum of money which is not recoverable under the very Act and an application is prepared by the aggrieved party within statutory period of time, the Controller can make an order to refund such sum or for adjustment of such sum.¹³ A house owner cannot claim any security in consideration of tenancy without previous permission of the Controller and he is also not authorised to claim any sum of more than one month's rent as rent in advance.¹⁴ If any house owner does so he shall be penalised with specified fine.¹⁵ But he is allowed to claim it only in case of an agreement of tenancy signed for a period of at least twenty years but in this case the tenancy cannot be terminated by the landlord within a period of ten years.¹⁶ If a house owner disturbs any right of easement of a tenant shall be liable to statutory fines.¹⁷ A tenant has a right to get from licensee¹⁸ an electricity connection without the consent of house owner.¹⁹ A tenant is allowed to deposit rent to the Controller in spite of house owner if house owner refuses to receive any rent by postal money order sent by a tenant or there is any doubt as to the ownership of house or the house owner leaves his residence and his address is unknown to the tenant or there is statutory restriction as to payment or deposition of any amount of money to house owner.²⁰ Every deposit is given to the Controller with an application containing information required by the provisions of law.

¹¹ See generally, Section 7 & 13 the House Rent Control Act, 1991, Act No. III, 1991.

¹² Section 23(a), *ibid*

¹³ Section 14, *ibid*

¹⁴ See generally, Section 10, *ibid*

¹⁵ See generally, Section 23 (b) (c), *ibid*

¹⁶ Section 11, *ibid*

¹⁷ Section 24, *ibid*

¹⁸ Section 2(h), the Electricity Act, 1910 (IX of 1910).

¹⁹ Section 32, the House Rent control Act, 1991, Act No. III, 1991.

²⁰ See generally, Section 19, *ibid*

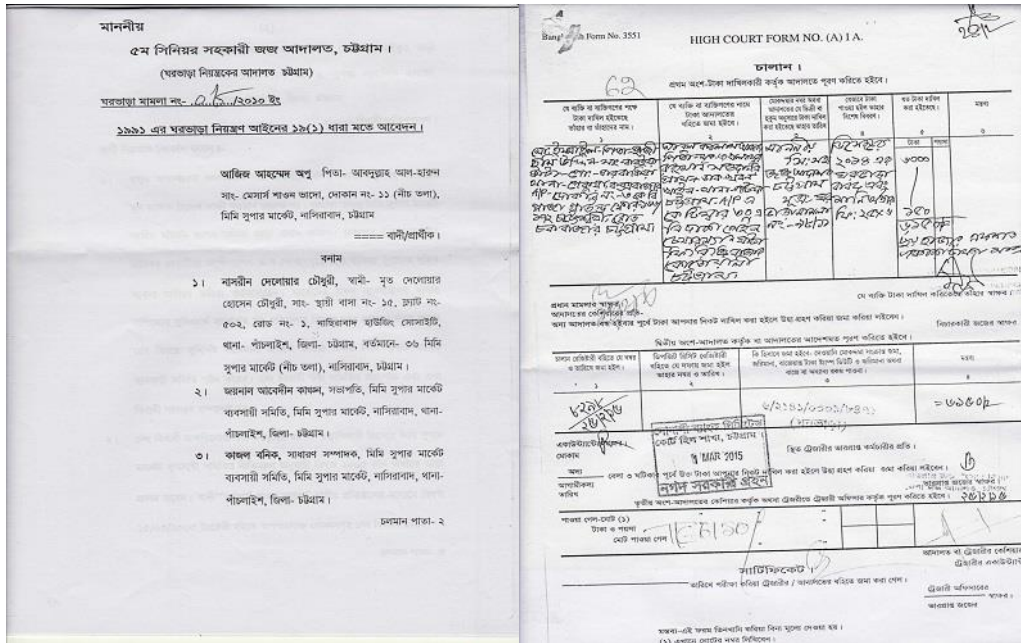


Image-1: Application for deposit rent & copy of Chalan. (Source: Judge’s Court, Chittagong)

Rights of House Owner:

The house owner is not allowed to bind the tenant to purchase any furniture as a condition of agreement but if any optional modification is made or any furniture is supplied by the land lord, a consideration is to be paid by tenant in addition to the agreed rent.²¹ If municipal rate, tax, toll or fees are payable by the tenant under the agreement and he agrees to pay those fees, the house owner can recover the amount from the tenant in addition to the standard rent.²² A house owner can evict a tenant from the house through the intervention of the Controller, if anything is done in contravention of the provisions of the Transfer of Property Act, 1882 (IV of 1882) or the house is given sublet without prior approval or the premises is used for economic purposes without permission or nuisance is made which is reasons of annoyance for the owner of adjoining house by the defendant or the house owner needs the house for purposes of reconstruction or for his use or if he can satisfy the Controller by showing reasonable cause.²³ A tenant has to pay rent within 15 days of next month to avoid eviction even after the cancelation of contract. ²⁴ There is also a duty of the tenant that if he quits any house he shall make over vacant possession to the landlord and who fails to do so shall be fined up to ten times of the standard rent of the premises.²⁵ If the house has been transferred to new owner and the tenant knows the fact; he will be evicted as defaulter though he is depositing rent to the rent controllers.²⁶

²¹ Section 8, the House Rent control Act, 1991, Act No. III, 1991.
²² Section 9, *ibid*
²³ See generally, Section 18, *ibid*
²⁴ BLD (AD) 74
²⁵ Section 26, *ibid*
²⁶ 36 DLR (AD) 192

Trial Procedure at Rent Controller Office:

A person can claim remedy to the Controller if he is aggrieved by any act prohibited under the House Rent Control Act, 1991. The Government may appoint any person as a Controller, Additional Controller or a Deputy Controller for any area to exercise the powers and discharge the duties conferred on and imposed upon under this Act.²⁷ The Controller may exercise the same powers of civil courts in order to issue summons, to enforce the attendance of witnesses or to compel the production of documents.²⁸ In practice no separate institution is formed rather the Senior Assistant Judge having territorial jurisdiction of a specific area acts as the Controller of that locality in addition to his regular case load. A rent control case is started with submission of plaint according to the Code of Civil Procedure, 1908.²⁹ The hearing of every application shall be completed within a period of three months but if for any special reason a hearing can't be completed within the said period it has to be completed as fast as possible.³⁰ Though there is provision as to time limit for settlement of a dispute the controller is given authority to adjourn the case from time to time because of which a case instituted in 1995 A.D. is continuing till today. For the purposes of any enquiry under this Act, the Controller may enter and inspect any premises at any time between sunrise and sunset or authorise any officer subordinate to him to enter and inspect any premises at any time between sunrise and sunset.³¹ This provision is totally rhetoric because the senior Assistant judge acting as a controller has not enough opportunity to exercise this function as these are extra burden on him moreover he is not provided with enough official so that he can authorise any subordinate officer to inspect any premises. The Controller is also empowered to cause a notice to be served in the prescribed manner on the landlord requiring him to make any repairs which a landlord is bound to make to the premises let by him or to take any measures for the maintenance of any essential supply including the maintenance of supply of water or electricity etc.³² If he failed to do so the Controller may permit the tenant to make such repairs with cost by house owner or to take any other appropriate measures after giving the landlord an opportunity of being heard.³³ Every complaint by the tenant shall be filed in written form with the Controller.³⁴ The Controller may, after inquiring every complaint filed with him, impose the punishment referred by the said Act.³⁵ The fine imposed by the Controller shall be paid by the person fined in the prescribed manner within thirty days from the date of the order and in default of such payment within the said time the fine shall be recoverable as a public demand under the Public Demands Recovery Act 1913.³⁶ Any person aggrieved by an order of the Controller is allowed to present an appeal to the respective Zila Judge having jurisdiction within thirty days from the date of the order.

²⁷ Section 3, the House Rent control Act, 1991, Act No. III, 1991.

²⁸ Section 6(2), *ibid*

²⁹ Section 26, the Code of Civil Procedure, 1908, Act No. V of 1908.

³⁰ Section 4, the House Rent control Act, 1991, Act No. III, 1991.

³¹ Section 6(1) (a) & (b), *ibid*

³² See generally, section 21(1), *ibid*

³³ See generally, section 21(3), *ibid*

³⁴ Section 28(1), *ibid*

³⁵ Section 28(2), *ibid*

³⁶ Section 28(3), *ibid*

A Zila Judge to whom an appeal is presented may transfer such appeal to any Additional Zila Judge or Sub-Judge to decide such appeal and may withdraw any appeal so transferred and either dispose of it himself or transfer it again to any Additional Zila Judge or Sub-Judge to decide such appeal.³⁷ After the separation of judiciary in the hierarchy of subordinate civil court the designation of Zila Judge, Additional Zila Judge and Sub-Judge is no longer existed the hierarchy is now the District Judge, the Additional District Judge, the Joint District Judge, the Senior Assistant Judge and the Assistant Judge.³⁸

Table-I: Statistics of dispute settlement by Rent Controller of Chittagong and Sylhet.

Territorial Jurisdiction of Rent Controller in Chittagong and Sylhet	Existing suits of all kinds including Hose Rent	Present cases of House rent only Pending	Filed in 2015 (House rent)	Settlement in 2015 (House rent)	Filed in 2016 (House rent)	Suits for Eviction pending
1 st Court, CTG Senior Assistant Judge	5302	650	106	85	27	21
2 nd Court, CTG Senior Assistant Judge	4117	296	41	06	51	09
3 rd Court, CTG Senior Assistant Judge	3816	224	35	25	12	05
5 th Court, CTG Senior Assistant Judge	3912	304	89	297	19	07
Sylhet Sadar Senior Assistant Judge	1679	229	26	28	10	71

[Source: Office of Rent Controller, Chittagong & Sylhet. (Up to date: May, 2016)]

At present there are in total 1709 pending cases regarding hose rent called R.C. Case along with another 35 eviction suits termed as S.C.C. Suit in Chittagong Court premise. But to deal with these huge number of litigations there are only 03 (three) Rent Controller moreover this responsibility is their secondary duty in addition to over burden 17,578 regular case load. In Sylhet, case load both of regular suits and litigations regarding house rent are less in number having pending 229 R.C. Cases along with more 71 S.S.C. suit in addition to 1679 regular suits.

Annual Valuation of Holding and Standard Rent:

Annual valuation of any holding situated within city corporation area is assessed following general valuation or interim valuation process. The assessment of any immovable property is initiated with a notice by an assessor to be served to the owner. Then the owner may be asked to furnish with returns of the rent and description of the property within seven days. The assessor is allowed to inspect the property for measurement of the actual value if needed.³⁹ The City Corporation prepares an assessment list which includes information about the street number, house

³⁷ Section 30, *ibid*.

³⁸ Section 3, the Civil Courts Act, 1887.

³⁹ Section 22, the City Corporation Taxation Rules, 1986.

number, a description, annual value, amount of annual tax payable of the building. It also contains the name of the owner of the building and information about whether the building is exempted from assessment or not.⁴⁰ The assessment list containing the signature of respective Mayor is deposited in the office of the City Corporation and another copy is made available for public inspection.⁴¹ Following the maximum rate sanctioned by the Government, the City Corporation is authorized to determine the percentage on the annual value of immoveable property at which the taxes or rates to be levied. The annual value is taken to be the gross annual rental minus two month's rent as maintenance allowance and if the property is mortgaged then the annual interest payable for such mortgage-debt is also be deducted.⁴² A new valuation list is usually directed to be prepared once in every five years.⁴³ Interim valuation may be restored when there is any addition or alteration in property or increase or decrease in rental value in between general valuation.

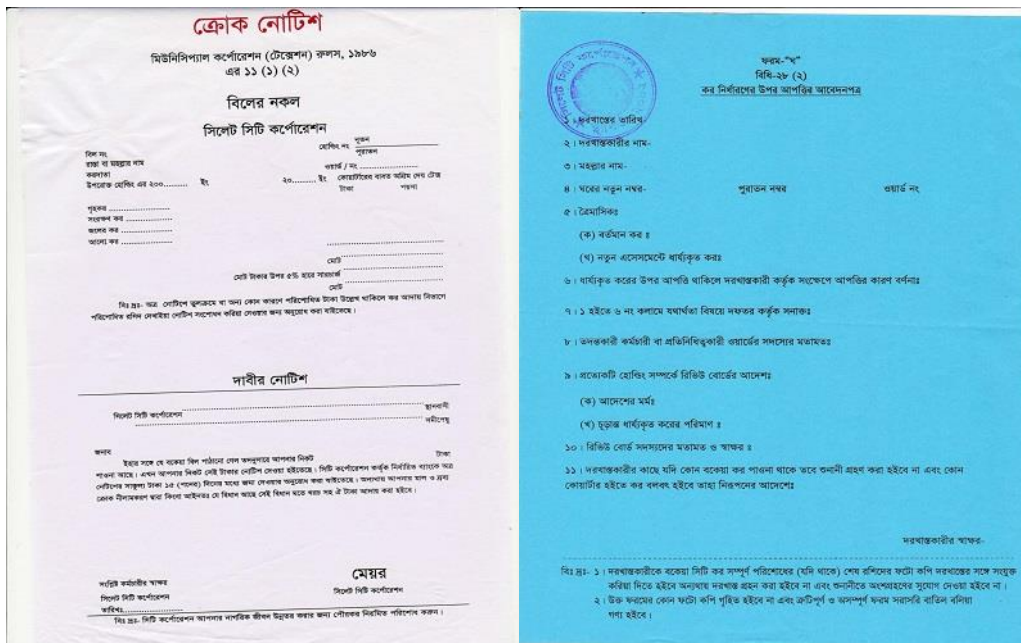


Image-2: Notice of Claim & Form of Appeal. (Source: Office of Sylhet City Corporation)

After completion of annual valuation which is done by the Assessor of the city corporation it is informed to the owner and asked appeal in 30 days. If there is no appeal Annual valuation is considered as final. Where there is appeal then it is referred to Assessment Review Board (ARB). Then this body takes necessary steps for justified Annual Valuation. The decision taken by the board shall be final and a bill of demand servers to the appellant for payment. Generally at the beginning of the financial year a demand bill/ demand bill bool sent to all the taxpayers. The owner may pay the taxes either to the corporation nominated Bank or to the area collectors. The collectors move from house to house for the collection of holding tax. The City Corporation is in duty bound to issue a notice before 30 days from the date of

⁴⁰ Section 23, *ibid*
⁴¹ Section 24, *ibid*
⁴² Section 20(3)(a)(i), *ibid*
⁴³ Section 21, *ibid*

reassessment in case of any alteration or amendment.⁴⁴ If the owner of any building and the land on which it stands is transferred or inherited a notice in writing of such transfer or succession to be served to the City Corporation within three months from the date of such transfer or succession.⁴⁵ On the other hand the Rent Controller shall, on the basis of an application made by the landlord or the tenant, fix the standard rent of any premises at an amount per annum which shall be equivalent to fifteen percent of the market-value of the premises to be assessed in such manner as may be prescribed.⁴⁶ The standard rent shall, on the basis of an application made by the landlord or the tenant, be re-fixed by the Controller in accordance with the provisions of the Premises Rent Control Act,1991 every two years.⁴⁷ Revenue department is consisted of assessment and collection branch where assessment is headed by the Chief Assessor and collection branch is consisted of the Taxation Officers called Collector and other staffs. A Review Board consisted of respective Councilor, a Lawyer, an Engineer, applicant and respondent is occasionally constituted to hear appeal in case of objection raised by anybody as to the assessment of annual value and holding tax. In Sylhet City Corporation assessment branch is consisted of 20 staffs including the Chief Assessor and almost 60 Collectors are working to collect holding tax from 27 wards. In Chittagong City Corporation in addition to the ordinary manpower a software containing online payment system has been developed for the collection of holding tax. In Sylhet City Corporation there are almost 80 employees have been working for the collection of holding tax and a software or automation is going to be inaugurated within short period of time. We can say that in these two cities they have already a system to fix the rent by the revenue board of City Corporation and no new system or authority is required. The only shortcomings in fixation of standard rent want of proper power of authority, efficient employee and appropriate monitoring. So if the government can reorganized the total system by giving proper authority to the revenue branch of City Corporations it will be enough for the stability as to specification of standard rent. Moreover

Data Analysis

A question was asked to all tenant as to the period of living in the city and the amount of rent paid by them in old days and present days. To find out the yearly increase of rent 34 sample from Chittagong and 29 sample from Sylhet were taken into consideration where the respondents were living in the said city for a term not less than five years and for that period they have been living in the same house or a house having same standard of previous house. The survey covered the area of Upashahar, Sheikghat, Zindabazar, Mirabazar, Subidbazar, Ambarkhana, Akhalia, Subhanighat and some other residential areas in Sylhet city. It also included Oxygen, Kotwali, Nasirabad, Bakullia, Shulkbahar, Panchlaish, Fatayabad, Chandgaon, Chawkbazar, Agrabad, Khulshi and other residential areas of Chittagong city.

⁴⁴ Section 26(2), *ibid*

⁴⁵ Section 32, *ibid*

⁴⁶ Section 15, the House Rent Control Act, 1991

⁴⁷ Section 16, *ibid*

Mathematical Formulation of Primary Data:

The following notations are used to describe some mathematical property related to the problem.

- c = Present rent of a house
- p = Previous rent of the same house
- r = Rate of increase of the house rent
- n = Number of year of the tenant’s living in the house

Now, the present rent of the house is governed by the well-known formula given in equation (1).

$$c = p(1 + r)^n \dots\dots\dots (1)$$

From equation 1, we can derive the rate of increase of house rent per year on compound basis as:

$$\begin{aligned} \text{Or, } c &= p(1 + r)^n \\ \text{Or, } (1 + r)^n &= \frac{c}{p} \\ \text{Or, } (1 + r) &= \sqrt[n]{\frac{c}{p}} \\ \text{Finally, } r &= \sqrt[n]{\frac{c}{p}} - 1 \dots\dots\dots (2) \end{aligned}$$

Similarly from equation 1, we can also derive the formula to find the number of years on which the house rent will be doubled of previous rent. The final equation is derived on equation 3.

$$\begin{aligned} c &= p(1 + r)^n \\ \text{Or, } 2p &= p(1 + r)^n \quad [c = 2p, \text{ since the amount is doubled}] \\ \text{Or, } (1 + r)^n &= 2 \\ \text{Or, } \log_{10}(1 + r)^n &= \log_{10} 2 \\ \text{Or, } n \times \log_{10}(1 + r) &= \log_{10} 2 \\ \text{Finally, } n &= \frac{\log_{10} 2}{\log_{10}(1 + r)} \dots\dots\dots (3) \end{aligned}$$

It is seen in the table-2 that in Chittagong the average increase of rent is nearly 10.430% per year and it takes approximately 10.278 year to make the rent to be double of previous rent and according to table-3 in Sylhet increase rate is 9.608% per year and the rent becomes double after approximately 8.692 years. It is also seen from the both tables that the percentage and year is variable in consideration of duration of living. The tenants who are living in the same house for comparatively longer period (i.e. more than ten years) are more benefitted than those who stay for shorter period of time (i.e. below ten years) . The digits are only average, in some cases the percentage of increases are near to 17% and in some cases the rent to be doubled, it takes only 4 or 5 years. In our country the tenants have to spend 55% to 65% of their income for house rent but their monthly income dose not jump to double within eight or nine year unlike house rent does.

Table-2: Increase of rent per year and duration of time for the rent to be double in Chittagong:

[By using equation (2) and equation (3)]

Years of Living	Previous Rent	Present Rent	Increase Per Year (Compound Basis)	Years for the Rent to be Double
40	2000	15000	5.166	13.761
32	1200	21000	9.357	7.749
32	3000	15000	5.158	13.782
30	4000	18000	5.141	13.825
25	4000	17000	5.958	11.976
22	1500	8000	7.906	9.110
22	1500	11500	9.701	7.487
20	2000	14500	10.412	6.998
15	5000	15000	7.599	9.464
12	3000	8000	8.517	8.480
11	5000	17000	11.768	6.230
10	4000	20000	17.462	4.307
10	5000	11000	8.204	8.791
10	6000	10500	5.756	12.386
10	7000	15000	7.919	9.095
10	5000	12500	9.596	7.565
9	12000	18000	4.608	15.386
9	6000	26000	17.695	4.254
9	3500	7500	8.837	8.185
8	4500	6500	4.704	15.080
8	4000	8000	9.051	8.000
8	2700	14000	22.842	3.369
8	5000	10500	9.718	7.474
7	5000	11500	12.636	5.825
6	10000	15000	6.991	10.257
5	4500	7000	9.239	7.884
5	7000	10500	8.447	8.548
5	3000	5000	10.757	6.785
5	2500	8000	26.191	2.980
5	15000	25000	10.757	6.785
5	8000	16000	14.870	5.000
5	6000	14000	18.466	4.090
5	7000	12000	11.382	6.430
5	8500	14850	11.805	6.212
Average:			10.430(+/- 0.25)	10.278(+/- 0.25)

Table-3: Increase of rent per year and duration of time for the rent to be double in Sylhet:

[By using equation (2) and equation (3)]

Years of Living	Previous Rent (in BDT)	Present Rent (in BDT)	Increase Per Year (Compound Basis)%	Years for the Rent to be Double
30	3000	10000	4.095	17.271
22	2500	10000	6.504	11.000
20	3000	8000	5.026	14.134
17	4000	11000	6.131	11.648
17	3000	12000	8.496	8.500
16	1500	9000	11.850	6.190
15	4000	10000	6.299	11.347
15	5000	11000	5.397	13.187
15	4500	10000	5.468	13.021
15	4500	15000	8.357	8.636
15	1500	5000	8.357	8.636
14	3000	9000	8.163	8.833
12	5000	11000	6.791	10.549
12	4000	12000	9.587	7.571
10	2000	8000	14.870	5.000
9	5000	12000	10.216	7.126
9	4500	11000	10.441	6.979
9	4000	10000	10.717	6.808
9	3000	10000	14.314	5.181
9	5000	12000	10.216	7.126
9	4500	15000	14.314	5.181
8	5000	8000	6.051	11.798
8	5000	10000	9.051	8.000
8	3500	6000	6.970	10.288
8	1500	5000	16.241	4.606
8	2000	5000	12.135	6.052
7	4500	8000	8.567	8.433
5	5000	12000	19.136	3.959
5	5000	10000	14.870	5.000
Average:			9.608(+/- 0.25)	8.692(+/- 0.25)

(Contents of table-2 & table-3 are the result of survey conducted by the study)

Drawbacks and Suggestions for Amelioration:

There is a provision of law that there shall be a written agreement between the house owner and tenant where there is no expressed or written agreement between landlord and tenant and if the tenant is in possession of housing paying regular rent, it will be proved that there is implied or unwritten agreement between the owner and tenant.⁴⁸ But it is often severely violated and there is absence of written agreement at the time of contract for rent in majority of the tenancy. In some cases there is a deed but it is drafted according to house owners' will. A uniform written contract is to be maintained for tenancy agreement and all statutory rules of tenancy shall be contained there. The house owners are realizing rent which is much more than the standard rent. The house owners has right to take advance not more than equal to the rent of one month and there is also a time limit as to increase of rent but they often cross those limitations. The house owners often evict the tenants without giving any notice though it is required by law. No proper authoritative body is existed to control the matter of house rent. There are judicial officers known as rent controller who deal with the house rent matters. But no separate rent controller has been appointed by the government rather the Senior Assistant Judge of respective area discharges the responsibilities of rent controller along with his regular case load. The Rent Controllers are badly in need of discretionary power, man power and logistic support. There is no provision of ADR Mechanism for the speedy trial of house rent disputes. In average the parties file almost 105 suits per year but the disposal rate is not satisfactory as it is not more than 15% and a dispute requires almost five years to be settled.⁴⁹ The penal provisions in the very Act for violation of rules regarding standard rent, advance payment and notice of eviction etc. are not sufficient in present situation. The Act gives the Rent Controller excess power to adjourn the hearing which causes delay and backlog of the suit. The House Rent Control Act, 1991 has not been amended for a single time from its introduction and the necessary amendment especially as to appointment of separate rent controller, introduction of ADR, modification of penal provisions, extension of the power of rent controller, separate provisions for commercial and residential area etc. shall be introduced as soon as possible. The City Corporation Authority determines the valuation of houses for revenue purpose but there is a huge manipulation, corruption, irregularities. There are collectors in area level whose first duty is only collection of taxes, but they do not interfere with house rent affairs. It is beyond the knowledge of City Corporation authority because it does not try to monitor that matter. More over house owners always show a smaller amount which sometimes is less than half of the actually realized amount from tenants to evade the holding tax. The mayor and respective ward councilors are representatives of the locality and they do not want to lose their popularity by taking strict actions. At the time of assessment of annual valuation they are often manipulated by the house owner for their vested interest which not only deprive the tenant but also deprive the government of revenue. The city corporation of both Chittagong and Sylhet can realize only 25% to 35% of estimated holding tax.⁵⁰ A monitoring body is essential for every ward of the both cities to control and monitor

⁴⁸1952 CAL 161 DB.

⁴⁹ Data collected from the Rent Controller Office of Chittagong and Sylhet.

⁵⁰ Data Collected from the Revenue Department of Chittagong and Sylhet City Corporation.

the house rent affairs. It is said by the City Corporation official that the man power is sufficient but there is need of efficient employees and mentality to use modern technology. A monitoring body shall be introduced which may be headed by the councilor of respective ward along with efficient man power, proper authority and modern technology to deal with house rent affairs in every part of the city. There shall be a combination between the House Rent Controller and the said monitoring body. The Secretary of the Bangladesh Human Rights and Peace for Bangladesh filed a petition⁵¹ in April 2010, seeking the court's directives to prevent the house-owners from arbitrarily increasing rents and realizing advance rents from tenants. On July 1, 2015 the High Court has directed the government to form a high-power commission. The commission would be presided over by a law expert nominated by the Law Ministry including a university professor, an economist, a senior official of the Housing and Public Works Ministry, a civil society member, consumer rights expert, and a city corporation official. The commission will fix area-wise highest and lowest house rents through mass hearing of tenants. A temporary authority is to be given to a full time house rent controller and officers-in-charge of all police stations in Dhaka for hearing and settling issues. A suggestion has been given for the amendment the House Rent Control Act, 1991. But these initiatives are suggested to be taken within the government's financial ability. These directions of court are not specific and it has given opportunities to the government to delay the implementation of those orders.

Conclusion

A majority of city dwellers are hostages to house owners who are minority in number in Chittagong and City. Every year begins with arbitrary increase of house rent by the house owner. But tenants in the cities are not aware of the fact that there is existence of a Rent Controllers who is assigned to deal with arbitrary increase of house rents and the eviction of tenants by landlords at their whims. As the tenants do not go to the courts to contest with house owners the rent control authorities do not question the landlords about their arbitrary increase of house rents. The laws, authorities and procedures are severely disregarded by the house owners. The house rent in Chittagong and Sylhet has been increased by more than 250 percent from 1991 to 2012. The law is not implemented by any ministry and there is no any other active authority to monitor its implementation. Finally we can say that the provisions of existing laws are not adequate to control present situation. So a streamlined law and its enforcement by a strong authority should be put in place. The responsibility should begin from the government itself and the government has to control the local government in order to select the best project to be implemented and the best developers or contractors to run the project so that the project can be finished on time without any delayed and finally burdened the peoples.⁵² There shall be a combination among Chittagong Tenant's Welfare association National Tenants council, Tenant's

⁵¹Human Rights and Peace for Bangladesh (HRPB), represented by Secretary, Advocate Asaduzzaman Siddique & others v Bangladesh represented by the Cabinet Secretary (2010).

⁵²Zain, Z. M. (2012). Housing Issues: A Study of Hulu Selangor District Council. *Procedia - Social and Behavioral Sciences*, 42, 320 – 328.

Development Society, the Consumers Association of Bangladesh (CAB), Communist Party of Bangladesh (CPB) and the City Residential Tenants welfare Association to deal with the matters regarding hose rent and in case of their movements against this anarchy. Human Rights and Peace for Bangladesh and National Human Rights Commission should play more effective role to guide and encourage the government for the establishment of effective segment of law and monitoring body.

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Wetland and Climate Change Adaptation: A Legal Analysis (Bangladesh Perspective)

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Abstract

In the contemporary world, not the militancy rather the global climate change is the biggest threat to human civilization. Bangladesh is one of the top 5 nations of the world that are mostly vulnerable victims to climate change. Bangladesh is a very low energy consuming and low carbon emitting country; so it is less responsible for wetland concerned environmental problems. This climate change degrades wetland system around the world making to manage and to preserve wetlands more complex. These wetlands like Sundarbans are the heart and soul of Bangladesh. Wetland habitat and systems are victims to changes in quantity and quality of their water supply, and also under the threat of alterations in hydrological regimes with great global variability. This paper attempts to focus on the wetland related problems and its probable legal remedy carried out by a general review of literatures on climate changes showing its affects upon the wetland concerned flora and fauna of Bangladesh.

Keywords: Climate change, Wetland, Biological System, Hydrological Cycle, Adaptation Process, Wildlife, Ecosystem

1. Introduction

Climate Changes are accelerating worldwide, posing significant challenges and threat to humanity. Solutions are needed at the regional level, where physical features of the landscape, biological systems, and human institutions interact.

The goal of this topic is to understand the climate change and its possible adaptation process. This paper will improve our understanding of the extent of these changes, their causes, their impacts on people, and conceptual framework for the adaptation process.

This paper denotes wetland based people's livelihood changes due to the Climate Changes, and on more focused studies that contribute towards the solutions to complex climate problems. Topics addressed include (a) The regional manifestations of global climate change (b) Human perception on these issues (c) The adaptation constraint of social systems to climate change and (d) Policy and management issues associated with building, maintaining and restoring robust social-ecological systems in wetlands. This paper may not cover the whole adaptation process because the impact of climate change varies with geographical location.

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Wetlands play an integral role in the hydrologic cycle, and provide important ecosystem services that may include flood storage, water quality amelioration and enhancement, carbon storage, wildlife habitat, and buffers during periods of high water. The wetland-based people are suffering specially farmers and fishermen, in the vulnerability of climate changes.

The primary format of contributions are conceptual articles presenting micro scale evidence of climate change and experienced human perception on climate change issue with conceptual framework to combat with this issue.

2. Objectives of the Research

This paper will serve multifarious purposes which are given below-

1. To focus on which types of steps and legal measurements should be taken to reduce wetland and climate change problem.
2. To recommend and to pave the way to probable adaptation process of wetland related climate change victims.
3. To answer and to disclose the wetland concerned environmental problems in Bangladesh.
4. To help and to make the politicians, policy makers and jurists understand about the nature, causes and importance of wetland related environmental climate change issues.

3. Literature Review

Literature review is an important part of social and legal research, since the concepts from related books, journals and articles help for conducting research work smoothly. Any research work is not found directly related to this article, but there are some works indirectly related to this topic which are discussed as follows:

1. Kevin L Erwin discussed the wetland related climate change problems from global perspective in his article “Wetlands and global climate change: the role of wetland restoration in a changing world” (Erwin 2008). But he did not specifically address these issues in Bangladesh context. He also did not say about the adaptation process of the climate change victims.
2. Kazi Khalikuzzaman Ahmed in his article, “Climate Change and Bangladesh, Campaign for sustainable rural livelihoods” (CSRL), lays down sustainable rural livelihoods of village people of Bangladesh and some aspects of adaptation process, but he does not mention about the wetland problems and what the legal protection will be under the Environmental Law of Bangladesh (Ahmed 2008).
3. MP Rana, MSH Chowdhury, MSI Sohel, S Akter and M Koike, in their research paper “Status and socio-economic significance of wetland in the tropics: a study from Bangladesh. Italian Society of Silviculture and Forest Ecology”, describe about wetland related problems in Bangladesh and its effect upon the environment. But they do not lay down what the legal consequences of these

problems will be and what will be the actual legal remedy and adaptation procedures of the victims (Rana *et al.*, 2009).

Thus, by reviewing the above mentioned articles and research papers, it has been proved that none of the research works is accomplished to provide wetland and adaptation problems in Bangladesh. So, this article claims originality and creates a new dimension in this field.

4. Methodology and Materials

In this article, qualitative-descriptive study design was used. But when it was needed, quantitative approach was also used. For finding out the actual wetland degradation and climate change adaptation problems to provide legal protection under the environmental law, it includes a scrutiny of the factual background of climate change of Bangladesh and legal literatures. Information have been collected from the secondary sources like electronic database websites, newspapers, articles, journals, books, survey reports, experiences of the environmental and climate change victims.

5. Wetlands in Bangladesh

Bangladesh possesses an enormous area of wetlands including rivers and streams, freshwater lakes and marshes, *haors* (Fen), *baors*, *beels* (Marsh), water storage reservoirs, fish ponds, flooded cultivated fields and estuarine systems with extensive mangrove swamps. Wetlands of coastal and marine origin are less important in Bangladesh. The *haors* (Fen), *baors*, *beels* (Marsh) and *jheels* (a long pool of water) are of fluvial origin and are usually recognized as freshwater wetlands. These freshwater wetlands occupy four landscape units – floodplains, freshwater marshes, lakes and swamp forests.

Characteristics being located in the lower edge of the topography, wetlands are subject to periodic inundation/flooding, shallow to deep, during wet monsoon. To understand the hydro- geomorphologic Characteristics of the wetlands, a typical *haor* (fen) may be considered as an ideal example. Apart from major river courses and streams, the major wetlands of fluvial origin occupy the floodplains. The manmade wetlands including ponds, *dighis* (Large Pond) and lakes are distributed all over the floodplains. Some important wetlands of the country are *chalanbeel*, *Atrai basin*, *lower Punarbhaba floodplain*, *Gopalganj-Khulna Beels* (marsh), *Arial Beel* (marsh), and *Surma-Kushiyara floodplain*.

Wetlands have a wide range of ecological, socio-cultural, economic and commercial importance and values in Bangladesh. These are important habitats for a large variety of flora and fauna of local, national and regional significance. Wetlands are crucially important in Bangladesh for human settlements, biodiversity, fisheries, agriculture diversity, navigation and communication, and ecotourism.

Degradation of wetlands has caused several problems including the extinction and reduction of wildlife, extinction of many indigenous wild and domesticated rice varieties, loss of many indigenous aquatic plants, herbs, shrubs and weeds, loss of

natural soil nutrients, loss of natural water reservoirs and of their resultant benefits, increase in the occurrence of flooding and the degeneration of wetland based ecosystems, occupations, socio-economic institutions and cultures. The various permanent and seasonal freshwater lakes and marshes of the flood plains are known as haors (fen), baors and beels (marsh).

BOX: 1

Definitions of Wetland

The Ramsar Convention (1971) has defined wetlands as – “ areas of marsh, fen, peat land, or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters.

The Ramsar definition of “wetlands” is a broad one, encompassing not just marshes and lakes, but also coral reefs, peat forests, temporary pools, even underground caves, and all sorts of other systems everywhere from the mountains to the sea, including man-made habitats.

According to EPA, the term wetlands means “those areas that are inundated or saturated by surface of groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

In fact, most wetlands of Bangladesh considered as perennial wetlands can be divided into: (a) the Ganges-Brahmaputra flood basin, and (b) the haor (fen) basin of the northeast region (Alam and Chowdhury 2003). Some important freshwater wetlands of the country are (a) Chalan Beel (marsh), (b) Atrai Basin, (c) Lower Punarbhaba Floodplain, (c) Gopalganj-Khulna Beels (marsh), (e) Arial Beel (marsh), and (f) Surma-Kushiyara Floodplain¹.

The total area of wetlands in Bangladesh has been variously estimated at between seven and eight million hectares, i.e. about 50% of total land surface. This includes at least 480,000 hectare permanent rivers and streams, 610,000 hectare of estuaries and mangrove swamps, between 120,000 and 290,000 hectare of haors (fen), baors (bend of a river where current is obstructed) and beels (marsh), over 90,000 hectare of large water storage reservoirs, 150,000-180,000 hectare of small tanks and fish ponds, 90,000-115,000 hectare of shrimp ponds, and some 5,770,000 hectare of land which is seasonally inundated to a depth of 30 cm or more.

The wetland resources of Bangladesh bear enormous economic importance in terms of resources exploitation. Fishing is the main occupation of the people in the wetland based areas which is practiced under a system of lease/auction from Government or government agencies. The total harvest of finfish, crustaceans and frogs in Bangladesh is currently estimated to be within the range of 675,000 to 725,000 metric tons per year. Of this total, 64% comes from the riverine fisheries, 15% from small freshwater bodies, 1% from large fresh water bodies, 1% from brackish water ponds, and the remaining 19% from the marine fisheries.

¹Byomkesh *et al.*, 2008.

6. Dependency of Livelihood on Wetland

Wetlands are areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Water saturation (hydrology) largely determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species². They are considered among the most productive ecosystems on the planet and provide important economic and social benefits, by means of their natural resources, the functions they perform for the maintenance of life, regulation of climate and water regimes, and their socio-cultural importance for the communities depending on them.

As per the IPCC 1996,³ Wetlands cover 6% of the world's land surface and contain about 12% of the global carbon cycle (IPCC 1996).

Bangladesh being a riverine country, rivers and beels (marsh) are directly influenced the livelihood pattern of the people. Fishermen and farmers are directly depended on the Chenchury and Pateshori Beel (marsh). Beels are flooded and full of water during the rainy season. Various kinds of water species are born in water and brought up by the water of the beel. People, especially the fishermen collect these resources for their livelihood.

MP *et al.*, 2009 reported⁴ that in Hakaluki Haor, Bangladesh a large community is dependent on the haor in varying degree (15% totally dependent, 32% moderately and 53% less) with a variety of livelihood activities like fishing and related professions (32%), duck rearing (29%), cattle rearing (28%), fuel wood collection (6%), sand extraction (3%) and reed collection (2%). More than half of the community views Hakaluki Haor as the vital source of livelihood.

Depending on the position and anthropological origin 30-50 percent of the households in Chenchury Beel go for subsistence fishing in this beel with various equipments. These are *Jaki jal* (Cast net), *kathijal*, *borshi*, *chai* (traps), *guni* etc.⁵ (Ahmed, 2008).

Fish habitats of the Chenchury Beel is composed of beels, rivers, khals, doba, nala and seasonally flooded lands. Chenchury Beel is also composed of several small beels. Some parts of this beel are also called in different names especially a name after the name of nearby beel.

Most of the people are fishermen recognized as the indigenous people; they usually earn their income through fishing mainly. Beels influence their every dream. Farmers water their corps from these beels. Actually, most of the people are both farmers and fishermen and beels are the center of their life.

Farmers, fishermen, rickshaw pullers, boatmen, businessmen, gher owners etc. are the main occupations of the area and depend on the beel resource. Most of the fishes

²<https://www.epa.gov/wetlands/what-wetland>.

³ IPCC 1996.

⁴MP *et al.*, 2009 report.

⁵Ahmed, 2008.

are usually found in the riverside and adjacent beel areas during the rainy season but back to the river whenever the water dries in the dry season. Fish habitats consist of the river, beel, canal, khal, doba etc. Carps and snails are available in the beel and play an important role in conserving the biodiversity. Ahmed, 2008 reported that 90% is carps, snail 5%, mussels 4.5%, turtle 0.5%. Local fisher community prefers to increase kuchia and turtles but not carps. The estimated ratio of fish and non-fish would be 95:5.

As flood plain and beel are suitable for the foods of the young fishes, they breed in the Chenchury and Pateshori Beel and return to the river after post monsoon. Through the beel adjacent area many livestock owners get support from it.

7. Understanding the Climate Change

Human civilization is facing the worst challenge ever: the global climate change (GCC). Global climate change is a phenomenon that is associated with entrapping the solar radiation (energy) reflected from the earth crust in the atmosphere by a number of gases that absorb the energy and cause a ‘forcing’ towards the rise of average surface temperature in the atmosphere. The overall effect is known as global warming. Most scientists agree that the main cause of the current global warming trend is human expansion of the “greenhouse effect” – warming that result when the atmosphere traps heat radiating from Earth toward space. Gases that contribute to the greenhouse effect include water vapor, Carbon dioxide (CO₂), Methane, Nitrous oxide, Chlorofluorocarbons (CFCs).

On earth, human activities are changing the natural greenhouse. Over the last century, the burning of fossil fuels like coal and oil has increased the concentration of atmospheric carbon dioxide (CO₂) (NASA). As a result of general rise in temperature, scientists claim that the exchange of energy among the atmosphere, the terrestrial, and the aquatic systems will be disturbed, leading to a rapid change in climate parameters all over the world. The consequential effects will be a general warming up of average surface temperature, change in precipitation patterns, faster rates of thawing of permafrost and retreat of glaciers – leading to a net rise in sea level, increase in extreme climate events both in terms of extent and frequency etc. The global average surface temperature has increased, especially since about 1950. The update 100- year trend (1906-2005) of 0.74° C + 0.18° C is larger than the 100 year warming trend at the time of TAR (1901-2000) of 0.6 °C+ 0.2° C⁶ (IPCC 2007).

Human activities are interfering the natural changing process of the climate and showing abruption in nature affecting the human health, economy, property etc. The variability of the climate elements such as temperature, precipitation, humidity etc. being hindered in its natural circulation and process showing more unpredictability than it could be is termed as climate change.

⁶IPCC 2007

Box: 2

Definition of Climate Change

“Change in the state of the climate that can be identified (e.g. using statistical tests) by changes in the mean and/or variability of its properties and that persists for an extended period, typically decades or longer. It refers to any change in climate over time, whether due to natural variability or as a result of human activity.” (IPCC, 2007)

“Climate change refers to a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods. (UNFCCC)

Climate change patterns or ‘fingerprints’ were no longer limited to a single variable (temperature) or to the Earth’s surface. More recent detection and attribution work has made use of precipitation and global pressure patterns, and analysis of vertical profiles of temperature change in the ocean and atmosphere. The statistics of changes in weather over time identifies climate change⁷ (IPCC 2007).

Climate change is affecting the biodiversity of the wetland with the alternation of temperature, precipitation, humidity and with extreme weather event. Salinity intrusion and sea level rise is one of the major impacts of climate change in the coastal area wetlands. Developing countries like Bangladesh is facing the climate change worse.

Along with other coastal and developing countries, Bangladesh is not responsible for the global climate change. However, we often mention the other environmental changes as the consequences of global climate change. The climate change is affecting Bangladesh but the regional climate change is occurring mostly for the faulty management of resources. Regional climate change is very much important because this is affecting together with the effects of global climate change. The effect of regional climate change is influencing the global climate change and it seems to be a global climate change effect. It is important because one can try to skip one’s responsibility giving the blame to global climate change. Such as, due to the Farakka Barrage the rivers of Bangladesh are drying and most of the northern parts of the country are drying and increasing the temperature with less rainfall.

Adel (2002) pointed out that the summertime and wintertime average temperatures were respectively 1° C more and 0.5° C less than the corresponding values during the pre-baseline era; minimum relative humidity has dropped by the same amount; and the monthly average rainfalls have dropped by about 50% and 30% respectively⁸.

8. Bangladesh in a Changing Climate

Bangladesh is facing the climate change worse, being the coastal area country, and in the developing world the situation is getting complicated. Bangladesh is at great

⁷IPCC 2007

⁸Adel (2002)

risk from global climate change⁹ (WB, 2000). Climate change poses significant risks for Bangladesh, yet the core elements of its vulnerability are primarily contextual. Between 30-70% of the country is normally flooded each year. The huge sediment loads brought by three Himalayan rivers, coupled with a negligible flow gradient add to drainage congestion problems and exacerbate the extent of flooding. Bangladesh is highly populated and the population density further enhances the societal exposure to such risks. A subjective ranking of key climate change impacts and vulnerabilities for Bangladesh identifies water and coastal resources as being of the highest priority in terms of certainty, urgency, and severity of impact, as well as the importance of the resources being affected.

Potential impacts of climate change in Bangladesh:

- Changes in water levels and increased flooding and water logging
- Increased salinity in ground and surface water
- Increased coastal morphological dynamics (erosion and accretion)
- Increased incidents and intensity of extreme weather events etc.

It is feared that global climate change will create a large number of environmental refugees and might trigger social disruptions and chaos. In Bangladesh, the average monsoon maximum and minimum temperatures show an increase trend annually at 0.05° C and 0.03° C, respectively¹⁰ (Rahman *et al.*, 2008). Further, in Bangladesh the major crop is rice, which is vulnerable to increased temperature. Bangladesh coast is vulnerable to recurrent cyclones¹¹ (NAPA, 2005). The cyclone SIDR left its marks of devastation on 103 upazilas, 710 unions, affecting 27.45 lakh populations of about 8.44 lakh families. The storm also killed 2.42 lakh livestock and completely destroyed crops on 18, 1222-acre land including six lakh metric tons of Aman crops. According to the estimate, 2.73 lakh house were also flattened¹² (Pasha, 2009). Ahmed reported that Geographic and climate features put Bangladesh in a particularly disadvantageous situation, making it one of the most disaster-prone countries with respect to extreme climate events, even without global climate change. Flat topography, uneven annual and spatial distribution of its water resources etc. increase its physical vulnerability to climate systems; while its weak economic condition coupled with widespread poverty add socio-economic dimensions to its high vulnerability. Mohal *et al.*, briefed that the increasing rates of sea level rise caused by global warming are expected to lead to permanent inundation, drainage congestion, salinity intrusion and frequent storm surge inundation. Sea level rise is a growing threat for the coastal regions of Bangladesh. He estimated that about 11% more land will be permanently inundated over the next century. Sundarbans, the Ramsar site will be lost due to high salinity and permanent inundation from projected sea level rise by 2100. An increase of wind speed over 10% of the severe cyclone of 1991 will increase the storm surge level by 1.7 m along the eastern coast of Bangladesh.

⁹WB, 2000

¹⁰Rahman *et al.*, 2008

¹¹NAPA, 2005

¹²Pasha, 2009

9. Sensitivity of the Problem:

9.1 Strategy

Only this part of the information is collected from Focused Group Discussion (FGD) with farmers in Chenchuri Beel (Narail), Chalan Beel (Natore), Boro Bila Beel (Chapai Nawabgonj) Bangladesh. These FGD was conducted to understand the impact of climate change among the farmers. This may not cover the whole scenario of the climate change impact in Bangladesh.

9.2 Result and Discussion

In Chlanbeel and Boro Bila Beel the farmers stated that their cultivation pattern had slightly changed. 8-10 years back they used to cultivate Robi crops in the Bengali month Kartik and now they are cultivating in Agrahayon. *Khesbari, Mosur, sorisha, Motor* etc pulses were the main crops. But now these days they are cultivating onion, potato, wheat etc. Now they are cultivating onion because there is a strong relationship between onion cultivation and the drought. They reported that they were facing more hot days than the past days and it seemed to be intolerable. If the weather remains warm and dry, the production of onion gets easy and increases. Because of the warm weather and the prolonged summer they are cultivating the present crops; past crops are almost rare.

Aus crop is almost lost from their cultivated crops. Aus also has become rare because of their irregularity in rainfall pattern. Now they are cultivating IRRI the seeds of which they have to buy, but in the past they used to get it naturally. In the past, the weather was not so much dry like the present time. Even the rainfall is observed low. They reported that in 8-10 years back they did not need any water artificially to cultivate; and due to low rainfall they are now dependent on the artificial sources. It is creating pressure on the ground water resources and day by day the layer is decreasing. Khesari and Robi crops used to grow in regular and high rainfall but due to the erratic pattern and drought prone to weather, cultivation of this pulse is going to be rare.

Box-3

Definition of Adaptation

Adjustment in natural or *human system* in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities. (IPCC 2007)

Adaptation is the evolutionary process whereby a population becomes better suited to its habitat. This process takes place over many generations and is one of the basic phenomena of biology¹³. (*Wikipedia*)

Climate Change Adaptation, however, can refer to an array of activities that range from natural adaptation at one end of the spectrum to sustainability science in coupled human and natural systems at other¹⁴. (Brooke, 2008)

¹³Wikipedia

¹⁴Brooke, 2008

The following definitions are mainly discussed according to Theodosius Dobzhansky¹⁵

1. Adaptation is the evolutionary process whereby an organism becomes better able to live in its habitat or habitats.
2. Adaptiveness is the state of being adapted: the degree to which an organism is able to live and reproduce in a given set of habitats.
3. An adaptive trait is an aspect of the developmental pattern of the organism which enables or enhances the probability of that organism in surviving and reproducing, and assumes it to be equivalent to the ability of species to “adapt naturally”, as stated in Article of the United Nations Framework Convention on Climate Change.

Adaptation to climate change is fundamentally linked to the concept of vulnerability. Vulnerability refers to the degree to which a system or unit is likely to experience harm due to exposure to perturbations or stresses.

Our understanding of adaptation is ‘coping’ and ‘the capacity of social actors to shift livelihood strategies under stress.

9.3 As per the IPCC 2007 Adaptation is of Three Types Such as:

1. **Anticipatory adaptation-** Adaptation that takes place before impacts of climate change is observed. It is also referred to as proactive adaptation.
2. **Autonomous adaptation-** Adaptation that does not constitute a conscious response to climatic stimuli but is triggered by ecological changes in natural systems and by market or welfare changes in human systems. Also referred to as spontaneous adaptation.
3. **Planned adaptation-** Adaptation that is the result of a deliberate policy decision, based on an awareness that conditions have changed or are about to change and that action is required to return to, maintain, or achieve a desired state.

10. Constraints in Adaptation with Climate Change

One possibility is to do nothing, and, by implication, hope that climate change does not happen. Another possibility is to take initiative for adaptation to climate change. While adapting to climate change we need to take concern about the community adaptation capacity. Erwin (2009) reported that some communities have more adaptive capacity than others due to the strength of their social, economic and environmental systems, equitable resource allocation, high skill levels, and the ability to disseminate useful information. Each community is unique and each has different vulnerabilities and strengths which contribute to its adaptive capacity. Agrawala *et al.*, (2008) argued that the effectiveness of adaptation responses is dependent on the level

¹⁵Theodosius Dobzhansky, original name Feodosy Grigorevich Dobzhansky (born Jan. 25, 1900, Nemirov, Ukraine, Russian Empire [now in Ukraine]—died Dec. 18, 1975, Davis, Calif., U.S.), Ukrainian-American geneticist and evolutionist whose work had a major influence on 20th-century thought and research on genetics and evolutionary theory.

of certainty associated with climate change and impact projections. In south west part of Bangladesh Chenchuri Beel (Narail), Boro Bila (Chapai Nawabgonj) and Chalan Beel (Natore) are facing drought as the odds of climate change where the physical adaptation such as infrastructural development would not limit the effects of climate change but it would influence the odds of climate change.¹⁶

In this region, almost all wetland areas are facing water scarcity even during the wet season. It may be physically very difficult to react to the water quality problems related to higher temperature. Though salinity is increasing in only the southern part of wetland, the case of facing extreme weather events like drought is dominating over the study area. The capacity of water management agencies and water management system as a whole may act as a limitation in adaptation process. In Narail, Bangladesh water Development Board along with Asian Development Board (ADB) is implementing South West Area Integrated Water Resource Planning and Management Project (SWAIWRPMP) where in some cases it is found that some of the components are not needed to implement and while implementing and designing the project, the participation of the beneficiary was very low. In northern part of the country The Padma River is draying due to lack of water in the river as the adverse impact of Farakka Barrage Situated in the India. Whereas the existing water management and system of Bangladesh has failed to cope with regional environmental changes, there adapting to climate change is matter of question.

The challenge will be to find an acceptable intermediate solution between a policy of inaction and technological efficiency. The Government would take adaptation goals into account in future expenditure planning, would support community-based adaptation, and would require major infrastructure investments to meet adaptation criteria. While developing the infrastructure in the wetland and its adjacent area we need to investigate the acceptability and necessity for what type of infrastructure we need actually. Here participatory approach would be the one solution to managing the wetland resource through infrastructure. Climate change may present greater challenges to wetland conservation and restoration.

There are a number of potential paths for future efforts in the area of adaptation to climate change such as technological development, policy innovation along with management concern, social drawback, tradition value etc. Social constraints such as the traditional pattern, education, belief hinder the adaptation process. In Chenchuri Beel, most of the people are fishermen and they are fighting with fisher folk right. Musclemen are forcing them and prohibiting them to cultivate and catch fish as their legal right. Whether in Chalan Beel (Natore), fishermen are migrating to farmers due to their higher temperature that is resulting in the drying up of the beel water. In Boro Bila Beel (Chapai Nawabgonj), farmers are struggling to adapt with their cultivation where the production cost is rising.

Financial constraints should be given priority as number one, because developing countries like us where people struggle in every steps of life, where education to every man is like even dream, there the extreme weather is breaking down the economy of the country. In Sidr 2007 losses were about 20 billion taka, destroyed at least 800,000

¹⁶Agrawala *et al.*, 2008.

tons of rice in the fields, 1222 acres land including six lakh metric tons of Aman crops.

Over 30 districts in the country and about millions of people (more than 2 million families) were affected by the cyclone. Before Sidr, most prolonged flood damaged the economy of the country; then devastation like Sidr destroyed the economic backbone of the country. It has hampered the road map of democracy and anti-corruption¹⁷ (Hossain 2010).

So, while making a strategy for the climate change adaptation we need to concern about the social status and community participation along with technology, sustainability etc. as the key constraints for climate change. Moreover, we need area specific climate change adaptation for the effective and efficient adaptation approach. Community based approach here could be one of the key tools for adaptation process.

Lack of Awareness is one of the key constraints is adaptation process. NAPA, Bangladesh pointed that this lack of awareness exists at all levels from national level policy makers to sector and local level officials as well as amongst civil society and the most vulnerable communities themselves.

11. Conceptual Framework for Adaptation to Climate Change

Facing this challenge, wetlands have helped a lot in alleviating the problem, even though wetlands only occupy 6-8% of the Earth's total surface area. It has been supported by a number of studies that wetlands can attenuate the impact of climate change through the following ways:

- Marshes, flood plain and lakes act as temporary water storage.
- Wetlands store and release water slowly that is substantial during the drought and inadequate rainfall.
- Wetlands provide nurseries for coastal fisheries. For humans, wetlands provide sources of fish, food and building materials, as well as keep floodplain farmlands fertile.
- Wetlands slow down carbon dioxide being released into atmosphere and help to avail moderate climate condition.

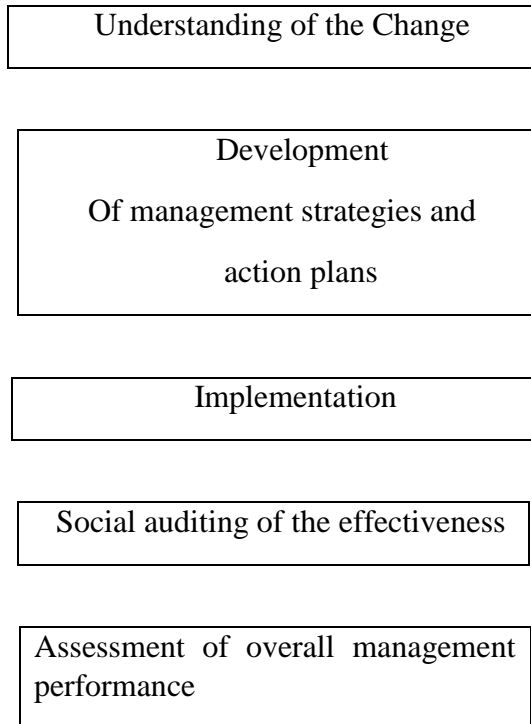
To adapt with climate change we need some strategies such as,

1. Maintenance of ecological character
2. Preservation of natural areas and rural or farmlands and sustainable agriculture and biodiversity conservation. It could cover the following areas such,
 - ✓ Assessment and monitoring
 - ✓ Development and implement of effective strategies both short term and long term
 - ✓ Comprehensive research
 - ✓ Water quality monitoring program

¹⁷Hossain (2010)

- ✓ Establishment of floristic database.
- 3. Public access to the Management Area for recreation, education and scientific research, participatory and community based wetland management in the context of climate change.
- 4. Adaptive infrastructure for water and sanitation.

Environmental monitoring is needed for the adaptation to climate change maintaining the following schematic diagram,



Climate change adaptation process should confront with some steps such as the improvement of the community information system for drought and cyclone type disaster warning and for preparing the community to build resilience for adaptation to climate change. Community information system (CIS) could play substantial role in achieving the goal in this regard.

The important thing is not that to develop strategy for adaptation but off course the involvement of stakeholders during the development of strategy. That is why, we need:

- ✓ Assessment of Vulnerability
- ✓ Assessment of risk
- ✓ Development of strategy, involving the stakeholders in all steps.

The total adaptation process could be classified into two processes:

1. Mainstreaming of climate change in development issues: All major new development projects should undergo adaptation screening.
2. Developing separate climate change adaptation project: adaptation project: adaptation project need to cope with climate change separately.

In a country like Bangladesh, lack of awareness is a key hindrance in adapting climate change. The conceptual framework for adaptation process in wetland could be in the following ways:

12. Legal Framework Exists in Bangladesh Relating to Wetland and Climate Change Adaptation

Article 18 (A) of the Constitution of Bangladesh lays down that the State shall endeavor to protect and improve the environment and to preserve and safeguard the natural resources, bio-diversity, wetlands, forests and wildlife for the present and future citizens. For this constitutional mandate upon the Government of Bangladesh, it has taken some legal measurements to prevent the decaying of wetlands and to promote adaptation process along with the emerging principles of the public Interest Litigation (PIL) relating to the environment problems in recent era. Bangladesh is also a signatory member of different environment related international conventions and treaties. So, it is bound to frame laws concerning wetland and environmental climate adaptation process which are discussed below:-

I. The Water Act, 2013

Sections 3 and 22 of the Water Act, 2013 stipulates for the protection and preservation of water, wetland, ground water, natural flow of surface water and ponds etc.

II. Bangladesh Environmental Conservation Act, 1995

This is the most important legislation relating to the environmental degradation. Several sections of this Act provide for the protective measurement of wetland.

III. The Environmental Court Act, 2010

This legislation establishes separate court for environment related suits and to entertain environmental problems having some civil and criminal jurisdiction upon the matters.

IV. The Tanks Improvement Act, 1939

This legislation is a pioneer and landmark Act in respect of agricultural development, environment and wetland in Bangladesh along with climate change adaptation process with a view to ensuring a sustainable use of tanks.

V. Ramsar Convention, 1971

Bangladesh has ratified the 1971 Ramsar Convention (The Convention on wetlands of International Importance especially as the Waterfowl Habitat). The objective of this convention is the conservation and wise use of wetlands by national action and international cooperation as a means to achieve sustainable development around the world.

VI. Case Laws

(a) In *BELA vs. Ministry of land and others* (2003), the High Court Division (HCD) asked to protect and to conserve the 4916 hectares of Sonadia Inland as ecologically critical area (ECA) in order to save the people therein.

(b) In *BELA vs. Bangladesh and others* (2004), the High Court Division (HCD) seeks protective measures to conserve the 9285.12 sq kilometers of the Sundarbans as ECA with a view to protecting the forest, forest people and the habitat of wild animals.

(c) In another Public Interest Litigation (PIL) case named *Dr. Mahiuddin Farooque vs. Bangladesh and others*, Writ Petition no, 742211997/1997 (Gulshan Lake Fill up case), the HCD issued a rule against the implementation of an agreement called the “Banani, Gulshan, Baridhara Project Agreement” signed between RAJUK and Indus Vally Pvt Ltd. The HCD directed them to show cause as to why “the agreement to lease out a total area of 220 acres of public land should not be declared null and void and unconstitutional as against the public interest. Thus government subsequently cancelled this project.

13. Focus on Addressing the Underlying Risk Drives

Capacity building of the community representatives are local administration, Government organizations and NGOs, local familiar persons, village police, teachers, religious persons, health sector personnel, fire bridget, media related persons, education campaign among the youth and child etc. Volunteers will be the key components of the *Community as the Youth led solution in pursuing the solution to climate change*. Before adapting or coping with the threat, we need to create massive scale awareness for the preparation to combat with climate change. NAPA (Bangladesh) commentated over the awareness rising is clearly a major area of initial action to be prioritized. For this, the process could be,

1. Preparation of awareness building and information sharing materials
 - ✓ Booklet
 - ✓ Leaflet
 - ✓ Bill Board
 - ✓ Post Cards
2. Awareness Building program
 - ✓ Sharing meeting with women
 - ✓ Courtyard meeting
 - ✓ Street show, folk song, Drama
 - ✓ Workshop
 - ✓ Regional Workshop
 - ✓ National Seminar
3. Information sharing

Action based research especially by the agriculture specialists and the establishment of demo farm could be an example in the affected area to encourage the community for income generation.

Human civilization has improved substantially; through the advanced technology human marked his footsteps in moon, mars and are using advanced electronic equipments, but still the major part of the world's people is suffering from poverty and natural disaster. Drought as the consequence of climate change and other negatives of this threat could be dealt if we introduced least cost technology and community friendly technology. Community information System (CLS) could be an initiative to that way.

Through CLS, community will get the information about agriculture, gender, children, health and the fishery specialist will engage in consultation and action based research for improvement of livelihood and choosing alternatives and sustainable existing livelihoods under the vulnerability of climate change. CLS could be the doorway where community can get the all kinds of information, training and building capacity against drought i.e. CLS could be a medium for building resilience against climate change. Hazard mapping and preparation, even health facility could be provided through CLS. The possible outline of the CLS is a matter of extensive research because all dimensions of social issues are included and community based approach should have prioritized.

Actually CLS will be a system to coordinate the community and the risk of climate change and its adaptation. Overall recommendations for the adaptation to climate change are:

- Environmental Monitoring and wetland restoration program
- Protection and initiation of the movement for wetland protection
- Drought, saline tolerant crops and alternative cultivation innovation
- Community based and integrated approach could be the key component in this case
- Awareness from the family, i.e. given priority to the women considering the eco-feminism ethics
- Policy oriented approach and advocacy and solution of climate justice
- Initialization of this process as the mainstream of climate change
- Innovation of community friendly and least cost technology
- Insurance based approach has to be introduced under the frequent risk of climate change
- Development of eco-friendly pond for maintaining the climate condition and income generation.

Bangladesh is not responsible for the climate change but is facing the challenges more severe than any other country. An immediate solution is needed for protecting millions of people's lives. Where the developed countries are investing i.e. donating money as their social responsibility to reduce poverty, on the other hand their activities are acting as a trigger to lead the poor country poorer than ever. Bangladesh Government has to play a very substantial role for leading the climate justice movement and on the way of climate change adaptation.

14. Conclusion

This paper is an attempt to understand the sensitivity of climate change in the wetlands. Along with its possible adaptation process i.e. that improves our understanding of the extent of these changes, their causes, their impacts on wetland people. Information in this research paper leads to the way of better understanding of the climate change in Bangladesh and the wetlands. Social constraints like poverty, social drawbacks, policy and traditional pattern might hinder the adaptation process. Environmental monitoring is needed for the sustainable management of the resource and adaptation process. Vulnerability assessment, and short term and long term initiatives along with infrastructure could be the possible adaptation process. Community based approach could act as a key component to manage the community demand driven management of resources and establishment of Community Information System (CIS) could have long term impact through awareness building and consulting the affecting Community to recover and adapt with the climate change.

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