Content

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Abstract: In optical physics, by Light Scattering mechanism, it has become possible to measure the characteristics of the scattering particles. By Mie scattering theory, light scattering properties of a dielectric spherical particle can be precisely measured. In this paper, results of light scattering intensities of polystyrene latex have been simulated and shown. Polystyrene latex is a dielectric particle with different scattering angles by Mie theory for both perpendicular and parallel scattering intensity to the scattering plane. Also, in this paper, it has been shown how by changing the particle diameter, the scattering intensity changes for different scattering angle and also their comparison with the other published results. Here their scattering intensity results with the results of Standard BHMIE code of Bohren and Huffman have been compared.

Key words: Light Scattering, Mie theory, BHMIE Code, Dielectric Particle.

Introduction

The scattering of light can give us important information about the structure and dynamics of the scattering material. If the scattering centers are in motion, then the scattered radiation is Doppler shifted. So, after doing the analysis of the scattered spectrum information about the structure, spatial configuration, or morphology of the scattering medium can be described. The general Mie theory[1] of optical scattering is very useful in practice. Initially, interesting problems, such as the origin of rainbows and the solar corona, could be directly answered on basis of the Mie solution. The Mie theory describes the light scattering of structures with other regular shapes, such as ellipsoids with any size and cylinders with arbitrary radius[2]. In this paper, the basic optical properties of small particles made of different materials have been analyzed via modifications of Mie theory.

In Mie theory, the electromagnetic wave concept is employed and Maxwell's equations are used for the derivation of the incident, scattered and internal fields[3-6]. The formalism allows the

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Tamanna Motahar*

Abstract: In optical physics, by Light Scattering mechanism, it has become possible to measure the characteristics of the scattering particles. By Mie scattering theory, light scattering properties of a dielectric spherical particle can be precisely measured. In this paper, results of light scattering intensities of polystyrene latex have been simulated and shown. Polystyrene latex is a dielectric particle with different scattering angles by Mie theory for both perpendicular and parallel scattering intensity to the scattering plane. Also, in this paper, it has been shown how by changing the particle diameter, the scattering intensity changes for different scattering angle and also their comparison with the other published results. Here their scattering intensity results with the results of Standard BHMIE code of Bohren and Huffman have been compared.

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In Mie theory, the electromagnetic wave concept is employed and Maxwell's equations are used for the derivation of the incident, scattered and internal fields[3-6]. The formalism allows the

* *Lecturer, Department of Electrical and Computer Engineering, North South University, Dhaka, Bangladesh.*
Correspondence to: tamannam.ml@gmail.com

calculation of the electric and magnetic fields inside and outside a spherical object and is generally used to calculate either how much light is scattered, the total optical cross section, or parallel or perpendicular scattering intensity. The expressions of wave equations take the form of an infinite series expansion of Vector Spherical Harmonics from which cross sections, efficiency factor and intensity distribution on a particle can be derived. Also, the effects of particle geometry, particle index with respect to the surrounding medium and angular dependence of the incident beam can be studied.

Scattering Parameters

(1) The wavelength (λ) of the incident radiation

(2) The size of the scattering particle, usually expressed as the non dimensional size factor, $\alpha = \frac{2\pi a}{\lambda}$, a is the radius of a spherical particle, λ is wavelength

(3) The particle optical properties relative to the surrounding medium, the complex refractive index[7] $m = n - ik$

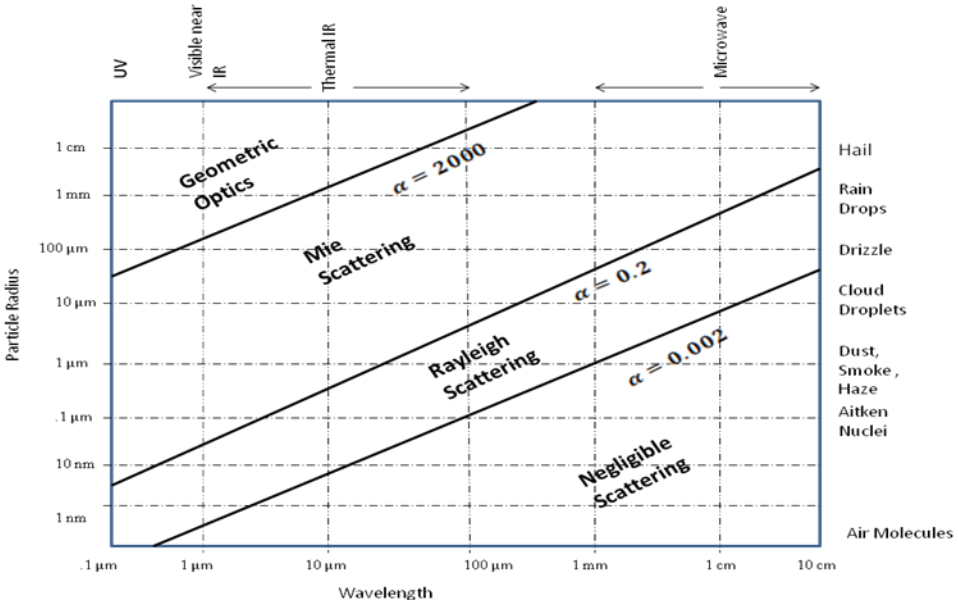


Figure 1: Single Light scattering by spheres in different Regimes[8]

In figure 1, it is shown that when size factor, α is less than 0.002, it provides negligible scattering. When size factor is more than 0.002 and less than 0.2, that means particle radius is less than 10 nm, it belongs to Rayleigh scattering. As the criteria for Rayleigh scattering is that

$\alpha \ll 1$ and $|m|\alpha \ll 1$. The Mie regime is where size factor is more than .002 and it is up to 2000. That means the particle radius goes from 10 nm to around 100μm.

Mie Scattering Solutions

Mie theory provides an exact solution only if certain conditions or restraints are satisfied:

i) Plane waves

ii) Isotropic particles, and

iii) Spherical particles.

For this paper, BHMIE code adapted by B.T.Draine, Princeton Univ. Obs[9] has been used. It is mainly used to calculate the scattering and absorption by the homogeneous isotropic sphere. This code requires the following inputs

- Refractive index of surrounding medium
- Refractive index or dielectric constant of sphere
- Radius of sphere
- Wavelength (in vacuum)
- Number of angles at which to calculate scattering intensities

The outputs of the code are

- The components of scattering intensity S_1 and S_2 where S_1 provides the perpendicular and S_2 provides the parallel scattering intensity to the scattering plane
- QEXT which is the efficiency factor for extinction
- QSCA which is the efficiency factor for scattering
- QBACK which is the backscattering efficiency

Only QEXT is used here in the simulation for comparing. The Mie simulated data is normalized byI_0, the intensity at the polar angle 0 degree. A logarithm is then applied to the normalized data to show the full angle intensity variations.

For comparison reference, two papers have been used where the first one is “Polarized light scattered from monodisperse randomly oriented nonsperical aerosol particles: measurements”, by

R. G. Pinnick et al. , February 1976, Applied Optics, Vol. 15, No. 2, which will be referred as paper 1 and Paper two is "Simple method for approximating Mie scattering" by J. E. Gordon, JOSA A, Vol. 2, Issue 2, pp. 156-159 (1985) which will be referred as paper 2 in the following discussion[10-11].

Simulation of Mie scattering intensity vs. angle using standard Mie code for a simple water drop in the air

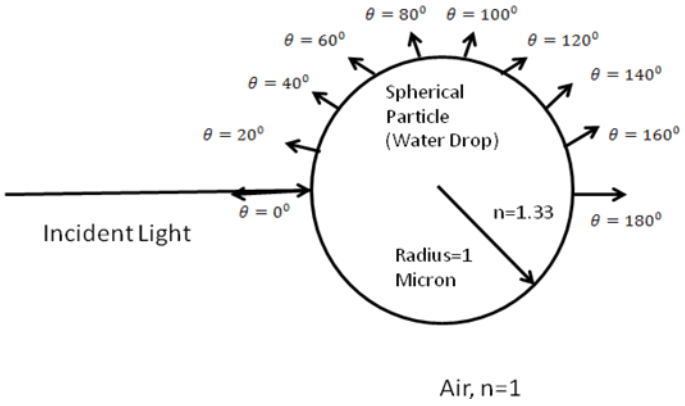


Figure 2: Light scattering angles (0^0 to180^0) of water drop in air medium

Here, in figure 3 and 4, the incident light is scattered on a water drop and the light is scattered in different angles between 0^0 to 180^0

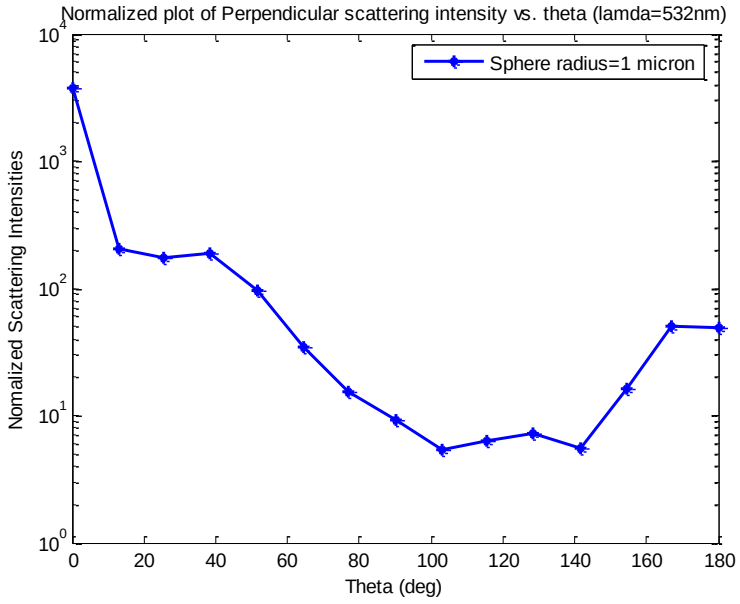


Figure 3: Perpendicular scattering intensity in different angle of a water drop in air medium

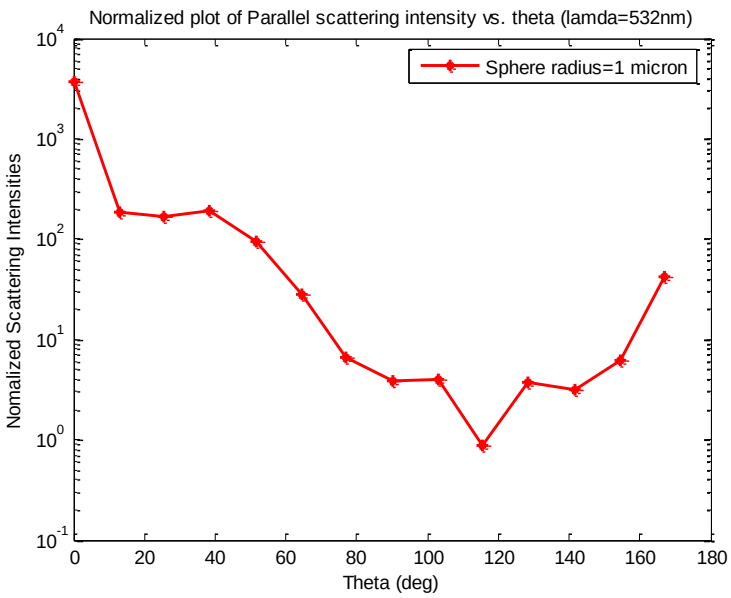


Figure 4: Parallel scattering intensity in different angle of a water drop in air medium

Here, a simple water drop (n=1.33) is taken whose radius= 1 micron. The incident light has a wavelength of λ= 532 nm. The perpendicular and parallel scattering intensity between 0^0 to 180^0 are plotted. It is found that, the maximum intensity is in 0^0 and it rapidly goes down as the angle increases. After 140^0 intensity trend again starts rising.

Comparisons between the experimental results and the theoretical predictions

Simulation and comparing of the perpendicular scattering intensity vs. angle and parallel scattering intensity vs. angle using standard Mie code with Paper 1

In paper 1, measurements of light scattering intensity from uniform particles of .796 μm diameter polystyrene aerosol latex are used. These polystyrene aerosols were prepared by nebulizing a solution of the stock sample diluted 100 to 1 with distilled deionized water. The measurements are for the average intensity scattered by the main population of particles and do not include effects of the small number of particles and do not include effects of multiple particle that coagulate after drying. That means, it is considered in air medium. Here, the size factor α is 5.01. The wavelength of the incident light λ is 514 nm and the complex refractive index of the

particle is 1.592-0i. In both figure 5(a) and 5(b), the red curve shows the experimental results from paper1 and black curve shows the theoretical simulations.

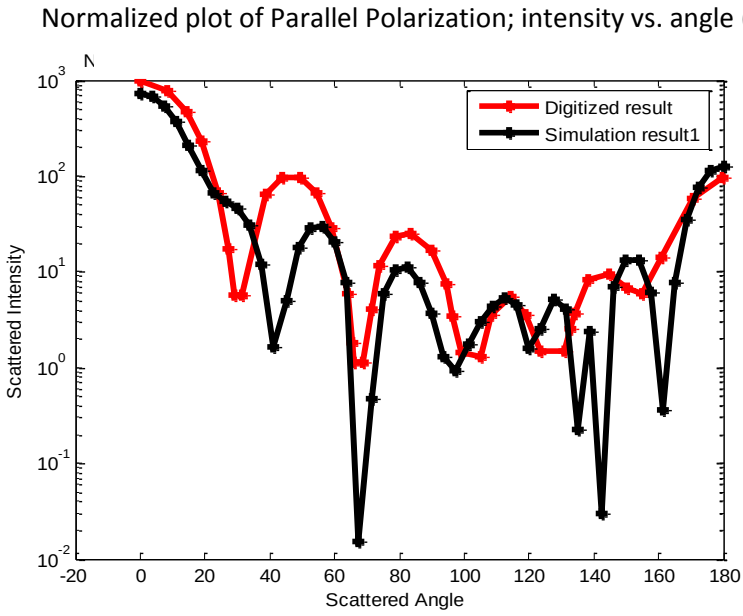


Figure 5(a): Scattering measurement comparison of Paper 1 and BHMIE code for polystyrene latex (Parallel)

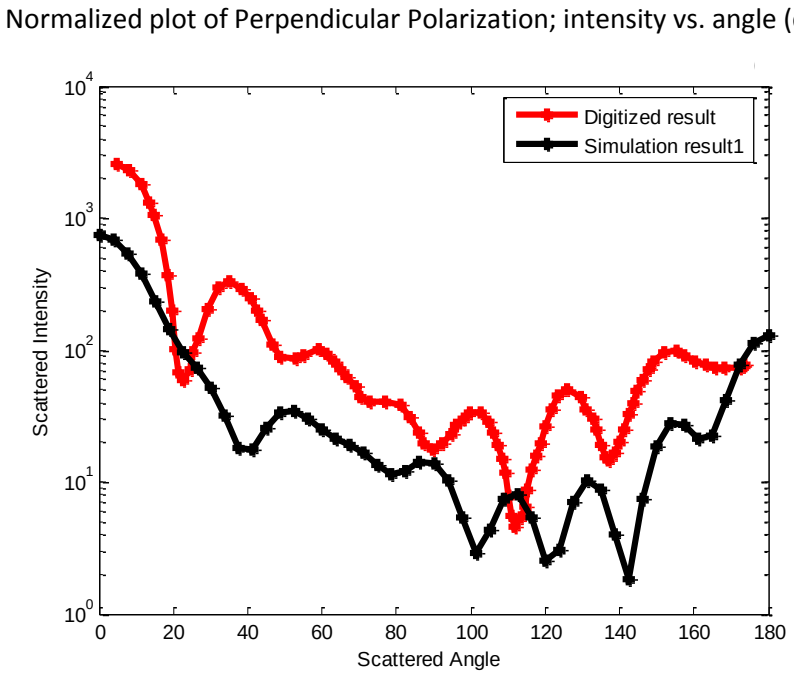
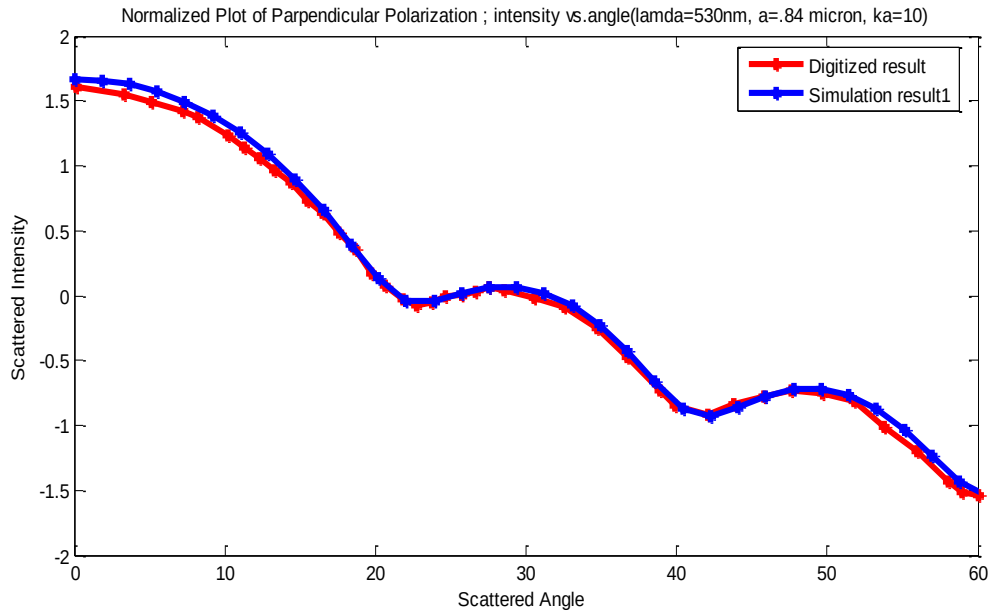


Figure 5(b): Scattering measurement comparison of Paper 1 and BHMIE code for polystyrene latex (Perpendicular)

In both figure 5(a) and 5(b) the simulated result is little bit shifted though the intensity trend is almost same which is maximum at0^0 and then starts getting down. Up to 60^0 both of the experimental and simulated results are showing the almost same trend of intensity. After around 120^0 to $140^0$the intensity again starts rising. The differences between the experimental and theoretical curves are basically for phase shift. The theoretical results that were found from BHMIE code are for the standard situation. Whereas, the experimental results could be affected by external influences like temperature. Also the normalization process of the results can affect the results.

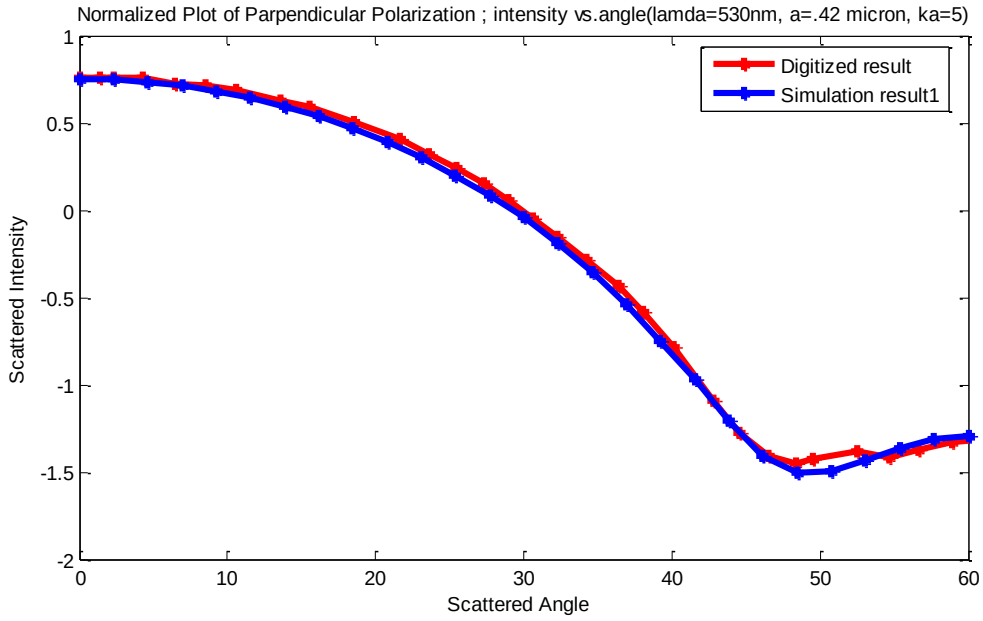
Simulation and comparing of the perpendicular scattering intensity vs. angle using standard Mie code with Paper 2

In paper 2, to find out the scattering intensity uniform particles of polystyrene latex suspended in water are used. The refractive index of polystyrene is 1.6 and the surrounding medium is water whose refractive index is 1.33.So,the relative refractive index is 1.6/1.33 = 1.2. The wavelength of the incident light is 530 nm and the radius of the sphere is .84 micron. In figure 6(a) to 6(c), the red curves show the experimental results form Paper 2 and the blue curves show the theoretical results form BHMIE code.



α=10

Figure 6(a): Scattering measurement comparison of Paper 2 and BHMIE code for polystyrene latex suspended in water for α =10



α=5

Figure 6(b): Scattering measurement comparison of Paper 2 and BHMIE code for polystyrene latex suspended in water for α =5

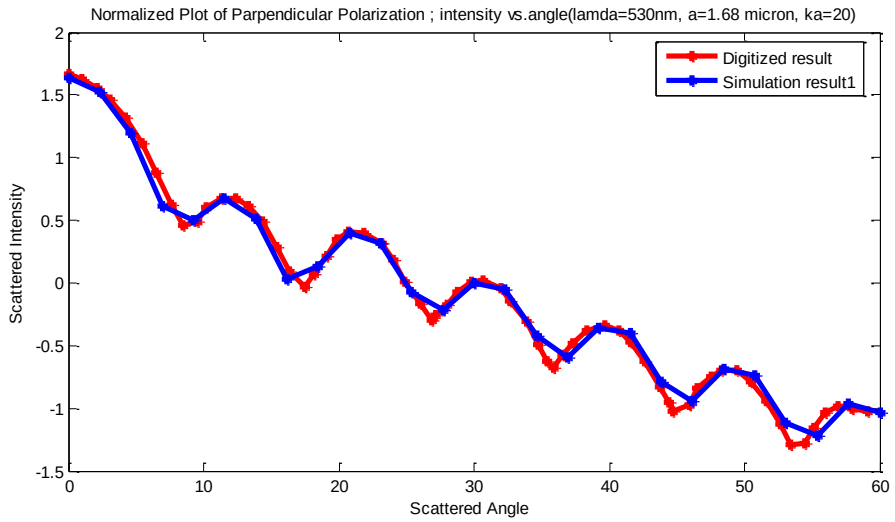


Figure 6(c): Scattering measurement comparison of Paper 2 and BHMIE code for polystyrene latex suspended in water for α =20

From figures 6(a) to 6(c) for size factors 10, 5 and 20 the scattering intensity were simulated respectively. The scattering angles are 0^0 to 60^0 . In comparison, it is found that in both cases (theoretical and experimental), the intensity trend is almost same. It is maximum when the scattering angle is0^0. As the angle increases, the intensity starts decreasing. For α=10, intensity starts decreasing up to20^0. After20^0, it again starts rising and at30^0, it again starts decreasing. At the same way, at 40^0 it starts rising and again at50^0, it starts falling. If we look at figure 6(c), where α=20, the intensity increasing and decreasing trend just gets double. It means that, in every 5^0 , intensity starts increasing or decreasing. In figure 6 (b), where α=5, this trend is slightly different. Intensity falls down up to 40^0 and then starts rising again.

Conclusion

In this paper, the scattering intensities in different angles for particles of different sizes and lights of different wavelength have been simulated by the famous BHMIE code. The simulated results are also compared with the published experimental results. It is found that, for solving most of the light scattering problems, Mie theory is excellent. Because, this mechanism describes most of the factors of light scattering such as particle size, refractive index of both particle and medium and wavelength of light. But, there are some limitations such as for inhomogeneous particle like biological cell, Mie theory cannot be applied. To overcome these limitations, FDTD (Finite-

Difference Time-Domain)[12] method must be used where accurate numerical solutions for light scattering can be obtained.

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Harold Pinter's *Birthday Party*: Relevance to Present-Day Life Situations*

Dr. Md. Abu Jafor*

Abstract: *The Birthday Party* is one of Harold Pinter's best-known and most frequently performed plays. The setting of the play is the living room of a seaside boarding house. The play's protagonist is Stanley, a man in his late thirties, who is an exotic boarder there. He is fed and taken care of by Meg or Mrs Boles, the wife of Petey who is the owner of the boarding house. The play shows how Stanley's apparently peaceful and secured life is disturbed with the arrival of two men Goldberg and McCann who tortured him and took him away from the house very strangely almost unknown to Meg. This event primarily connotes the fact that modern men are constantly facing doom or menace even in the places which are supposed to be safe and secured. Other events and situations in the play can be interpreted in many different shades and angles. In fact, a close reading of *The Birthday Party* opens many avenues of meanings and interpretations that are related to the present-day life situations, and the present paper has been attempted to explore this.

Key words: menace, existential crisis, gender, violence

It might be tedious to read or watch Harold Pinter's *Birthday Party*, and after reading or watching it, one might feel that s/he has not got anything important from the play. In fact such was the case in its initial history of publication and production. The play was first published in 1957 and the next year it was produced by Michael Codron and David Hall. Its premiere on 19th April, 1958 at the Arts Theatre, in Cambridge, in England was well-appreciated, but only a few days later when the production moved to Lyric Hammersmith for its London debut, it met a devastating critical failure.[1] Again, interestingly, within a week's time the play was rescued from its devastating reviews. It was Harold Hobson who in his reviews single-handedly rescued the play from oblivion by confronting it on its own mysterious terms as a tale of terror in everyday life. Harold Hobson wrote "I am willing to risk whatever reputation I have as judge of plays by saying ... that Mr. Pinter, on the evidence of this work, possesses the most original, disturbing and arresting talent in theatrical London"[2] Today *The Birthday Party* has achieved almost a classic standard in the realm of English plays. It was Pinter's great mastery and distinctiveness that in this play Pinter created an atmosphere of everyday horror or menace in a domestic situation. The background perhaps was Pinter's own traumatic experience in the Second World War. Pinter, however, was unwilling to make any comment about the nature of his play. In his speech delivered at the National Student Drama Festival in Bristol in 1962 Pinter said: "... there are twenty-four possible aspects of any single statement, depending on where you're standing at the time or on what the weather's like.'[3] In this play Pinter uses the dialogues, pauses and other theatrical devices in a way that the events and situations of the play can be interpreted variously by various readers/critics, that is to say that, there is no fixed point to interpret the play. Pinter himself says: "A play is not an essay, nor should a playwright under any exhortation damage the consistency of his characters by injecting a remedy or apology for their actions into the last

* Dr. Md. Abu Zafor. Professor and Chairman, Department of English, Jagannath University, Dhaka. Correspondence: zafor1bd@yahoomail.com.

act..."[4] The paper, therefore, attempts to explore some avenues to showcase that *The Birthday Party* is the reflection of a man's life in the twenty-first century.

One of the most striking focus of *The Birthday Party* is the crisis that occurs with the arrival of two men in the boarding house where the play's protagonist Stanley was leading comparatively a secured life in a domestic atmosphere. The two men Goldberg and McCann came with a purpose and they are supposed to work as agents of an organization. They tortured Stanley (whom they call Webber) physically and mentally. Their cross-examinations are like bullets. Goldberg repeatedly asks him about an external force:

GOLDBERG: Do you recognize an external force?
STANLEY: What?
GOLDBERG: Do you recognize an external force?
MCCANN: That is the question!
GOLDBERG: Do you recognize an external force, responsible for you, suffering for you?
STANLEY: It's late.
GOLDBERG: Late! Late enough! When did you last pray?
MCCANN: He's sweating![5]

Now the phrase 'external force' is central to the play's overall setting. Here Goldberg and McCann represent the external force. They spoil the domestic atmosphere of the boarding house and finally took Stanley away. They also brainwashed Stanley and changed his individuality. Leaving his former habit Stanley gets dressed like Goldberg and McCann and goes with them. Petey fails to resist them from Stanley's being taken away. Having been failed to resist the act, Petey advised Stanley, 'Don't let them tell you what to do.'[6] Petey wanted that Stanley should not be blind to lose his identity. Now the play's situations can easily be relevant to the lives of people in the twenty first century. In this age of globalization science and technology is providing more and more facilities and comforts for man, but man's overall security is more at stake than before. Some external force is active and is always intruding our safe house and spoiling the state of happiness. In the past, warfare was confined to the soldiers or warriors. But the two world wars, the event of nine eleven leading to the rise of global terrorism and militancy etc have made man's life more insecure and terrified. In *The Birthday Party* the terror strikes Stanley not outside home or when he is at any vulnerable circumstances. It occurs inside the very cozy room of the boarding house. In this regard we can remember the tragic event that occurred at Gulshan, Dhaka on July 1, 2016. It was a pleasant evening and some people were eating, gossiping and laughing sitting inside the restaurant, Holy Artisan Bakery. Nobody could imagine that the next moment they are going to face the terror. The Islamic militants intruded there, terrorized them through cross-examinations and killed twenty of them. Like Goldberg and McCann they were supposed to be the agents of an organization and they came with a mission of satisfying the organization's purpose. Some days later almost similar incidents happened in Paris, France. On the evening of 14 July 2016, people were celebrating Bastille Day on the Promenade des Anglais in Nice, France. All on a sudden a Muslim militant deliberately drove a 19 ton cargo truck into the crowds and 84 people were killed. He also was an agent with a killing

mission. In both the situations the tragic things happened at a state when people were feeling mostly secured and festive.

Because of the development in internet technology and mobile phones today people's lives are largely shaped by connections. But amidst connections, mistrust and disconnections loom large. Virtual social media like face book and emails have connected people globally, but real heart-to-heart connection and friendship is rare. In *The Birthday Party* we find six characters- four males and two females. Proper connections and trust are lacking among them. Petey and Meg are husband and wife, both advanced in age. But they seem to lack mutual trust and understanding. Petey, who appears to be a gentleman in his manner and speech, perhaps dislikes his wife's silly and talkative nature. Or perhaps Meg does not find Petey a husband after her liking. So she turns her attention to Stanley who is an exotic boarder in their seaside boarding house. But her relationship with Stanley is again imbalanced. She seems to be treating him sometimes as a son and sometimes as a lover, and this can be guessed from her manner of speech and gestures. When Stanley calls her 'succulent' she is outraged at its connotations. But moments later she entices Stanley saying "Am I really succulent?" and again "Oh, Stan, that's a lovely room. I've had some lovely afternoons in that room."[7] Then she tickles him perhaps like a mother or like a sexual partner. Stanley obviously does not find a mental compatibility with Meg. In his birthday party he turns violent and attempted to strangle Meg. His treatment towards Meg shifts from quietude to wild. Again Lulu, the neighbour girl, has failed to establish any good relation with Stanley or Goldberg, both of whom treat her as a sex object. When the birthday party was going on she was tempted by Goldberg's oily words. She sat on his lap, and Goldberg used the opportunity. When the electricity goes off, it is likely that Stanley attempts to rape her. At the end of the party she realized that she became an object of the lust of Goldberg and Stanley. Thus no love relation or mental connection works between Lulu and others. Again the two men Goldberg and McCann who work as an agent are not always in good terms. They argue and even engaged at hitting each other. So trust and true friendship is lacking in *The Birthday Party* as we notice in present-day life situations. One may be connected with thousands of virtual friends, but how many are to be the real friends whom one can trust. One may have communications with thousands of people across the world but genuine trust and friendship is rare.

Gender Issues like being born as a man or a woman matters much in almost every society across the globe, and Pinter's *Birthday Party* obviously provides a hint of this discrimination. In the male dominated society, some discriminatory rules/criteria are set for the women to follow, In her seminal book *The Second Sex* Simone De Beavoir calls women as second sex and pathetically comments that "One is not born, but rather becomes, a woman"[8]. Pinter's *Birthday Party* obviously displays some male chauvinistic attitude. The two women characters Meg and Lulu are not treated honourably and justly by the other male characters. They even are not conscious of their rights in the society they live. In a male dominated society the women are considered the objects of sex and they are to be sexually attractive. Dress and ornaments are more important to them than other things. In the play Meg repeatedly wants to know from the male counterparts whether they like her dress or not. A woman like Meg wants to project herself as a fairy queen and acts as a looking glass. Goldberg and McCann make use of her naiveté and innocuousness:

GOLDBERG: Don't be shy. (He slaps her bottom.)
MEG: Oooh!
GOLDBERG: Walk up the boulevard. Let's have a look at you. What a carriage. What's your opinion, McCann? Like a countess, nothing less. Madam, now turn about and promenade to the kitchen. What a deportment![9]

Not only Goldberg and McCann, but her husband Petey also does not give her much importance. She, however, is less aware of her position as well as the things what is happening around her. Although she has a traumatic experience in the birthday party she tells her husband that the party was enjoyable and she looked most attractive:
MEG: I was the belle of the ball.
PETEY: Were you?
MEG: Oh yes. They all said I was.
PETEY: I bet you were, too.
MEG: Oh, it's true. I was.
Pause
I know I was.[10]

It is not only Meg who is a victim at the hands of the male chauvinists, but Lulu, Meg's neighbour, also suffers a lot. Goldberg flirts with Lulu only to exploit her both mentally and physically:

GOLDBERG: Lulu, you're a big bouncy girl. Come and sit on my lap.
…
GOLDBERG: You know, there's a lot in your eyes.[11]

Goldberg plays with the emotion of Lulu. He throws dust in her eyes through her flamboyant speech and marvelous use of rhetoric. During the fatal night, Goldberg came into Lulu's room with a briefcase, thereby making sexual ravishment. Yet, in spite of physically exploiting Lulu, Goldberg puts the blame on Lulu:

GOLDBERG: Who opened the briefcase, me or you?
Lulu, schmulu, let bygones be bygones, do me a turn.
Kiss and make up.[12]

But Lulu vehemently proclaims that she would not touch him. She complains that she has been used, misused and abused by Goldberg:

Lulu: (with growing anger). You used me for a night. A passing fancy.
…
Lulu: You made use of me by cunning when my defenses were down.

During the birthday party she (Lulu) is completely taken in by Goldenberg's grotesque eloquence and offers herself to 'the older man' quite willingly.

McCann, Goldberg's blood-hound, also treats Lulu as a prostitute by saying "Your sort, you spend too much time in bed" and "Kneel down, woman, and tell me the latest!"[13]. Lulu's innocence was negatively treated by McCann who also does not hesitate to call her a witch. Simon O. Lesser points out in "Reflections on Pinter's *The Birthday Party*": "Lulu is sex, she has been around. She is clearly there to satisfy sexual needs and to have her own needs satisfied. It might seem that she could be placed with the exploiters as well as with the exploited, and during the birthday party which climaxes the play she pairs off with Goldberg."[14]

Thus in the play the women characters – Meg and Lulu are living on the verge and are subservient to men. They are objects to satisfy the lust of males. Women are treated as flesh, as womb and as sex objects. If Meg considers herself an angel in the house, Lulu is also no better than a puppet. Thus *The Birthday Party* exhibits the aspect of modern life where sexual perversion is rampant.

According to some critics *The Birthday Party* is not a tragedy; rather it is a comedy of some kind which is known as a comedy of menace. *The Birthday Party* exhibits an atmosphere of fun, chaos and confusion. We find many comic situations which are followed by terror and menace. This reveals the fact that fun, chaos and confusion are part of modern life. The very opening of the play produces humourous effect. Meg's repetition of words and her craving to get appreciation that her prepared food is nice amuse the audiences:

MEG: Is that you, Petey?
Pause
PETEY- is that you?
pause
PETEY?
PETEY: What?
MEG- Is that you?
PETEY- Yes, it's me.
MEG: What? Are you back?
PETEY: Yes.
MEG: I,ve got your cornflakes ready... Here it is... Are they nice?
PETEY: Very nice.
MEG: I thought they'd be nice.[15]

Again, the way Meg calls out Stanley first by counting numbers and then by going to his bed and pushing him provides laughter. Stanley's verbal attack to Meg such as 'you are a bad wife... ' etc has also amusing effects. Amidst such humorous situations terror strike. Stanley is upset as soon as Meg tells him that two guests are coming to their boarding house. Stanley does not want that anybody should come there. He feels uncomfortable and a little later imagines the impending danger:

STANLEY: They're coming today.
MEG: Who?
STANLEY: They're coming in a van.
MEG: They'll carry wheel a wheel barrow in a van.

STANLEY: They're looking for someone.
MEG: No they're not.[16]

The characters in *The Birthday Party* are shrouded with mystery, and it is very difficult to identify their true nature and motive. Even one character does not know much about the true nature and motive of the other. Meg feels that Goldberg and McCann very nice. She cannot imagine that the guests are coming with the purpose of creating terror especially in the life of Stanley. Not much is known about all other characters. All seem to be disintegrated in their speech and manner. Even the protagonist's past is not clear to the audiences. His claim as a world famous pianist seems to be his fantasy. Not much is known about the two guests Goldberg and McCann. It is difficult to believe Goldberg's accounts of his wife and home. To her great surprise Lulu realized that she was cheated by Goldberg. Lulu's character is also much shrouded. She was accused to be a prostitute by McCann, but this cannot be considered a fact. All these aspects of the play, however, reveal the fact that in modern society it is difficult to identify the true nature and motive of a man, and a modern man's personality is much disintegrated.

Amidst some fun and humour the characters in the play are engaged in clash. There occurs a chaos and confusion when Stanley's birthday party is being celebrated. In the beginning there is a lot of fun, but soon the fun turns to violence. While playing the game 'blind man's buff' Stanley suddenly turns wild and attempts to strangle Meg. A total confusion prevails when electricity goes off. This atmosphere of the play showcases the fact that we are living in a world full of chaos and confusion. Again, menace has become an essential part of a modern man's life. We can in no way deny that today a man's life in the city is much more stressful. A man in the city is always faced with a menacing experience in his working place, in shopping, in the road and even in the household. The very cell phone which has become constant companion of a man today causes menace. We are swayed by its call, its good or bad news etc. Sometimes we really are very irritated to receive its call. When Harold Pinter wrote *The Birthday Party* there was no such device like cell phone. So the fact of menace is more strongly feltin our day today life.

Most characters in *The Birthday Party* suffer from existential crisis or angst which is also a problem in modern life. This crisis usually comes at times when a man thinks of his death and tries to find a meaning of his life. Modern people usually lead their lives being oblivious to death. They are at rat race in their materialistic gain. But when they think of their ultimate gain, they are struck with pain. The philosophical idea existentialism has been developed by some philosophers namely Soren Kierkegaard (1813–55)**,** Friedrich Nietzsche (1844–1900), Edmund Gustav Husserl (1859–1938), Martin Heidegger (1889–1976) and Jean-Paul-Sartre (1905-80). But Satre popularized the idea, and became the best known writer and spokesman of the existential philosophy.[17] Obviously, existentialism is a branch of philosophy based on the concept of an absurd universe where humans have free will, and that humans are responsible for and the sole judge of their actions as they affect others with their actions. In other words, humans are free to define themselves through their actions and choices. Existential awareness helps an individual to find a meaning of his life through his personal choice that is not determined earlier. This freedom of choice and responsibility produce anxiety or anguish from which one cannot save oneself. Existentialism proposes that there is no God or divine Power to control human

affairs or even if there is any such Power, it has no role to play. This kind of philosophy flourished in the chaotic atmosphere of the Second World War and continues to be influential afterwards. Therefore, an existentialist is usually aware of the situations of a world which is not controlled by any benevolent Power. In *The Birthday Party* we find an atmosphere of angst from which almost all characters suffer. Void or empty feelings paralyze them more or less though Stanley's anguish is the deepest. Obviously, a man's life today is much more hollow and empty and, at times, one cannot but experience existential angst.

However, Pinter's purpose in the play is not to preach. His purpose was to show the real situations of the world. Here strange things are always happening baffling us to realize the fact that 'facts are stranger than fiction.' Again, when an incident occurs different newspapers provide the news in many different ways. People interpret the same incident variously. In *The Birthday Party* Harold Pinter tries to preserve this ambiguity of real life situations. The plot and the characters of *The Birthday Party* are not well-developed. The audiences can not reach any conclusion regarding any event/situation or about any character. For example, the audiences are not sure about Stanley's past life as a pianist nor are they sure of the authenticity of charges brought by Goldberg and McCann while they cross examine him. Ambiguity prevails whether Stanley really committed crime in the past, and so he should be rightly punished. Even ambiguity prevails about the future of Stanley whether he will be killed, or will be used by the organization to serve its purpose as because he was brainwashed by Goldberg and McCann. In today's life situations we often face such ambiguity about the events taking place all around us and people are of different opinions regarding the same issue. In the play apart from the protagonist, other characters are also not categorized after some level because of their ambiguous past.

In *The Birthday Party* Harold Pinter also uses some technical devices to show real life situations. We usually use language to communicate but language is not always a sufficient tool to communicate and establish a contact. Also in day-today life we use language that is boring and do not fulfill our need. In order to highlight this aspect Pinter uses tedious repetitions, incorrect syntaxes, contradictions and many pauses here and there in the text. Also he wants to reveal that people in today's world pretend more in using language. They tend to hide their real motives by using language. Pinter also shows that sometimes we fail to express through words.

To wind up, Harold Pinter's *Birthday Party* can be called a dramatic representation of a man's life in the twenty-first century. The events, situations, technical aspects etc of the play have been interpreted to relate to contemporary events and situations. It has been shown that laughter, mechanical sex act, gender discrimination, violence, menace, intrusion of external force, disintegration of human personality, lack of trust or friendship, absence of genuine love or passion, ambiguity of an event or situation, existential angst, decentralization of things etc are dominating parts in present-day life situations. As stated earlier, Pinter has not given a solution to the problems, but an awareness of situations obviously can help one to live better.

[1] https://www.theguardian.com/books/2008/may/03/theatre.stage
[2] Quoted in Michael Billington, "Fighting task" (on 50th anniversary of the opening of *The Birthday Party* at the Lyric Hammersmith), The Guardian, 3 May 2008.
[3] Pinter, Harold, "The Birthday Party" (1959) in *Complete Works: Vol. One* . New York: Grove Press, 1976. p. 9
[4] Pinter, *Complete Works*, p.12
[5] Pinter, *Complete Works*, p.60
[6] Pinter, *Complete Works*, p.96
[7] Pinter, *Complete Works*, p.29
[8] De Beauvoir, Simone (1949). *The Second Sex*, qtd. in Selden, Raman, et al. *A Reader's Guide to Contemporary Literary Theory*. 5th ed. New Delhi: Pearson, 2007. p. 130.
[9] Pinter, *Complete Works*, p.64
[10] Pinter, *Complete Works*, p.97
[11] Pinter, *Complete Works*, p.68
[12] Pinter, *Complete Works*, p.90
[13] Pinter, *Complete Works*, p.90
[14] Lesser, Simon O. (1977), in "Reflections on Pinter's *The Birthday Party*", Ed. Robert Sprich and Richard W. Noland, *The Whispered Meanings.* Amherst: The University of Massachusetts. p.38.
[15] Pinter, *Complete Works*, p.19
[16] Pinter, *Complete Works*, p.34
[17] Jean-Paul Satre is a Frence philosopher, novelist, play-wright, and journalist. His best known philosophical work is *Being and Nothingness* (1943). In 1964 Satre won the Nobel Prize but refuses to accept the Prize.

Making of a Leader: *The Aeneid* and the Fulfillment of Virgil's Poetic Purpose

Munira Mutmainna*

Abstract: Virgil's *The Aeneid* is a tale of a leader in the making. It is the national epic poem of the Roman Empire that was written mainly with the purpose of re-instilling Roman virtues into the Romans. These virtues were embodied in Aeneas who marked the initiation of Roman civilization post-Trojan War. One of the major themes of this epic was to record the inception of Rome and mark Aeneas' journey from a soldier, a hero to a true leader of the nation. This paper explores how such transformation of Aeneas not only marked the beginning of a glorious civilization but also fulfilled Virgil's poetic purpose.

Key words: Epic, Virgil, Aeneid, Aeneas, poetic purpose, Roman Empire.

Introduction

"A man apart, devoted to his mission—

To undergo so many perilous days

And enter so many trials…For years

They wandered as their destiny drove them on

From one sea to the next: so hard and huge

A task that was to found the Roman people."[1]

Virgil lived in a time when Rome was a facing a phase of severe disintegration. Political turmoil, civil unrest, social disorder- all these had become a familiar phenomenon. Virgil composed *The Aeneid* in order to describe the foundation and history of Rome. He believed that the nation's fate was shaped and controlled by the gods themselves and only Rome could unite the world and bring universal peace and harmony. But great responsibilities come with greater price and Rome had to go through centuries of war in order to bring peace. According to Virgil this constant battle to bring about peace resulted in Rome losing the virtues which made the nation great. One of the reasons for composing this epic was to remind Rome of its former glory, starting from Aeneas' journey after the Trojan War. In this epic, Virgil shows how Aeneas' sense of responsibility, though painful as an individual at times, make up for whatever limitation he has, while fulfilling his poetic purpose for composing *The Aeneid*.

* Munira Mutmainna, Lecturer, Department of English, Dhaka International University, Dhaka, Bangladesh
Correspondence to: *mutmainna.munira@gmail.com*

`The Rough Road to Regeneration

"I am Aeneas, duty-bound, and known

Above high air of heaven by my fame,

Carrying with me in my ships our gods

Of hearth and home, saved from the enemy.

I look for Italy to be my fatherland,

And my descent is from all-highest Jove."[1]

Virgil's *The Aeneid* focuses mainly on the journey and the events of Aeneas' life after the Trojan War. According to the prophecy, Aeneas would lead his people and move to a promised land where he would establish a mighty nation. He would be the founder of Rome. Now to fulfill this he has to encounter certain incidents, accidents and prepare himself through a journey full of hardships and perils. This journey has both surface level and underlying significance for Aeneas.

When Aeneas begins his journey, he is seen leading the people for the quest to find a land. Even though it is Aeneas here who leads the people, his humanly characteristics seem more prominent at this stage. He knows his goal, his responsibility but in most of the cases, whenever he and his fleet face a difficulty he seems to give up. There lies a suicidal tendency within him that is found at the beginning when he cries out and wishes to change everything back to their former state. His sense of responsibility in such adverse situations seems to get affected very badly.

However, this does not always hinder him from fulfilling his responsibilities. When he is leaving with his wife, son and his father to start his journey, his wife dies. Instead of grieving over her death, he overlooks his pain and moves on. He goes ahead carrying his father and holding his son. This not only shows how responsible he is but also his potentials to become a great leader in the future. The same way he would uphold his ancestral tradition and beliefs and show his successors the path to a prosperous future, a prosperous Rome.

"When faintness of dread left me,

I brought before the leaders of the people,

My father first, these portents of the gods

And asked their judgment."[1]

The Call of Duty

When Aeneas arrives at Carthage along with his fleet, he is welcomed by Dido, the ruler of the land. In a series of events, Dido falls for Aeneas and they have an affair. Now Venus, Aeneas' mother dislikes this relationship as it can hamper Aeneas' fulfillment of the prophecy. When Aeneas is reminded of his responsibilities and he wishes to continue his journey further, Dido requests him for not leaving her. Seeing Dido this way and leaving her in such a state is not easy for Aeneas as well but eventually he does so. There have been many arguments since the publication of the epic on this issue whether Dido is a more powerful a character than Aeneas. Dido has all the qualities needed for a leader whereas Aeneas at this point is only a leader-to-be. Dido manages herself and Carthage very efficiently. On the contrary, Aeneas faces hurdles often while performing his duties. But even then, Aeneas can be said to be more capable compared to Dido in respect to her sense of responsibility. When Dido falls for Aeneas, she starts forgetting her duties, responsibilities as a leader. As many have suggested, she becomes irrational after falling madly in love with Aeneas. Irrationality is something that can turn a prosperous leader to ashes. Literally, Dido turns to 'ashes', after committing suicide by burning herself while Aeneas acts rationally and goes ahead with his duties. This issue can be well argued from feminist point of view. But technically, this is what a leader has to do. A true leader should think about his people at first before anything else, even before his own desires. His utmost duty is to choose the path that he is destined to be on and that is better for his people, even if it saddens him.

"Duty-bound,

Aeneas, though he struggled with desire

To calm and comfort her in all her pain,

To speak to her and turn her mind from grief,

And though he sighed his heart out, shaken still

With love of her, yet took the course heaven gave him

And went back to the fleet."[1]

Later throughout the rest of the journey Aeneas remains quite the same until he visits the Underworld. This one visit can be said to be a phase of Aeneas' life where he is reborn. There

he meets Dido's spirit for which he feels sorry and he also meets his dead wife. But he ever gets too emotional to forget his duties. Throughout the whole journey he turns from a leader-to-be to a leader, a martial as well as a political leader and a hero.

Virgil's Poetic Purpose

Virgil wrote this epic for a specific purpose. At the battle of Actium that took place in 31 BCE, Octavius Caesar defeated Marcus Antonius and became an unrivalled source of power in that territory. He took the title 'Augustus' and became the first Roman emperor. It was he who commissioned Virgil to write the epic in order to glorify Rome and the Romans. When Virgil wrote the epic the nation was facing serious turmoil. Both Augustus and Virgil realized that the "nation's wounds of civil strife and moral degeneration could not be healed, that lasting peace could never come, until the nation's heart had been touched by a new patriotism, that is turned back to their old patriotism, through an awakened memory of their glorious past, through a renewed assurance of a more glorious future.[2] Virgil composing this epic is like his tribute to Augustus. *The Aeneid* is like an "answer to the cry of a world exhausted by decades of bloody warfare, a world which…longed for nothing so much as for peace.[3] *The Aeneid* makes references to the emperor of Rome on several occasions. In book six on *The Aeneid,* Aeneas' father Anchises reveals to his son the future heroes of the Roman Empire culminating in Augustus:

"This is the man, this is he, so often promised you,

Augustus Caesar, of race divine, who shall

Establish again in Latium the golden race

In the fields where Saturn reigned. He shall extend

His empire beyond the Africans and the Indians

To a land beyond the zodiac and the paths of the solar year

Where on his shoulders heaven-bearing Atlas

Revolves the world's axis studded with blazing stars…

Not even Hercules travelled so far.[1]

Virgil composed the epic very skillfully so that "the Romans meditate on the duties, problems, dangers, and possibilities of a new national identity."[4] Virgil states that since the fall of Troy, the gods themselves had planned that one day Augustus would rule Rome, bring

peace and order to the Roman world and restore their traditional values and glory. Seen from that point of view, the fall of Troy could actually be justified as Fate planning to bring together the survivors to start the Roman race.

Virgil wanted to show Rome as a glorious and mighty nation. He also wanted to uphold Augustus and his qualities as a born ruler. Like Hamilton (1932) said:

"The real subject of the *Aeneid* is not Aeneas... it is Rome and the glories of her empire, seen as the romanticist sees the great past. The first title given it was The Deeds of the Roman People. Aeneas is important because he carries Rome's destiny; he is to be her founder by the high decrees of fate.[5]

In twenty-seven BC King Octavian received the title of 'Augustus' and established peace throughout the Roman world. This peace of course, was not one without some local interruptions and campaigns in Europe and the East. But for the Romans this was actually peace. Eventually the belief that he was a 'promised savior' of his people became rooted in the society. According to the poet Horace "Augustus will be accepted as god made manifest.[6] Now the role of a savior is not only to rid the world of evil, but also to build some positive and lasting good. Aeneas builds Rome and Augustus establishes its peace. This is the real theme of *The Aeneid*; the founding of Rome by Aeneid and its subsequent rise to its greatest glory under the ruler Augustus. Thus Aeneas can be seen as an adumbration of Augustus himself.

To uphold Rome and exhibit its glory, Virgil had to show Rome having a glorious past and Augustus having a glorious ancestry. In many ways, he tried to attribute Aeneas' qualities to Augustus. In book IV of the epic, Aeneas is compared to *quercus* and *robur* meaning a strong oak tree weathering a storm. Oak tree here symbolizes Roman virtue. Additionally, Virgil sketched Aeneas with human qualities. He exhibited heroic virtues and yet appeared as a flawed mortal at times. Agreeing to what Hahn said, Aeneas is portrayed as human enough to be tempted but "we must be thankful that he does not fall.[7] Virgil showed Aeneas' transformation from an indecisive, lost, constantly self-doubting victim of circumstance to a leader who takes control of things and is able to lay the foundation of an empire like Rome. Aeneas as a leader starts growing along with the growth in his responsibilities and he "comes in the end to accept freely the terrible burden placed on him by destiny; and who at last shakes off the Trojan past to face the Roman future.[8] Aeneas' *gravitas* and *dignitas*, his

public and private integrity, suffer severe setbacks, but his *virtus* and *pietas* allow him to align himself with the gods and fulfill his destiny.[9]

According to Bloom (2002), "The emperor Augustus needed the poem because it gave his era an idea of order and greatness, an achieved foundation of authority; Aeneas always looked towards the future, to the rise of a new Troy in Rome, which will end exile and inaugurate justice.[10] As a human being, both Augustus and Aeneas had flaws and but Virgil showed these flaws through his epic in such a way that does not disturb the readers. Like mentioned earlier, Virgil composed the epic with an objective in his mind. In his epic, Rome itself appears as the focal point of the epic. According to Morwood (1998), "Augustus the builder is one of the great heroes of the Aeneid. It is in him that the themes of city and builder become one.[11] Virgil used his poetic talent to show elements that make up for their flaws, thus making it a wonderful epic.

Conclusion

Virgil's *The Aeneid* is one of the most analyzed and widely interpreted world epics of all time. It is similar to others in many ways, but Virgil's treatment of the themes gives the epic a whole new meaning. *The Aeneid* is more of a patriotic poem where countries are emphasized more than individuals or heroes. Through Aeneas' character and extraordinary wordplay, Virgil outlines the virtues of an ideal Roman leader. In this epic, Aeneas is more than a mere individual, an uncertain exile; he is the driving force, the Atlas of the Roman Empire. This epic, in a sense, is a chronicle of the Roman Empire, an ideal that Virgil himself aspired for. It is a literary epic and like any other literary epic, the poet had a pedagogical purpose for composing this one. Virgil, through Aeneas, draws a picture of Rome as a glorious empire, reign of Augustus and his characteristics as a true leader of Rome, thus fulfilling his poetic purpose.

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Literature in ELT: Integrating Literature into Language Teaching and Learning

Aminul Islam*

Abstract: This article chiefly illustrates the use of literature as an assisting one for both the language skills (i.e. listening, speaking, reading and writing) and the areas concerning language (i.e. grammar, vocabulary and pronunciation) in English Language Teaching (ELT). Here, the paper scrutinizes how studying of literary genres (i.e. i.e. poetry, fiction, non-fiction, drama and novel) sharpens language learners in forming their critical and analytical thinking; learners' ability to work more effectively as an independent individual grows higher to a standard height. Literature in an ELT classroom adds ample opportunities for learners to comment, evaluate and justify themselves.

Key Words: Literature, ELT, Language Skills, Language Areas, Cultural Enrichment, ESL or EFL Classroom, Artistry

Introduction

Over the years, the use of literature as a key element for teaching and learning and also as a source of reliable text of the language curricula rather than an ultimate aim of English instruction has been rising on high. Among language researchers, there has been a sound debate as to how and why literature should be incorporated in ESL (English as Second Language) or EFL (English as Foreign Language) studying. Varied discussion of how literature and ESL or EFL instruction can work together and interact for the benefit of students and teachers has lead to the development of interesting ideas and improved instruction for all. Many educationists take the use of literature in language teaching as an interesting and worthy concern (Sage 1987:1).

Teaching Literature: A Search for Perfection and Artistry

The use of literature as a tool for teaching both basic language skills (i.e. listening, speaking, reading and writing) and the areas concerning language (i.e. grammar, vocabulary and pronunciation) is very noteworthy within the field of second language learning and teaching in current times. In addition to this, in translation courses, many language teachers make their students translate literary texts like drama, poetry and short stories into the mother tongue. Since translation gives students the chance to practise the lexical, syntactic, semantic, pragmatic and stylistic knowledge they have acquired in other courses, translation both as an application area covering four basic skills and as the fifth skill is emphasized in language teaching.

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1. Aminul Islam, Lecturer in English, Dhaka International University, Bangladesh

Correspondence to: limon25jan@gmail.com

Literary Texts in EFL Classrooms: A Great Help

According to Collie and Slater (1990:3), there are four main reasons which lead a language teacher to use literature in the classroom. These are valuable authentic material, cultural enrichment, language enrichment and personal involvement. In addition to these four main reasons, universality, non-triviality, personal relevance, variety, interest, economy and suggestive power and ambiguity are some other factors requiring the use of literature as a powerful resource in the classroom context.

1. Valid and Authentic Material: Wonderful Classroom

Literature is undoubtedly an authentic material. Many authentic samples of language in real life contexts (i.e. travel timetables, city plans, forms, cartoons, advertisements, newspaper or magazine articles) are included within recently developed course materials. Thus, in a classroom context, learners are exposed to actual language samples of real life or real life like settings. Literature can act as a beneficial complement to such materials, particularly when the first 'survival' level has been passed. By reading literary texts, learners need to cope with language intended for native speakers; they become familiar with many different linguistic forms and patterns as well.

2. Cultural Enrichment: A Big Gun

It is a true fact that the best possible way of teaching and learning a foreign language like English, is to spend time in the country like English speaking country. This is, for sure, not possible for every learner, as everyone is not getting that opportunity. For such learners, in order to develop the understanding of different aspects of communication, short stories, poems, plays and other literary texts become eminent tools for real life communication experiences. Such literary texts help the learners in understanding how communication takes place in that country. As the characters come from many social or regional backgrounds, learners find the settings and the language handier in a literary text. This is how the learners have a better chance to understand the country whose language is being learned.

3. Language Enrichment: The Success

Literature caters learners with a wide range of individual lexical or syntactic items. Learners become familiar with many features of the written language, by reading a substantial and contextualized body of text. They learn about the syntax and discourse functions of sentences, the variety of possible structures, and the different ways of connecting ideas, which develop and enrich their own writing skills. Learners also become more productive and adventurous when they begin to perceive the richness and diversity of the language they are trying to learn and begin to make use of that language. Thus, they improve their communicative and cultural competence.

4. Individual Engagement: A Handy Task

Literature can be helpful in the language learning process concerning the individual participation. Once the learner starts studying a literary text, he begins to be with the domain of the text; he is drawn into the text. Understanding the meanings of lexical items or phrases becomes less significant than pursuing the development of the story. The learner becomes enthusiastic to find out what happens as events unfold via the climax; he feels close to certain characters and shares their emotional responses. This can have beneficial effects upon the whole language learning process. At this juncture, the prominence of the

selection of a literary text in relation to the needs, expectations, and interests, language level of the students is evident. In this process, he can remove the identity crisis and develop into an extrovert.

Maley (1989:12) lists some of the reasons for regarding literature as a potent resource in the language classroom as follows:

1. Universality

Because we are all human beings, the themes literature deals with are common to all cultures despite their different ways of treatment—Death, Love, Separation, Belief, Nature. The list is familiar. These experiences all happen to human beings.

2. Non-triviality

Many of the more familiar forms of language teaching inputs tend to trivialize texts or experience. Literature does not trivialize or talk down. It is about things which mattered to the author when he wrote them. It may offer genuine as well as merely 'authentic' inputs.

3. Personal Relevance

Since it deals with ideas, things, sensations and events which either constitutes part of the reader's experience or which they can enter into imaginatively, they are able to relate it to their own lives.

4. Variety

Literature includes within it all possible varieties of subject matter. It is, in fact, a battery of topics to use in ELT. Within literature, we can find the language of law and of mountaineering, of medicine and of bull-fighting, of church sermons and nursery talk.

5. Interest

Literature deals with themes and topics which are intrinsically interesting, because these are some obvious part of the human experiences, and treats them in ways designed to engage the readers' attention.

6. Economy and suggestive power

One of the great strengths of literature is its suggestive power. Even in its simplest forms, it invites us to go beyond its literal meaning. Since it suggests many ideas with few words, literature is ideal for generating language discussion. Maximum output can often be derived from minimum input.

7. Ambiguity

As it is highly suggestive and associative, literature speaks subtly different meanings to different people. It is rare for two readers to react identically to any given text. In teaching, this has two advantages. The first advantage is that each learner's interpretation has validity within limits. The second advantage is that an almost infinite fund of interactive discussion is guaranteed since each person's perception is different. That no two readers will have a completely convergent interpretation establishes the tension that is necessary for a genuine exchange of ideas.

Apart from the above mentioned reasons, for using literature in the foreign language class, one of the main functions of literature is its sociolinguistic richness. The use of language changes from one social group to another. Likewise, it changes from one geographical location to another. A person speaks differently in different social contexts like school, hospital, police station and theatre (i.e. formal, informal, casual, frozen, intimate styles speech). The language used changes from one profession to another (i.e. doctors, engineers and economists use different terminology). To put it differently, since literature provides students with a wide range of language varieties like sociolects, regional dialects, jargon, idiolects etc., it develops their sociolinguistic competence in the target language. Therefore, incorporating literature into an EFL classroom attains more success in reflecting the sociolinguistic aspects of the target language.

Texts Selection in EFL Classroom: A Major Concern

When selecting the literary texts to be used in language classes, the language teacher should take into account needs, motivation, interests, cultural background and language level of the students. However, one major factor to take into account is whether a particular work is able to reveal the kind of personal involvement by arousing the learners' interest and eliciting strong, positive reactions from them. Reading a literary text is more likely to have a long-term and valuable effect upon the learners' linguistic and extra-linguistic knowledge when it is meaningful and amusing. Choosing books relevant to the real-life experiences, emotions, or dreams of the learner is of great importance. Language difficulty has to be considered as well. If the language of the literary work is simple, this may facilitate the comprehensibility of the literary text but is not in itself the most crucial criterion. Interest, appeal and relevance are also prominent. Enjoyment; a fresh insight into issues felt to be related to the heart of people's concerns; the pleasure of encountering one's own thoughts or situations exemplified clearly in a work of art; the other, equal pleasure of noticing those same thoughts, feelings, emotions or situations presented by a completely new perspective: all these are motives helping learners to cope with the linguistic obstacles that might be considered too great in less involving material (Collie and Slater 1990:6-7).

Literature and the Teaching of Language Skills: Great Tool

Literature plays an important role in teaching four basic language skills like reading, writing, listening and speaking. However, when using literature in the language classroom, skills should never be taught in isolation but in an integrated way. Teachers should try to teach basic language skills as an integral part of oral and written language use, as part of the means for creating both referential and interactional meaning, not merely as an aspect of the oral and written production of words, phrases and sentences.

Literature and Reading: A Triumph

ESL or EFL teachers should adopt a dynamic, student-centered approach toward comprehension of a literary work. In reading a lesson, discussion begins at the literal level with direct questions of fact regarding setting, characters and plot which can be answered by specific reference to the text. When students master literal understanding, they move to the inferential level where they must make speculations and interpretations concerning the characters, setting and theme, and where they produce the author's point of view. After comprehending a literary selection at the literal and inferential levels, students are ready to do a collaborative work. That is to state that they share their evaluations of the work and their personal reactions to it - to its characters, theme(s) and the author's point of view. This is also

the suitable time for them to share their reactions to the work's natural cultural issues and themes. The third level, the personal or evaluative level stimulates students to think imaginatively about the work and provokes their problem-solving abilities. Discussion deriving from such questions can be the foundation for oral and written activities (Stern 1991:332).

Literature and Writing: The Journey Starts

Literature can be a powerful and motivating source for writing in ESL and EFL both as a model and as subject matter. Literature as a model occurs when students' writing becomes closely similar to the original work and clearly imitates its content, theme, organization or style. However, when student writing exhibits original thinking like interpretation or analysis, or when it emerges from, or is creatively stimulated by, the reading, literature serves as subject matter. Literature houses in immense variety of themes to write on in terms of guided, free, controlled and other types of writing.

Literature as a Model for Writing: The Idol

There are three main kinds of writing that can be based on literature as a model:

Controlled Writing

Controlled model-based exercises which are used mostly in beginning-level writing typically require rewriting passages in arbitrary ways to practise specific grammatical structures. For instance, students can be reporters doing a live newscast, or they can rewrite a third person passage into first person from a character's point of view

Guided Writing

This activity corresponds to intermediate level ESL or EFL. Students respond to a series of questions or complete sentences which, when put together, retell or sum up the model. In some cases, students complete the exercise after they receive the first few sentences or the topic sentence of a summary, paraphrase, or description. Guided writing exercises, especially at the literal level, enable students to comprehend the work. Model approach and scenario approach are very beneficial in this respect.

Reproducing the Model

This activity comprises techniques like paraphrase, summary and adaptation. These techniques are very beneficial ESL or EFL writing exercises. In paraphrasing, students are required to use their own words to rephrase the things that they see in print or hear. Since paraphrase coincides with the students' trying to make sense of the poem, it is a strikingly useful tool with poetry. Summary work goes well with realistic short stories and plays, where events normally follow a chronological order and have concrete elements like plot, setting and character to guide student writing. Adaptation requires rewriting prose fiction into dialog or, reversely, rewriting a play or a scene into narrative. This activity enables students to be aware of the variations between written and spoken English (Stern 1991:333).

Literature as Subject Matter for Writing: The Artistry

Finding appropriate material for their writing classes is sometimes difficult for composition teachers since writing has no subject matter of its own. One benefit of having literature as the reading content of a

composition course is that the readings become the subject matter for compositions. In a composition course whose reading content is literature, students make inferences, formulate their own ideas and look closely at a text for evidence to support generalizations. Thus, they learn how to think creatively, freely and critically. Such training helps them in other courses which require logical reasoning, independent thinking and careful analysis of the text (Spack 1985:719).

Literature, Speaking, and Listening: A Side by Side Teaching and Learning

The study of literature in a language class, though being mainly associated with reading and writing, can play an equally meaningful role in teaching both speaking and listening. Oral reading, dramatization, improvisation, role-playing, reenactment, discussion and group activities may center on a work of literature.

Oral Reading: A Plus Point

Language teachers can make listening comprehension and pronunciation interesting, motivating and contextualized at the upper levels, by playing a recording or video of a literary work, or by reading literature aloud themselves. Having students read literature aloud contributes to developing speaking as well as listening ability. Moreover, it also leads to improving pronunciation. Pronunciation may be the focus before, during or after the reading.

Drama: A Form of Motivation

Needless to say, literature based dramatic activities are valuable for ESL or EFL. They facilitate and accelerate development of the oral skills since they motivate students to achieve a clearer comprehension of a work's plot and a deeper comprehension and awareness of its characters. Though drama in the classroom can assume many forms, there are three main types, which are dramatization, role-playing and improvization.

Dramatization: The Performance

Dramatization requires classroom performance of scripted materials. Students can make up their own scripts for short stories or sections of novels, adapting them as closely as possible to the real text. Based on the story, they must guess what the characters would say and how they would say it. Scripts written by students are also probable with plays. Poems comprising one or more personae may also be scripted by students. Students should attentively read assigned sections of dialog in advance and be able to answer questions about characters and plot. They should indicate vocabulary, idioms, or dialog they do not understand and the words they cannot pronounce. Students next rehearse the scene with their partners. Although they don't memorize it, they learn it well enough to make eye contact and say their lines with meaning and feeling. Moreover, they discuss semiotic aspects of staging the scene (i.e. facial expressions, gestures, and the physical aspects). Finally, the dramatization is presented before the class.

Literary Genres in English Language Teaching

1. Poetry in English Language Teaching

Poetry can pave the way for the learning and teaching of basic language skills. It is metaphor that is the most prominent connection between learning and poetry. Because most poetry consciously or unconsciously makes use of metaphor as one of its primary methods, poetry offers a significant learning process. There are at least two learning benefits that can be derived from studying poetry:

- ✓ The appreciation of the writer's composition process, which students gain by studying poems by components
- ✓ Developing sensitivity for words and discoveries that may later grow into a deeper interest and greater analytical ability

Saraç (2003:17-20) also explains the educational benefits of poetry as follows:

- Provides readers with a different viewpoint towards language use by going beyond the known usages and rules of grammar, syntax and vocabulary
- Triggers unmotivated readers owing to being so open to explorations and different interpretations
- Evokes feelings and thoughts in heart and in mind
- Makes students familiar with figures of speech (i.e. simile, metaphor, irony, personification etc.)

Furthermore, poetry employs language to evoke and exalt special qualities of life, and suffices readers with feelings. It is particularly lyric poetry which is based on feelings and provides still another emotional benefit. Poetry is one of the most effective and powerful transmitters of culture. Poems comprise so many cultural elements—allusions, vocabulary, idioms, tone that are not easy to translate into another language (Sage 1987: 12-13).

2. Short Stories in English Language Teaching

Short fiction is a supreme resource for observing not only language but life itself. In short fiction, characters act out all the real and symbolic acts people carry out in daily lives, and do so in a variety of registers and tones. The world of short fiction both mirrors and illuminates human lives (Sage 1987:43). It does the following:

- o Makes the students' reading task easier due to being simple and short when compared with the other literary genres
- o Enlarges the advanced level readers' worldviews about different cultures and different groups of people
- o Provides more creative, encrypt, challenging texts that require personal exploration supported with prior knowledge for advanced level readers
- o Motivates learners to read due to being an authentic material
- o Offers a world of wonders and a world of mystery
- o Gives students the chance to use their creativity
- o Promotes critical thinking skills
- o Facilitates teaching a foreign culture (i.e. serves as a valuable instrument in attaining cultural knowledge of the selected community
- o Makes students feel themselves comfortable and free

- Helps students coming from various backgrounds communicate with each other because of its universal language
- Helps students to go beyond the surface meaning and dive into underlying meanings

3. Drama in English Language Teaching

Using drama in an ELT classroom is a good resource for language teaching. It is through the use of drama that learners become familiar with grammatical structures in contexts and also learn about how to use the language to express, control and inform. The use of drama raises the students' awareness towards the target language and culture. In this context, the use of drama as a tool rather than an end gains importance in teaching a foreign language. Yet, there is one obvious danger: cultural imposition should be severely avoided since it results in the loss of language ego and native language identity in many cases. To put it differently, language learning should be culture-free but entirely not culture-biased. The educational benefits of drama, according to Lenore (1993), are as follows:

- Stimulates the imagination and promotes creative thinking
- Develops critical thinking skills
- Promotes language development
- Heightens effective listening skills
- Strengthens comprehension and learning retention by involving the senses as an integral part of the learning process
- Increases empathy and awareness of others
- Fosters peer respect and group cooperation
- Reinforces positive self-concept

Some other educational benefits of using drama in a foreign language class can be listed as follows (Mengü 2002:1-4):

- Bringing authenticity into the classroom
- Exposing the learners to the target culture as well as the social problems a society may be undergoing
- Increasing creativity, originality, sensitivity, fluency, flexibility, emotional stability, cooperation, and examination of moral attitudes, while developing communication skills and appreciation of literature
- Helping learners improve their level of competence with respect to their receptive and productive skills
- Providing a solid basis for the learners to bridge the gap between their receptive and productive skills
- Offering students the space and time to develop new ideas and insights in a range of contexts

In other words, the use of drama seems to be an effective technique in today's communication based, student centered foreign language teaching. Since it is an authentic material, it helps students to promote their comprehension of the verbal or nonverbal aspects of the target language they are trying to master. Particularly, teachers, who wish to make language learning more colorful, motivating and interesting, can make use of drama in their language classes. Since drama is the reenactments of social events, students

improve their personality and code of behavior. Thus, they can achieve more meaningful and realistic teaching from which students can benefit to a great extent.

4. Novel in English Language Teaching

The use of a novel is a beneficial technique for mastering not only linguistic system but also life in relation to the target language. In a novel, characters reflect what people really perform in daily lives. Novels not only portray but also enlighten human lives. Using novels in a foreign language class offers the following educational benefits:

- Develops the advanced level readers' knowledge about different cultures and different groups of people
- Increases students' motivation to read owing to being an authentic material
- Offers real life or real life like settings
- Gives students the opportunity to make use of their creativity
- Improves critical thinking skills
- Paves the way for teaching the target language culture
- Enables students to go beyond what is written and dive into what is meant

Helton, C.A, J.Asamani and E.D.Thomas (1998:1-5) expounds the educational benefits of novels as follows:

- Stimulates their imagination
- Helps students to identify the emotions of the characters so that they can learn how others cope with situations and problems similar to their own experiences
- Helps them master the skills that will enable them to acquire information, process this knowledge, identify problems, formulate alternatives and arrive at meaningful, thoughtful, effective decisions and solutions
- Develops oral and written language skills
- Serves as a springboard for a multitude of holistic learning and critical thinking activities beginning with basic comprehension and writing
- Presents a unique way of teaching reading by getting students involved into and excited about the reading process
- Motivates students to become a lifelong reader

When selecting a novel to be used in the foreign language class, the ELT teacher should pay attention to whether the novel has an intriguing story that will be of interest to the entire class. Themes and settings captivating their imagination and exploring the human condition should be included in the nature of the selected novels. The novel chosen should have a powerful, fast-paced plot and interesting, well delineated, memorable characters. The content of the novel should be suitable to students' cognitive and emotional levels.

When assessing comprehension, teachers may employ novel tests requiring students to develop the sub-skills of written language like spelling, handwriting, grammar and punctuation. Essay type tests written by teachers help students to gradually improve their skills in writing and organizing material into paragraphs with acceptable sentence structure. The tests are made up of not only fact-based questions

serving as a basis of evaluating comprehension but also open-ended questions developing critical thinking abilities. The open-ended questions enable students to predict outcomes, make comparisons and contrasts, and draw conclusions. Class discussions of each novel should comprise the main idea and supporting details, including who, what, when, where, and how. Details of various social issues such as sexual harassment, abortion etc. which are often an integral part of the plot, can provoke interesting debate. Discussions can also facilitate vocabulary development (Helton, C.A, J.Asamani and E.D.Thomas 1998:1-5).

In fine, the use of novels is a very beneficial tool in today's ELT classes. If selected carefully, using a novel makes the students' reading lesson motivating, interesting and entertaining. It is through reading that students broaden their horizons, become familiar with other cultures, and hence develop their intercultural communicative competence, learning how to view the world from different perspectives. The result will be the possession of critical thinking and writing.

Conclusion

Literatures are the best forms of any language of the world; it is through literature language finds the real desired destination in forming the standard height in language teaching and learning. Reading Shakespeare, Bacon, Shelley, Wordsworth and the likewise, for sure, introduces the elite forms of English language. Certainly, ELT can best be implemented with the help of literature.

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Urge of Robert Nozick's Jurisprudential concept of state in changing world scenario

Mili Sultana*

Abstract: This Paper is a critical study of the book '**Anarchy, State, and Utopia** ' by the American political philosopher Robert Nozick where in opposition to A Theory of Justice by John Rawls, and in debate with Michael Walzer, Nozick argues in favor of a minimal state, "limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on." When a state takes on more responsibilities than these, Nozick argues, rights will be violated. To support the idea of the minimal state, Nozick presents an argument that illustrates how the minimalist state arises naturally from anarchy and how any expansion of state power past this minimalist threshold is unjustified. However, in this Paper Nozick's theory has been criticized as it does not mention clearly how a dominant protection agency comes into existence without violating anyone's rights. Further Nozick stated that the rich have the obligation to buy protection for the poor due to the operation of the principle of compensation. This Paper finds Nozick's theory as critical, unrealistic in the modern world and tuned with others searching for an accurate political analysis.

Keywords: Minimal State, Classical Capitalism, Invisible hand process, rule of law, individual rights, derivation of politics, anarchism, liberalism, socialism, mutual protection, non intervention.

Introduction

Robert Nozick's Anarchy, State and Utopia[1] is one of the most provocative jurisprudential papers in recent times. It stimulated much debate when it was first published, as it investigates a wide range of problems dealing with rights, liberty, punishment, equality and justice. This essay is a framework which emphasises individual rights and derivation of political obligation from law. It is necessary to consider whether the freedom of the individual has been augmented or restricted under Nozick's unique scheme. He holds that the only legitimate state is the minimal state whose activities are confined to the protection of individuals, their properties and to the enforcement of contracts. He may have been influenced by the result of discontent produced by the Vietnam War or the by-product of increasing influence in what is popularly known as the 'Western World' or by a combination of these or other causes in which there has been an increasing tendency to question the moral legitimacy of the state.[2] It has long been accepted that state is a community of persons more or less numerous occupying a definite portion of territory completely free of external control and possessing an organised government to which a great body of inhabitants render habitual obedience. In modern time this concept of state has been shaken by many international events. The territory of Crimea which was Ukraine's Crimean Peninsula, was annexed by the Russia in 2014.

Correspondence to: Assistant Professor, Dept. of Law, Dhaka International University.
Email: milysultana@yahoo.com.

Ukrainians vowed that the Black Sea territory would eventually return to their control. Isis , (sometimes known as Islamic State) is a Jihadist militant group in Iraq and Syria influenced by the Wahhabi movement. It aims to establish a caliphate, or Islamic state in Sunni majority regions of Iraq and Syria. In June 2014, they seized control of Mosul, Fallujah and Tikrit in northern-Iraq in large scale military offensives. Isis now controls or can operate with impunity in a great stretch of territory in western Iraq and eastern Syria, making it militarily the most successful jihadi movement ever. Unstable situation still exists in many Middle East and African countries. These turmoil situations, changing of the state territory and emergence of militant groups have shaken the modern conception of states. Many communities are living under the control of different rebels groups. How these people are living without any modern state mechanism? These situations create urges to reconsider Robert Nozick's concept of state where state has minimal interference on people. The aim of this article is to consider present world's changing territorial and political scenario in the light of concept of renowned philosopher Robert Nozic.

Nozick's concept of state:

In the first part of the book[3], Nozick outlines the rights of the individuals, the emergence of the state or state-like entity and refutes anarchism[4]. By arguing that nothing more than a minimal state is justified, Nozick seeks to refute the modern form of liberalism as well as socialism and other leftist ideologies. In addition to this, he does not support the power of a state to regulate the economic activities of its citizens, to redistribute wealth or provide social services. His main object was to defend the minimal state, on one hand, against the anarchist who believes that state power over individuals can never be justified, and on the other side against theorists who advocate an interventionist state that will redistribute wealth.[5] Nozick states that only a minimal state is justified, and any state with power stronger than those it would violate principle of justice and individual rights.[6] Nozick's minimal state does not violate anybody's rights. His defense of the minimal state and conception of individualism have been acclaimed and also criticised by many authors.

The fundamental question of political philosophy is how the state should emerge. In his book[7] arguments have been given in favour of these views and he refutes views of others.[8] Nozick tries to justify the existence of the state and what are its legitimate functions. He takes the anarchist's challenge that every form of government is illegitimate and formulates an argument against it. Anarchists also view the state as intrinsically immoral and that only anarchy constitutes a justified societal arrangement.[9] Anarchists also believe that any kind of state will violate the rights of individuals. Nozick disagrees. He refutes the anarchist position that there is no legitimate form of state. However, he also agrees on the point that individuals have rights which

are inviolable and that only the minimal state can function without interfering with individual rights.[10]

In support of a minimal state, Nozick offers an entitlement theory of justice in holdings composed of three principles: the principle of acquisition, the principle of transfer, and the principle of rectification for violation of the first two principles.[11] These principles deal respectively with the acquisition of holdings, transfer of holdings, and the rectification of injustice in holding.[12] What a person is entitled to depends on voluntary action, either through ones' own acquisition or the voluntary actions of others in transfers and rectification.[13] Possible sources of injustice in holdings are completely exhausted by the violations of the principles of justice governing the original acquisition and transfer; consequently, any distribution of holdings is just provided only that it did not result from violations of the principles of justice governing the original acquisation of unheld property or the transfer of property previously held by someone else.[14] It may also be said that patterned distribution can never be a sufficient ground to conclude that the distribution is unjust; the history of distribution must be examined before such a conclusion could possibly be justified. Nozick's adoption of this historical entitlement theory of distributive justice and his commitment to libertarianism are conjoined with the rejection of patterned and end-state principles of justice.[15]

According to Nozick, the notion of distributive justice fails to be neutral and he rejects this conception because this violates individual rights.[16] His comparison of income tax to forced labour has been attacked by a number of critics[17] who question the legitimacy of treating the two as remotely equivalent. In Hart's words 'is taxing a man's earnings of income, which leaves him free to choose whether to work and to choose what work to do, not altogether different in terms of the burden it imposes forcing him to labour?

Concept of rights

The starting point of Nozick's thinking is that every individual has rights and they are separate and distinct from each other. In a state of nature individuals are in perfect freedom subject only to the law of nature.[18] Here, Nozick follows John Locke's concept.[19] Individuals in Locke's state of nature are in a state of perfect freedom to order their actions and dispose of their possession and persons as they think fit, within the bounds of the law of nature, without asking leave or dependency upon the will of any other man.[20] The natural rights that are conferred consists of a) the right to enjoy one's life, health, liberty and possession without interference by others in the shape of violence, theft or fraud; and, b) a right to compensation by any person who causes injury by violating one's natural rights. In a state of nature, an individual may himself enforce his rights, defend himself, exact compensation and punish others. These rights of an individual cannot be infringed, according to Nozick.

Nozick employs Locke's theories as a starting point and assumes that individuals have rights. Why should this assumption be accepted? Nozick offers no explanation for this claim and acknowledges that the assumption leaves a large gap in his theory. Furthermore, the rights which he mentioned are mostly property-based. Thus, he overlooks other rights such as privacy.

Mutual Protection Association to minimal state

In a state of nature, rights impose a restraint on others which Nozick refers to moral side restraint.[21] Sometimes the process of determining the violation of rights and determining the amount of reparation is unsatisfactory which lead to retaliation and feuds.[22] Due to such feuds, others may join with an individual in his defense at his call. Groups of individuals may thus form mutual protection associations where each member acts in the defense of all other association members. It might attempt to deal with conflicts among its own members by a policy of non-intervention. It brings discord among the members of association which leads the formation of sub-groups and breaks up the association. The weaknesses of the mutual protection association will lead to the emergence of professional agencies which will provide service on payment of fees.[23] All individuals do not join in the protection agency because they all do not have the capacity to pay to make payments and or subscribe to the protection plans. Since the protection agency does not provide protection for all the individuals of a particular geographical area, it falls short of the characteristics of a fully- constituted state.[24] Nozick states that when the dominant protection agency assumes control over all the individuals within its area, the former independents being compensated for the loss of their autonomy by the extension to them of the protection afforded by the agency.[25] This agency will become an ultra-minimal state as because it will claim a de facto monopoly on the use of force. It also prohibits independents from enforcing their rights against the clients. The ultra minimal state then has to be transformed into a minimal state since it must compensate the independents for having prohibited them from enforcing their rights by giving them free coverage.[26]

Invisible-hand process

This implies that the provisions of protective service have universal coverage. In this way, the two features that were lacking are met and end up forming a minimal state that is not based on redistributive principles but on the principles of compensation.[27]

The essential characteristics of the emergence of the state consist of the fact that it's development is spontaneous, unplanned and unintended, those involved perhaps not noticing the evolution that is occurring. This process Nozick terms the invisible-hand process.

Nozick urges that 'state-like entity' arises without violating anyone's rights. Everything hinges on whether Nozick has successfully outlined an invisible-hand explanation of the state where no

rights are violated in the process.[28] A right is a freedom to do something, that is to use property which includes one's rights in a certain way unimpinged by external constrains. The right of self-defence is contained within the concept of right itself.[29] Robert Paul Wolff states that Nozick's state-like entity has no right to prevent non-clients from taking the moral law into their own hands in their dealings with other non-clients.[30] The significance of the limitations on Nozick's state will depend on certain matters of fact about which he is silent.

Night-watchman' state

Nozick in his book[31] states that the night-watchman state of classical liberal theory, limited to the function of protecting all its citizen against violence, theft and fraud and to enforcement of contracts and so on, appear to be redistributive.[32] Since the night-watchman state is often called a minimal state, it may also be called an ultra-minimal state. The minimal state is limited in its legitimating of force to the protection of certain basic rights; it is the night-watchman state of classic liberalism.[33] Critics also criticize the Nozickian model of minimal 'night-watchman' state. How does this state emerge from a state of nature? Nozick argues that it does without infringing individual rights, but goes no further. Under utilitarianism and the theory of Rawls, there could be redistribution policies for the greater good, but no redistribution is legitimate in Nozick's minimal state model.[34] It is therefore arguable that there is no welfare state in Nozick's scheme. Some may even call this "classical capitalism".

Entitlement theory of Robert Nozick

Nozick proceeds to establish his own entitlement theory for acquisitions (property). Holdings must be obtained and transferred according to the principle of justice, factoring in historical aspects, current time slice principles and the increased value of the property caused by individual efforts. Nozick also qualifies that private ownership must not violate Lockean principles of life and liberty and that individual rights can be overridden to prevent a catastrophe. Entitlement arises by proper acquisition or proper transfer, and if what people have is what they are entitled to have, then justice is satisfied, no matter what the distribution looks like across society. If proper acquisitions and voluntary transfers lead to inequality, nothing more can be said.

Comparison of this concept with other Jurists

Why should we accept Nozick's limitation of rights to those of property and the negative right to liberty? What of rights to welfare? Nozick would reply that to recognize such rights implies that individuals have a right to the assistance of others; this would undermine his whole promise which is based on the separateness of persons. But we are surely entitled to object that this entirely neglects the interest of the weaker members of society.

Holmes collapses Nozick's distinction between the having and exercising of rights, which forms the basis of Nozick's contention that even if violations of the latter are required for the assumption of state power by the dominant protection agency such infractions do not deprive persons of the former. Having dismissed the basis of this distinction, Holmes accuses Nozick of having sanctioned the violation of human rights in his attempts to devise a cognitively tenable foundation for the emergence of a state.[35]

Robert Paul Wolff focuses his criticism on Nozick's use of the notion of a compensated boundary crossing as the foundation of his favourable analysis of the evolution of minimal state.[36] Nozick also argues that the riskiness of the activities of independent protection agencies may morally justify the prohibition of those activities as long as the clients of the independent agencies are suitably compensated for their sudden exposure to attack. Wolf questions the measurability of compensable harm in Nozick's state of nature, given its fluidity and lack of structure. For, if the uncertainty which prevails there unduly circumscribes the possibility of rational calculation, the compensation owed to the newly vulnerable client of independent protection agencies can never be accurately calculated. Hence, Wolff argues that a dominant protection agency cannot be arithmetically certain of the moral grounds of its accession to state-like dimensions.[37]

Criticism

Nozick does not mention clearly how a dominant protection agency comes into existence without violating anyone's rights. The agency has a right or duty to tax its clients in order to redistribute the benefit arising out of those taxes, to those who cannot or will not buy protection contracts and thereby becoming non-paying clients. Nozick states that the rich have the obligation to buy protection for the poor due to the operation of the principle of compensation.

Since the role of the state is not to extent to beyond protecting the rights of the inhabitants against infringement in such forms as the use of force, theft, fraud or breach of contract, its function is confined to acting as night-watchman to see that nothing wrong is done and in the absence of wrongdoing, to do nothing. Its functions are minimal, as it is a "minimal" state. Nozick states that a minimal state is only the state that is justified. However, the uncertainties surrounding his proposed state, coupled with unrealistic and naive faith in the operation of the free market and the inherent goodness within people to always do the right thing, makes the very foundation of Nozick's theory incredibly shaky.

Robert Paul Wolff further states that the inner-workings of the Nozick's protective association seem to presuppose that serious rights violations against which one needs protection, are committed by the sort of solid citizens who will have joined a competing association, will be paid up on their premiums, and will have known addresses where they can be found. This may

only be possible a very small rural society where everyone knows everyone. But in the context of very big city, where street crime is rampant, Nozick's model is simply irrelevant.[38]

Nozick's work, though flawed, reinvigorated rights-based libertarianism. These approaches were prominent in the early modern period, in particular within the context of theistic moral frameworks where moral laws were considered to be divinely ordained. However, they had been neglected in recent times and were instead replaced by consequentialist accounts that primary appeal to economic arguments.[39] Nozick advocates the minimal state on the basis of the considerations regarding rights. He does not follow the majority of contemporary libertarians and classical liberals in giving an economic efficiency based argument for libertarianism that depends on implicit or explicit utilitarianism presuppositions. Instead, he places great importance on individual rights and the need to respect the separateness and dignity of persons. Rights-based arguments provide a more robust foundation for libertarianism. Such arguments for libertarianism cannot be avoided by simply responding that economic efficiency can be sacrificed for some other good such as equality.

Application of Nozics concept in modern world

State should not restrict and interfere in the enjoyment of individual right and liberty which might create unrest and cause emergence of rebels. Nozic provides clever solutions to these problems. A dominant protective agency in a state of nature is justified in preventing private enforcement of justice. A more-than-minimal state can arise without violating anyone's rights, and the derivation of the framework for utopia.

Conclusion

Many would agree that the modern state model presents us with more grief than relief. Too often in recent years, has bureaucratic control destroyed individual and combined liberties. Violation of human rights, civil liberties, violence and state interferences in economic activities are the common picture of the society which deserve the political action. In the face of these challenges our public responses have often been alarmingly timid and haphazard. Because of the enormous range of powers at the state's command, and seeming importance of its citizenry, this crisis may well be unprecedented. As a result of enormous power of state discontents is magnificently increasingly among the people which lead social unrest.

Nozick in his theories tried to establish that only the minimal interference of state can solve this problem and lead to the utopia where all people live in happiness. However, there is something distinctly odd about his summons, even something missing from it. By contesting conventional wisdom about the liberal, bureaucratic state, Nozick's theory appears critical, and seems to be in tune with others searching for an accurate political analysis. Though, a noble attempt by Nozick,

his view that a state cannot "do more, or less" than what he presupposes, is unrealistic in the modern world, and under his own moral side restraints, citizens must sacrifice more, in order to gain more in the future. Without a welfare state, Nozick's faith in private philanthropy is disconcerting, and his scheme of liberty could ultimately be the undoing of the most vulnerable members of society.

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Role of International Humanitarian Law in Protecting Natural Environment during Armed Conflict: Gap Analysis and Future Directions

Amdadul Hoque*

Abstract: The history of war on earth is as old as mankind, though, war is a play with passion and law leans against reason giving birth to the putative concept of there cannot be reason on passion, bundles of laws are there regulating the use of force in times of war intending to protect the mankind and those necessary for mankind. Environment, an element of common interest of mankind though not initially attracted any attention of care during war, was subsequently made a focal point of protection during armed conflict by different gradual effort. This article aims at critically examining the provisions intended to provide protection to environment in times of war and revealing the fragilities of those provisions. Since the early 1970s, the steady deterioration of the natural environment has given rise to widespread awareness of man's destructive impact on nature. This awareness of the vital importance for humanity of a healthy environment and the determined efforts of numerous environmental protection agencies have led over the years to the adoption of a large body of laws for the protection and preservation of the natural environment. Concern for the environment under IHL and the codification of rules for its preservation emerging first at national level ultimately led to the adoption of and sometime amendment in the international provisions in this regard. However, environmental provisions under IHL regime be it in treaty, custom or other soft laws, are in many cases found to be defective, inadequate and frustrating to the very insertion of these provisions.

Keywords: Armed conflict, Natural environment, ENMOD, Incendiary weapons, Martens clause, Soft laws and Military objectives.

Introduction: Had there been no war or armed conflict at all, it would be the best for the mankind and humanity. How much ever desire there may be for a world free from any kind of strife, conflict or war, it will be nothing but a day dream as man is by nature a fighting being. However, when war is justified this justification is based on some grounds the center of which is

* Lecturer, Department of Law and Justice, Southeast University, Dhaka, Bangladesh.
Correspondence: Email- amdadulhoquedu@gmail.com

the greater welfare of the mankind at large. At different times different laws were made to ensure this greater welfare of mankind and providing protection to the environment during armed conflict is the reflection of the intention to protect the collective interest of humanity. Over the decades and centuries laws in this regard is being evolved requiring the combatants and belligerents to do and to refrain from doing certain activities. Sometimes these laws cast legal obligation on the concerned parties and sometimes moral obligations by different resolutions and declarations. Environment, which is never foe rather friends for civilians and combatants irrespectively, is exposed to threat of being damaged during armed conflict and therefore deserves special attention. And the duty towards protecting environment during armed conflict should not have any exception and must be maintained at all times equally. This article aims at analyzing the gaps and lacunas of the provisions provided for protection of natural environment during armed conflict.

Methodology: The study depends largely on information obtainable from an enormous number of books relating to humanitarian law. Thus, the study is exclusively based on information taken from the text of humanitarian documents published by International Committee of Red Cross (ICRC) and from books written by scholars of different countries. Apart from the above the primary source of information includes newspapers, magazines, journals, and research paper and research records. Souvenirs, brochures, handbooks available in the websites were also been found useful. Moreover, some information was also congregated from publications of concerned research organizations like IUCN National Red Cross and Red Crescent Society.

Environment during wartime: Act of war was never free form the blame of contaminating, destroying and devastating the natural environment to whatever extent that contamination, destruction or devastation may be. However, it is generally admitted that with the advancement of technology and modern means and methods of warfare the Omni-present threat of war to natural environment is getting accelerated at an alarming speed. Modern chemical, biological and nuclear warfare has the potential to wreak unprecedented environmental havoc that is yet to be contemplated.[1] Although, worst consequences of war on natural environment cannot be enumerated in number, however, following deserves special mention.

Habitat destruction: Destruction of habitats of different plants and other visible and invisible living organisms pose a serious threat to bio-diversity and thereby threatening human existence. During Vietnam war U.S. forces sprayed herbicides like Agent Orange on the forests and mangrove swamps that provided cover to guerrilla soldiers. An estimated 20 million gallons of herbicide were used, decimating about 4.5 million acres of the countryside. Some regions are not expected to recover for several decades.[2]

Refugee problem**:** When warfare causes the mass movement of people, the resulting impacts on the environment can be catastrophic. Widespread deforestation, unchecked hunting, soil erosion and contamination of land and water by human waste occur when thousands of humans are forced to settle in a new area.[3] Rawandan Conflict of 1994 is a glaring example of this type.

Infrastructure Collapse**:** Among the first and most vulnerable targets of attack in a military campaign are the enemy's roads, bridges, utilities and other infrastructure. While these don't form part of the natural environment, the destruction of wastewater treatment plants, for example, severely degrades regional water quality.[4] During the 1990s fighting in Croatia, chemical manufacturing plants were bombed when treatment facilities for chemical spills weren't functioning and additionally toxins flowed downstream unchecked until the conflict ended.

Increased Production resulting in forest destruction: Even in regions not directly affected by warfare, increased production in manufacturing, agriculture and other industries that support a war effort can wreak havoc on the natural environment. During World War I, former wilderness areas of the United States came under cultivation for wheat, cotton and other crops, while vast stands of timber were clear-cut to meet wartime demand for wood products.[5] Timber in Liberia, oil in Sudan and diamonds in Sierra Leone are all exploited by military factions. These provide a revenue stream that is used to buy weapons.[6]

Scorched Earth Practices**:** The destruction of one's own homeland is a time-honored, albeit tragic, wartime custom.[7] The term "scorched earth" originally applied to burning crops and buildings that might feed and shelter the enemy, but it's now applied to any environmentally destructive strategy. To thwart invading Japanese troops during the Second Sino-Japanese War (1937-1945), Chinese authorities dynamited a dike on the Yellow River, drowning thousands of

Japanese soldiers -- and thousands of Chinese peasants, while also flooding millions of square miles of land.[8]

Hunting and Poaching**:** If an army crawls on its stomach, as is often said, then feeding an army often requires hunting local animals, especially larger mammals that often have slower rates of reproduction.[9] In the ongoing war in Sudan, poachers seeking meat for soldiers and civilians have had a tragic effect on bush animal populations in Garamba National Park, just across the border in the Democratic Republic of Congo. At one point, the number of elephants shrunk from 22,000 to 5,000, and there were only 15 white rhinos left alive.

Environmental problems resulting from war again being issue of war: While the effects of war on the environment may be obvious, what's less clear are the ways that environmental damage itself leads to conflict. Factions in resource-poor countries like those in Africa, the Mideast and Southeast Asia have historically used military force for material gain; they have few other options. Bruch explains that once armed conflict begins, soldiers and populations under siege must find immediate sources of food, water and shelter, so they're forced to adapt their thinking to short-term solutions, not long-term sustainability.[10] This short-term desperation leads to a vicious cycle of conflict, followed by people who meet their immediate needs in unsustainable ways, bringing deprivation and disillusionment, which then leads to more conflicts.[11]

Humanitarian treaty laws providing direct protection to the natural environment: Additional Protocol I to the 1949 Geneva Conventions: Before adopting the Additional Protocols to the Geneva Conventions, the world witnessed some terrible wars of national liberation including the Viet Nam war. These wars gave birth serious questions regarding the protection of Civilian populations and the environment and ultimately led to the inclusion of two provisions in Additional Protocol I, adopted on 8th June of 1977, that explicitly addressed environmental harm and degradation i.e. Articles 35(3) and 55. Paragraph 3 of Article 35 stipulates that-"It is prohibited to employ methods or means of warfare which are intended, of may be expected, to cause widespread, long term and severe damage to the natural environment." This Article thus directly focuses on the protection of the natural environment during armed conflict and applies not only to intentional damage, but also to expected collateral damage.[12] This Article was successful in recognizing the necessity for the first time to take care of or protecting natural

environment even during armed conflict. The principle contained in this paragraph reaffirms the law in force. Whether the armed conflict concerned is considered by the protagonists to be lawful or unlawful, general or local, a war of liberation or a war of conquest, a war of aggression or self-defence, limited or "total" war, using conventional weapons or not, the parties to the conflict are not free to use any methods or any means of warfare whatsoever.

Again Article 55 of the Protocol I stipulates that- "1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes the prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. 2. Attacks against the natural environment by way of reprisals are prohibited."

Gap analysis of aforementioned provisions to protect the natural environment:

The common core of these two Articles is the prohibition of warfare that may cause **"widespread, long-term and severe damage to the natural environment".** Though apparently these provisions seem to be extensive to protect the natural environment, however, important questions remain with regard to the threshold at which the damaging activities violate international law. By the provisions of these two Articles only those means and methods are prohibited which cause or are expected to cause **widespread, long-term and severe damage to the natural environment.** So, if the damage is only widespread or only long term or widespread and long term only but not severe or long term and severe but not widespread, these two Articles provide no protection to the natural environment. This triple standard is a cumulative requirement, meaning that to qualify as prohibited the impact of the damage must be at the same time widespread, long term and severe.

Moreover, one of the blatant fragility of these two Articles is that the terms "widespread, long term and severe" are not defined in the protocol and for this reason there remains the risk of abuse of these terms and thereby cause harm to the natural environment. The protocol fails to define these terms, resulting in a high, uncertain and imprecise threshold. Article 35(3) would not impose any significant limitation on combatants waging conventional warfare. It seems primarily directed instead to high-level decision makers and would affect such conventional means of warfare as the massive use of herbicides and agents which could produce widespread,

long-term and severe damage to the natural environment. Paragraph 2 of Article 55 prohibits attacks on the environment by way of reprisals. This provision indirectly recognizes the attack on environment by any modes other than reprisals.

UN Convention on the Prohibition of Military or Any Other Use of Environmental Modification Techniques [ENMOD] (1976): The ENMOD Convention was established as reaction to the military tactics employed by the United States during Viet Nam war and also as a reaction to the use of large quantities of chemical defoliants (known as Agents Orange, White and Blue). These included plans for large-scale environmental modification techniques that had the ability to turn the environment into a weapon, for instance by provoking earthquakes, tsunamis, or changes in the weather patterns. Article 1 of ENMOD, 1976 stipulates that- "Each state party to this convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other state party." ENMOD was proved to relatively be successful and effective as no other Viet Nam scenarios of large-scale environmental modification tactics have been reported since 1976. Triple cumulative standard, as it was in the case of Additional Protocol I to the Geneva Conventions 1949, has been relaxed to any of those standard i.e. widespread, long-lasting or severe and these terms were defined. However, ENMOD, 1976, was not completely free from deficiencies to protect the natural environment during armed conflict.

Fragilities of ENMOD to protect environment during armed conflict: United Nations Environmental Programme [UNEP] helped convene the negotiations that led to the ENMOD Convention; it has not had a systematic role in monitoring its implementation and enforcement.[13] The state party under ENMOD Convention only accepts an undertaking to perform their obligation under the convention but what will be the consequence given these undertakings are not fulfilled is not specified. This convention will apply only when the environmental modification techniques by one state party will cause damage, destruction or injury to another state party and it has no application to protect the natural environment in national armed conflict.

Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW), and its

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (1980).[14] This (CCW) Convention states in its preamble that- "It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment."

Article 2(4) of the CCW Protocol III on Prohibitions or Restrictions on the Use of Incendiary weapons prohibits- "making forests or other kinds of plant cover the subject of an attack by incendiary weapons except when such natural elements are used to cover, conceal, or camouflage combatants or other military objectives, or are themselves military objectives."

Provisional weakness of CCW and its Protocol III to protect natural environment: The specific situations where ENMOD and the CCW and its protocol III would apply limit the utility of these direct protections in establishing a wide-reaching duty to protect the environment in armed conflict. CCW and its Protocols also require the triple standard of widespread, long-lasing and severe damage to be proved to attract its provisions and thereby frustrate the environmental protection intended to provide there under. Under Article 2(4), not every elements of environment rather only forests and other kinds of plant are intended to be protected. Under the above mentioned Article even forests and other kinds of plant are excluded from the protection when they are used to cover, conceal or camouflage the combatants or where these elements are in themselves military objectives. Using forests or other kinds of plant by combatants to cover, conceal or camouflage could be forbidden and made punishable but in no way their exposure to the violence of war should be justified and these should never be the subject of military objectives.

General Principles of IHL Protecting Natural Environment During Armed Conflict: General principles of IHL are often referred to as a source of law on their own.[15] Though these are in the nature of principles, however, they have great influence in providing a particular shape of a provision and thereby to protect the environment.

Martens Clause: While describing the general principles of IHL Martens Clause deserves to be mentioned first as it opened and broadened the scope of application of many other general principles of IHL. This clause was first adopted at the 1899 Hague Conference and thereafter contained in the preamble of the 1907 Hague Convention IV.[16] The preamble of this convention

states as follows: "Until a more complete code of the law of war has been issued, the high contracting parties deem expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience."

Principle of distinction: The spirit of this principle in protecting the natural environment is in that it "distinguishes between military and civilian persons and also between military objectives and civilian objectives and indiscriminate attack on any civilian is prohibited."[17] Since environment is civilian object, if this principle is implemented no military operation can be conducted prejudicing the natural environment.

The principle of necessity: This principle stipulates that it is forbidden- "to destroy or seize the enemy's property, unless such destruction or seizure is imperatively demanded by the necessities or war."[18] This principle has significant relevance to the natural environment as the enemy property encompasses environmental goods and high-value natural resources.

The principle of proportionality: The underlying principle of proportionality seeks to strike a balance between two diverging interests, one dictated by considerations of military need and the other by the other by requirements of humanity when the rights or prohibitions are not absolute.[19] "Disproportionate attacks are those in which the collateral damage would be regarded as excessive in relation to the anticipated direct military advantage gained."[20] Destroying an entire forest to reach a minor target would be considered a disproportionate strategy in relation to the military gain.

Provisional lacunas of these Principles in protecting natural environment: 'Laws of humanity' and 'dictates of public conscience' as enunciated in the Martens Clause principle are ambiguous terms in themselves and these terms cannot be defined with adequate certainty for universal application to protect the natural environment in situations where more comprehensive codified laws are not in existence. Further this principle is dependent for its application on the will of the concerned state parties and has not compelling power to oblige the performance of its requirements. As per the definition of military objectives[21] given by Article 52(2) of the Additional Protocol I, it is very difficult to determine in a particular situation whether an

objective will be treated as a civilian objective or military and as such this principle will hardly be sufficient in protecting natural environment. "Total or partial destruction, definite military advantage" these terms are not defined and left ambiguous leaving the scope for misuse of the principle of distinction. The principle of necessity lacks the definition of the "imperative demand of the necessities of war". In the absence of this definition a state may on the excuse of military necessity destroy or seize the natural property of another state and thereby cause damage to the natural environment. The principle of proportionality is ambiguous and uncertain in protecting the natural environment during armed conflict as what is proportionate and what is not is a question of fact and cannot be ascertained with exact precision.

In order to render these principles effective in protecting natural environment during armed conflict the core terms of these principles like military object, military necessity, and definite military objective should be made crystal clear leaving no risk of abuse by the combatants. Keeping the health of the natural environment intact and above the impact of the violence of war should be made a non-derogating duty to each state party and individual actor in every war.

Humanitarian treaty laws providing indirect protection to the natural environment: The provisions of different treaties relating to humanitarian law provide indirect protection to the environment by limiting or prohibiting certain means, weapons and methods of warfare, protecting civilian objects and property, protecting cultural heritage sites, imposing limitations on some specifically defined areas and by some other means appropriate to the circumstances concerned.

The Hague Convention IV (1907): It is said in the Hague Convention IV (1907) that "the right of the belligerents to adopt means of injuring the enemy is not unlimited[22]." Insertion of this simple line just reminds the belligerents that while they are committing any act of hostility in times of war they are not at liberty to injure the enemy in any way they like rather they must conform to the rules concerned.

Fragility: Very little has been achieved so far in terms of enforcement of Hague Law on means and methods of warfare. This Article is very much general and this is the reason why it has been proved to be less effective to contribute to the protection of natural environment. Who are the

belligerents, who will be considered to be enemy and what are the limitations imposed on the belligerents in their choice of means and methods of warfare.

The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (1925): This Protocol was adopted as a collective response to the horrors of the use of chemical weapons during First World War. The Protocol can be seen to provide some level of environmental protection during armed conflict in so far as the use of chemical weapons and bacteriological weapons may cause harm to the natural environment. The "active" components of chemical weapons are known as chemical agents. Chemical weapons agents are defined as any chemical substance intended to dill, seriously injure or incapacitate humans due to its physiological effects. Some of these poisons and poisoned weapons are also highly damaging to the natural environment, damaging ecosystems and groundwater supplies, and can cause damage that takes decades to recover from.

Loopholes: By this Protocol only the use of chemical and biological means of warfare is prohibited, excluding the research, development, stockpiling and possession of such weapons from control.[23] The Protocol lacks control mechanism and provisions for establishing responsibility for violations, thereby limiting its ability to serve as a deterrent.

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC) (1972): The 1972 BWC prohibits the development, production, stockpiling or any other possession of microbial agents, toxins and weapons. By banning these weapons, the BWC and the protocol protect the environment in armed conflict from weapons that likely to cause significant environmental degradation, particularly to the natural environment and to fauna and flora.[24]

Provisional lacunas: By the convention the actual use of biological weapons is not prohibited. To protect the environment the convention was a fragmented and piecemeal approach and environmental protection is not the focal point of this convention. In the case of dispute arising regarding the application of the BWC, the State Parties have agreed to seek solutions through cooperation and negotiations.[25]

Convention on Certain Conventional Weapons (CCW) (1980); and Chemical Weapons Convention (CWC) (1993): Protocol II to the CCW 1980 attempts to limit the harmful effects of landmines by requesting states to take protective measures such as recording the location or targets in order to allow for later collection of the unexploded devices, and thereby facilitate substantial restoration to prior environmental conditions. Similarly Protocol V to this convention dealing with unexploded and abandoned ordnance offers similar guidelines that can serve to indirectly protect the environment from post-conflict threats. The purpose of CWC 1993 was to ban the use, development and production of chemical weapons, and it imposes a requirement on states to destroy the existing chemical weapons and production facilities. This convention also categorically prohibits any use of chemical weapons. Chemical weapon is defined as, **toxic chemicals and their precursors, except where intended for non-prohibited purposes as long as types and quantities are consistent with such purposes; munitions and devices specifically designed to cause death or other harm through the toxic properties or toxic chemicals that would be released as a result of employing such munitions and devices; and any equipment specifically designed for use directly in connection with the employment of munitions and devices.**[26]

It is also notable that the CWC specifically prohibits destroying chemical weapons by "dumping in any body of water, land burial and open pit burning"[27] thereby ensuring that the human and environmental costs of disposal are minimized.

Gap analysis: Under the Protocol II of CCW 1980 the states are only requested to take protective measures in order to restoring the degraded environment to its prior condition, the states are not under any absolute obligation to take such measure. Protocol II of CCW 1980 looks into the post harm situation and failed to provide any provisions to protect the environment during armed conflict before it has been damaged or destroyed. There is no detailed mechanism for the implementation of the obligations under CCW 1993. Apart from the above provisions of different soft and hard laws some other provisions[28] made to protect environment during armed conflict are found to be inefficient to deal with this problem i.e. Comprehensive Nuclear-Test Ban Treaty, 1996, Hague Convention for protecting cultural property,[29] UNGA resolutions[30] etc.

Conclusion: Prevention of war, no doubt, would stop all sufferings directly or indirectly arising from warfare to the mankind. Since there is, as it is understood till today, justification for war, argument in support of abolition of war would in the general notion neither be appreciated nor be seemed to be logical. Nevertheless, The destructive potential of the methods and means of warfare already in use or available in the world's arsenals today represents a threat to the environment of a magnitude unprecedented in the history of humanity. Special emphasis must therefore be placed on compliance with and constant development of the rules of IHL for the protection of the environment in time of armed conflict. Consequences of damages to the natural environment in time of war cannot be limited to the desired opponents over whom military win is sought to be achieved and damage to natural environment is, as it is an asset of mutual interest of whole world, damage to mankind itself. So, in the interest of mankind due emphasis should be given on the provisions providing protection to the environment during armed conflict. Any weapon, means or method having the possibility of causing the minimum damage to the environment should not be tolerated to be used even by the plea of cogent or absolute military necessity. However, now it is evident that the rules of IHL currently in force will not bring about optimum result limiting and preventing environmental damage in warfare for the provisional lacunas and loopholes and hence a special effort should be made to ensure that these rules are strengthened by removing the loopholes, ambiguities and making the duty of compliance with environmental provisions non-derogating.

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Necessity of Introducing ADR in Land Related Disputes Settlement

Md. Raisul Islam Sourav*

Abstract: *The pivotal role of land in the different aspects of our lives cannot be neglected. Issues relating to land administration, access to land, resolution of land disputes, land use planning, restitution of historical injustices, the institutional framework and land information management system have always presented a challenge in land management in Bangladesh. However, resolution of land related disputes and management issues are critical for sustainable recovery and growth of any economy. On the other hand, land disputes are highest in number in our courts. This playground has overtime been characterised with foul play, corruption, inefficiency, delays, technicalities and complexity that mainly leave disputants as enemies at family and community level. Hence traditional dispute resolution systems are totally failed to resolve land disputes with efficiency and for this reason litigants are dissatisfied with the outcomes of conventional litigation resolution systems. On the contrary, Alternative Dispute Resolution (ADR) mechanisms are preferred due to their advantages which include, speedy resolution of disputes, flexibility, less technicalities, cost effectiveness, ability to involve experts, privacy, saving on courts time. The complexity calls for a change in the approach for resolving land disputes and ADRs are recommended as a first line approach. Hence, this research article is aimed to explore the necessity of introducing ADR in land related disputes settlement in Bangladesh. In addition, this paper will examine the suitability of ADR in land disputes and will recommend some effective mechanism to resolve this kind of disputes more effectively as well as efficiently.*

Key Words: Alternative Dispute Resolution (ADR), Land, Settlement, Rural, Dispute, Bangladesh, Law, Court.

Introduction

Alternative Dispute Resolution (ADR) is an extra judicial procedure where annexed parties are voluntarily concurred to settle their disputes beyond prescribed court proceedings by mutual negotiation and cooperation and by the facilitation of a neutral third party i.e Arbitrator/Mediator/Conciliator or by a body. Ordinary sense, persuasion, *bona fide* intention, and compromise are the key to resolve through ADR.[1] However, despite that yet we do not have sufficient and effective ADR mechanism to settle land related disputes in Bangladesh. Hence, existing conventional court systems are not only time consuming, complex and expensive in broad sense but also rural justice seekers as well as most of the litigants are not satisfied with the outcomes of traditional court system in land matters.

The present judiciary of Bangladesh has caught in a vicious circle of delays and backlog of cases. The backlog of cases is prolonging the whole trial process. As a result the justice seekers are suffering from many hurdles losing their confidence on the judiciary. This process goes on with no apparent remedy in view. Present rate of disposal of cases and backlog is alarming for justice, rule of law and economic development of the country. Till 1 January 2013 there are about 2454366 cases awaiting disposal across the

* **Md. Raisul Islam Sourav** is an Assistant Professor and Coordinator, Department of Law, Dhaka International University (DIU), Dhaka, Bangladesh.
Correspondence to: **Md. Raisul Islam Sourav**, E-mail: raisul.sourav@outlook.com

country. Of them 963081 suits were civil in nature. Consequently justice seekers are facing harassments amid waiting for disposal of their cases.[2] A fair and right process for resolving disputes is crucial in any civilized society for the purpose of securing and defending rights of its citizens.[3]

However, in point of fact, the mechanisms of ADR are existed in our own tradition of dispute settlement from the early age of our society. Though we have traditional *Shalish* (arbitration) system, but now it is not effective due to the lack of official recognition, legal validity, control and domination of the rustic power, elite and patriarchy over the dispute resolution process. Therefore, we need a comprehensive system of ADR to resolve land related disputes. However, most of the pending cases in our superior in addition inferior courts are civil in nature and particularly land related in nature.[4] Hence this research paper is going to discuss the nature, advantages and necessity of introducing ADR hugely in resolving land related disputes in our country. In addition, this article will examine the effectiveness of ADR to reduce backlog of civil suits particularly land related civil suits. At the end, this study will suggest some recommendation to convert present land litigation culture into ADR.

Objectives:
The key research objective of this study is to analyze the prospects of Alternative Dispute Resolution in implementing land related dispute resolution in Bangladesh. In addition to this the research objectives are as follows:

- To explore the necessity and challenges of introducing Alternative Dispute Resolution in land related disputes settlement;
- To identify problems and prospects in implementing the ADR in the existing civil trial system;
- To suggest some recommendations to make ADR more effective and acceptable in resolution of disputes.

Research Methodology:
This is a qualitative study. The general methodological approach of this study is grounded on theoretical approach based on data and information systematically gathered and analyzed. Therefore, this methodology will allow the researcher to generate new theory out of initial data, which may also modify or elaborate the existing theory. The study was conducted on the basis of critical analysis of secondary sources of data. In order to collect the secondary data, relevant literature reviews have been made. For secondary data books, journals, newspaper clips, published articles, and other available resources were explored on this issue.

Concept of ADR
The term Alternative Dispute Resolution or in short ADR is often used to describe a wide variety of dispute resolution mechanisms that are alternative to full-scale court processes.[5] The term can refer to everything from facilitated settlement negotiations in which disputants are encouraged with each other prior to some legal process. It includes dispute resolution processes and techniques that act as a means for disagreeing parties to

come to an agreement short of litigation. The name ADR is an outmoded acronym that services as a matter of convenience only.[6]

ADR is a method of disposing of disputes of all kinds between or among parties swiftly and inexpensively, free of legal intervention and restrictions. It typically includes arbitration, mediation, early neutral evaluation and conciliation. The purpose of alternative dispute resolution is not a substitute consensual disposal or adversarial disposal or to abolish or discourage informal mediation or arbitration outside the courts, but to make alternative dispute resolution a part and parcel of the formal legal system, preserving the trial court's statutory authority and jurisdiction to try the cases.[7] Some may want ADR to be BDR (Better Dispute Resolution), Enhanced Dispute Resolution (EDR), Judicially Assisted Dispute Resolution (JADR) or IDR (Innovative Dispute Resolution) or for convenience, Appropriate Dispute Resolution.

Development of ADR in Bangladesh

Bangladeshi history of ADR may be traced from two viewpoints i.e. one is history of informal and quasi-formal ADR and another is court connected ADR under statutory arrangements. During the British period, in 1870, the *Panchayat* system was introduced to resolve minor disputes within their area.[8] In 1919, the Bengal Village Self Government Act was introduced and Union courts were set up to resolve disputes locally. Later on the Conciliation Court Ordinance, 1961 and the Village Court Act of 1976 were introduced and authority was vested on the Chairman of Union Council to try petty local cases and small crimes committed in their area and take consensual decisions. These were later strengthened in 1985 with additional power to cover women and children's rights. The Family Court Ordinance of 1985 enacted provisions of consensual method to solve disputes. But the habitual lawyers, judges and parties of adversary system fails to get its limit. The core reason is that it is completely a morphological identity, which is different from current system. Incorporation of ADR in special laws started back in 1969 with the Industrial Relations Ordinance which is now amended as the Bangladesh Labour Act, 2006, where it has been provided that disputes between worker and employer may be settled by negotiation and if it fails, then through conciliation and subsequently final disposal by arbitration. However, if none of the above is successful then the aggrieved party is entitled to go to the labour court.

Bangladesh has undertaken major reforms in its arbitration law in the year of 2001 and finally the Arbitration Act, 2001 was enacted by the Parliament bringing in substantial reforms in arbitration regarding domestic and international disputes. Subsequently, in 2003, the Code of Civil Procedure was amended to introduce mediation and arbitration through section 89A and 89B as viable means of dispute resolution in non-family disputes. In addition to this amendment, the Money Loan Court Act, 2003 stipulated the rule of judicial settlement, enforces for money loan recovery cases. The Civil Courts started mediation in non family disputes from 1st July, 2003 and by further amending the Code of Civil Procedure, 1908, mediation has been extended to appeal cases through section 89C from 1st July, 2006.

Different Forms of ADR

Negotiation, mediation, conciliation and arbitration are the most common features of ADR technique in Bangladesh.

Negotiation: It is mutual decision and arrangement of the terms of a transaction or agreement. Bargaining is a common feature of the negotiation process. It provides the parties or disputants an opportunity to exchange ideas, identify the irritant point of differences, find a solution and get commitment from each other to reach an agreement. There is no third party who facilitates the resolution process. It is different from mediation and arbitration.[9]

Mediation: Mediation is voluntary and informal process in which the disputing parties select a neutral third party (one or more individuals) to assist them in reaching a mutually acceptable settlement. In other words, it is a process to try to get agreement between two or people or groups who disagree with each other. It is simply an extension of the negotiation process. Mediators are individuals experienced in the negotiation process who bring disputants together to work out a settlement which both parties can accept or reject. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.[10]

Conciliation: Conciliation is another common form of dispute resolution. In this process a third party meets separately with the disputants in an effort to establish mutual understanding of the underlying causes of the dispute and thereby promote pacific settlement. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and actively encourage the parties to reach an agreement.[11]

Arbitration: Arbitration is a process by which a dispute between two or more parties is submitted to a panel of impartial third parties for resolution on the merits based on the evidence presented at a hearing. Arbitrators are professional and business people who are selected by the court to assist in the informal resolution of disputes because of their knowledge, expertise and reputation for fairness and impartiality. It is pertinent to mention here that the arbitrators does not exercise a judicial function in course of inquiry or investigation as to the amount of compensation and as such is not a court although he is expected to act within judicial norms.[12]

Advantages and Disadvantages of ADR

Alternative dispute resolution is that mechanisms which resolve disputes more efficiently and amiably by finding self-made process best suited to the parties. It is the method where the disputants can participate in the solution finding process. ADR cannot be substitute of formal judicial system, but can complement and support it. However, through alternative dispute resolution, the parties are involved in deciding acceptable alternatives in an agreement. In court actions it is generally an all or nothing decision decided by a judge.[13]

Alternative dispute resolution processes are voluntary; the participants are involved because they believe that they can generate a more acceptable agreement. In alternative dispute resolution techniques, a better environment for communications and sharing of information often exists. Individuals within the group are more prone to move from positional bargaining to problem solving when they feel their needs and values are seriously considered and valued in the process.[14] As a result a greater probability of resolving disputes exists there. However, sustainable solutions to land related disputes demand that parties are committed to decisions reached during negotiations. Through alternative dispute resolution techniques, the parties controlling the process can schedule meetings at their discretion and make decisions when they are ready.

Alternative dispute resolution processes usually involve a third party mediator or negotiator but this is not always the case. Costs for these services are much lower than lawyer and court expenses. In addition, the parties in a dispute decide how they will operate, what criteria they will use to reach agreement and if they will reach agreement. This adds substantial flexibility to the process. Further, in ADR decision-making authority is retained by the parties in dispute, therefore they retain the authority to decide, whereas in litigation a judge or arbitrator makes the decision.[15]

Advantages of this process are enumerated below:

- Win-Win outcome;
- Social groups that are not adequately or fairly served by the judicial system can have access to justice through ADR mechanism, as it provides legal advice to members of disadvantaged groups on whether and how to use the court system;
- In most of the cases, the rate of success is high as it can bring a satisfactory solution among the parties to the dispute. Since the process is determined and controlled by the parties, it is considered as more flexible than formal litigation;
- It can reduce delay in the resolution of disputants and increase disputant's satisfactions;
- ADR process can effectively reduce the cost of resolving disputes;
- It manages disputes and conflicts that may directly impair development initiatives;
- It helps to reduce pressure on judiciary.

Since there are many success stories of resolving disputes through ADR process, there are still some drawbacks due to which people frequently go to legal processes.[16] Those can be identified as following:

- ADR programs do not work well in the context of extreme power imbalance between the parties;
- ADR programs do not set precedent, define neither legal norms nor do they promote a consistent application of legal rules;
- Sometimes people faced with biased decisions;
- Some are interested in legal solution;
- Lack of proper guidelines relating to mediation;

- Lack of sufficient budget and absence of separate institution;
- Little scope for client to client interaction which hinders potentiality for alternative dispute resolution;
- Persons dealing with ADR do not have adequate knowledge and experience;
- Inadequate administrative and logistic support system, enormous work-load of the judges, poor salaries and poor working conditions, all having negative impact on the initiative and efficiency of the judges;
- It is inappropriate to use ADR to multi-party cases in which some of the parties or stakeholders do not participate;
- In some types of disputes ADR method is not at all appropriate for example in cases of systemic injustice, discrimination or violation of human rights etc.

Necessity of ADR in Resolving Land Related Disputes in Bangladesh

Justice delayed is justice denied (William E Gladsmith) is a very common adage in the judicial domain**.** It is one of the most burning problems in the land administration of justice in Bangladesh. The present system of seeking justice regarding land related matters is so ambiguous and miserable for the mass people that it cannot be explained in a word. There are many instances that poor people who went to court to address their grievances after selling off their lands and property to meet the expenses of the court, but did not get justice in their lifetime.

Statistics shows that, 96% appeals that are filed to the High Court Division of the Supreme Court of Bangladesh are allied with land; out of which 76% are directly concerned with land dispute and rest 20% are linked with land matter. The statistics is not finished here; in addition, 11,519 cores Tk. spent per annum for land litigation and 24000 Tk. are spent as bribe to the land administration and other connected departments. Our current adversarial system of justice is too complex, time consuming, pricey, laborious, bureaucratic and inconvenient for the poor justice seekers. In addition, existing civil justice system is not less liable for not getting quick justice. There are a lot of procedural lacunas which lead to an unavoidable lengthy trial system. Procedural causes of backlog and delay include: (i) free access for civil claimants to the courts with incentives for frivolous, party controlled litigation processes (including initiation of without cause, extension without excuse, motions without merit); (ii) discontinuity, repetition, and fragmentation of the legal processes, without early or accountable judicial interventions such as court administration and case management mechanisms; (iii) limited opportunity or incentives (especially early in the process) for consensual settlements, including limited venues for alternative dispute resolution processes such as mediation or negotiation.[17]

Also most of our untaught underprivileged villagers neither know nor understand English written scattered land laws. We necessitate a straightforward *Bangla* uniform Land Code where all laws regarding land matters including registration will be codified. However, at present the only demand of mass people is the speedy approach to justice. Our age-old culture provides to settle any disputes through ADR, a carefully devised mechanism which involves proper court administration, effective case management and amicable consensual dispute resolution, can revolutionize our entire land justice delivery system.[18]

Mechanisms of ADR can help to resolve various types of land disputes relating to boundary, succession, multiple sales, unhonoured sales, crop damage, access to water and grazing grounds, access to and land claims, trespass, human wildlife conflicts, pre-emption problems, family feuds etc. Issues that can be handled through ADR differ in scope in each land category. Every dispute relating to land can be subjected to a form of ADR whether through negotiation, mediation or through arbitration.

The essence of the concept is that before filing of the plaint and initiating any litigation process, attempts would be made to resolve the dispute through various forms of alternative dispute resolution (ADR). Our present trial procedures also require huge time to finish a suit. Currently we have the following stages to finish any civil litigation:
Presentation of the Plaint⇒Issue of processes⇒Service Return (SR)/ Appearance of the defendant⇒Written Statements (WS)/ Written Objection (WO) if it is Miscellaneous Case⇒Alternative Dispute Resolution (ADR) ⇒Framing Issues⇒Step under section 30 of C.P.C⇒Settling Date for peremptory Hearing (SD) ⇒Peremptory Hearing (PH), ⇒Examination in chief⇒Cross Examination⇒Re examination⇒Argument⇒Judgment⇒Decree⇒Execution (If necessary) ⇒Appeal⇒Reference⇒Revision⇒Review.

Indeed, it is a lengthy process for any litigant to get redress. Further, receiving decree may not conclude litigation in our country rather it may requires filing one more fresh suit to execute that decree. If any person is so much fluky and gets conclusive judgment on behalf of him and still he alive yet the matter of sorrow will never be ended cause elapsing huge time by following all lengthy process can annihilate the subject matter of the suit. That is why we need ADR in land related dispute settlement to eliminate endless sufferings of our deprived citizens. Moreover, ADR would provide an opportunity to resolve conflicts effectively, hastily, affably, competently and resourcefully by finding self-made method best suited to the parties.

Despite introducing ADR in civil litigation by amending the Code of Civil Procedure in 2003, litigants are not getting benefit of ADR.[19] Because the amendment has also been made the ADR a part of court procedure, where the court would send it for mediation on application of the parties concern. Nevertheless, to reduce the huge backlog of cases from the courtyard and to bring down the lumber from the shoulder of the feeble people introducing ADR vastly before starting suit in land matters should be obligatory. Hence, like UK we must introduce something like pre action protocol where every litigant must comply with required pre action protocol to initiate a civil litigation. We can make it obligatory before starting of any civil suit as well as in appellate stage. Instead of starting ADR after filing written statement by the defendant, we should start it from very beginning of a suit. Otherwise, the backlog remains the same and the provision of ADR would become totally worthless.

However, speedy disposal of suit is also a constitutional obligation in Bangladesh. Article 35(3) of our constitution provides for “Right to a speedy and public trial”, so to ensure justice for all. ADR processes can not only support the legal objectives, but also support

other development objectives, such as economic and social objectives, by facilitating the disputes that are impeding progress of these objectives. [20]

To resolve private land disputes like ownerships, disputes that arise on interests derived from adjudication of trust where issues of family land, matrimonial property, succession, use rights, general boundaries compulsory acquisition etc arise are best handled through ADR. As for public lands, ADR will be used to resolve dispute relating to access and use of natural resources, rights created through settlement schemes where general boundaries are in use, matrimonial property rights and succession issues arise. Moreover, in urban areas, though ADRs are limited by virtue of use of accurate survey that requires exert determination on boundary issues and where properties are more for investments, ADRs are useful in the dispute arising in the informal settlements where land is given by settlement elders, chiefs and managed through neighbourhood groups and community leaders. The use of digital survey and community leaders during adjudication makes ADR a sustainable tool for resolving not only boundary disputes but land claims. It is only in urban areas and in limited land interests determined through fixed survey that the use of ADR may not be an appropriate mechanism. For their wide geographical coverage ADR operations should be promoted and supported throughout the country.

Towards an ideal ADR form for Land Matters

Local Govt. can play imperative role to maneuver ADR for land related dispute resolution.[21] If at the first instance local people take initiative to resolve dispute by informal *Shalish* (Arbitration), and if it fail then it could be send to the body constitute for this purpose to mediate the matter. The members of that body should nominate by local people for a certain period. In addition, the body may comprise by local inhabitants as well as representative of local Govt. who are acquaintance with local customs and practices regarding land matter as well as existing land laws, registration, dispute settlement etc. The body may call as Local Dispute Settlement Council (LDSC). LDSC shall call the disputants after getting allegation from any of them and shall give opportunity to defense each of them. To choice the manner (Arbitration, Mediation, Conciliation) by which the matter would settle would select by the concerned parties. In addition, the parties can appoint persons on behalf of them who can represent as well as can give advice to the concerned party and be able to assist the LDSC to come to an agreement between the parties. This should be done at an open place and in presence of local residents. By witnessing them, others are interested to resolve their matter through this process as well as they would be the spectator of that settlement. For this reason, disputants cannot reject the decision of the LDSC at a later time or if violate the resolution local natives can compel them to follow the same. If it becomes really tough to reach a final decision by the parties, then they may go to the court to seek justice as a last resort.

Recommendations

To make ADR more effective, extensive and pro-active, co-ordination is needed among different agencies. Further, formulation of a national ADR strategy, setting up a national ADR bureau having office at every district, insertion of ADR correlated courses in the curriculum of law schools and institution may convenient to circulate and popularize this

mechanism. In addition, our Bar Council and Judicial Administration Training Institution (JATI) can take initiative to popularize ADR among judges and lawyers.

Following initiatives can be given to improve, standardise and operationalise ADR as tool for land administration; the government shall take necessary steps including:

- Create purposeful public awareness campaign on ADR;
- Spread the success story of ADR;
- View ADR as an addition to not a replacement of the litigation system.
- Case management should be observed ;
- Bring change in court infrastructure;
- Include stakeholders in court reforms;
- Involve the Bar Association in ADR;
- Provide training for mediators;
- Reform in civil justice system; beside these
- Judges can actively and persistently suggest ADR options;
- Particular institute can be formed for training of mediation;
- The court can play a vital role by educating litigants about necessity and usefulness of ADR;
- Reforming Village Court by initiating ADR in place of *shalish* (arbitration).
- Develop a legal framework for implementation of ADR that shall:
    i. Standardisation of process
    ii. Give jurisdiction
    iii. Direct on enforcement of ADRs awards,
    iv. Give affirmative action for ADRs to be a first line of approach for certain land disputes
    v. Direct on appealing procedures
    vi. Direct on period of office and size of membership at village level
- Initiate mechanism for having Village committees established in all villages and arbitration tribunals at union level.
- Develop training and reference manuals for use by ADR actors and those undertaking public awareness creation and education on land matters.
- Ensure that capacity building is continuous, financial support is availed, record keeping and support systems are in place, there is adherence to land policy values and principles given in the Constitution.
- Participatory approach in the management of ADRs and in ADRs operations.

Government should do these immediately and priority basis to implement ADR in land matter vastly, to conscious people about the effectiveness of ADR, arrange essential schooling to the people on this matter, alter requisite enactments, formulate simple land laws, make land administration answerable, develop digital land document preservation system, recognize and validating ADR process to resolve land clash etc.

Conclusion

Delay in disposal of cases become common culture in our court system. Now days it becomes a factor of injustice and a violator of human rights as well. People are getting frustrated while they are filing a suit before the court as they are uncertain about when

they will see the end of the disputes. But it cannot be ignored that every litigants have right to speedy and fair trial. Alternative dispute resolution mechanism has the potentiality to manage a case without causing delays and financial loss to the parties. In an effort to streamline the life of a case while preserving justice, Alternative Dispute Resolution (ADR) offers an arena for litigation outside of the trial process. We can take the examples of developed countries like UK and USA where due to initiation of ADR mechanism at trial system they are getting success while dispensing justice. So to ensure justice for all ADR mechanism can be practiced as mandatory as it does not hamper human rights. But to get the full benefit of this mechanism, it must be free from any kind of bias.

This alternative mechanism would not only give the Justice system an eccentric institutional shape, but also give it a legal authority as it would it be a part of local community justice system.[22] This would also give it social acceptance as it involves the community and use the collective astuteness of it to solve the dispute.[23] A social justice system may create by centering this system.

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Reasons for Reforms of Capital Punishment and it's Justification

Mahfuza Akter*

Abstract : In the course of human civilization, some people has come to realize that capital punishment in the form of death penalty should not be accepted since it is a fundamental breach of human rights and terribly cruel but the world has not yet formed a consensus against its use. There are many countries which executes thousands of people every year. However the number of execution of death penalty is declining since there is various international pressure. The death penalty is the most controversial penal practice in the modern world. Other harsh, physical forms of criminal punishment referred to as corporal punishment have generally been eliminated in modern times as uncivilized and unnecessary. In the majority of countries, contemporary methods of punishment such as imprisonment or fines no longer involve the infliction of physical pain. Although imprisonment and fines are universally recognized as necessary to the control of crime, the nations of the world are split on the issue of capital punishment. This confusion amongst various writers, commentators and nations has made it a live issue which always attracts careful and informed consideration.

Now in this article it will be discussed theoretically that whether death penalty is an effective deterrence for capital offences or not? And is there any justification for imposing it or should it be reformed? A wide discussion on reasons for reform and brief discussion on some related topics such as crime, theories, punishment, history, methods and development of capital punishment are also attached for convenience.

Keywords: Crime, Punishment, Capital punishment, Rights, Practice, Justification, Retribution, Deterrence.

Introduction

Capital punishment is one of the most debated issues in the contemporary world. Human is the best and rational creature amongst the creation of Almighty Allah. As the best and rational, they have certain rights such as right to life which is not alienable and can not be undermined. But it can be seen from the very inception of mankind that, in certain circumstances, the right to life is disregarded primarily in the name of social balance. Now social balance is also important and attracts much careful consideration to run a peaceful society.

Lecturer, Dept. of Law, Dhaka International University, Dhaka, Bangladesh.

Correspondence to: mahfuza_eu@yahoo.com

To keep the society well balanced, people have created certain standards of behavior and if anyone falls short of that standard, he is said to commit an offence and hence he is punished. Every country has its own set of punishment for offences. The most grievous punishment amongst those is the capital punishment in the form of death sentence which is mostly applied for committing capital offences. The reason for it, as claimed by the imposers is that capital punishment deter people from committing capital offences but this is not immune from controversy since there is no conclusive evidence that death penalty is effective deterrence for murder and other brutal crimes.

Methodology

In this article information about capital punishment have been collected from secondary sources like books , journals, publications, websites and articles and those information are analyzed from different point of view of different writers and researchers including the current writer.

Crime and punishment

There are two concepts, the concept of crime and the concept of punishment and in every case the latter follows the former. The term crime has no universally acceptable definition.[1] In a very ordinary form crime means any unlawful act which is made punishable by a country.[2] It can be said that crime is an act harmful not only to some individual or individuals but also to a community, society or the state ("a public wrong"). Such acts are forbidden and punishable by law.[3] Crime is a legal concept and has a sanction of law.[4] Crime can be defined from various angles such as religious, political, social or economic and in every case it will mean some breach of norms. But breaches of only those norms are punishable which are recognized as crime by the law of the land.

On the other hand Punishment is the authoritative imposition of an undesirable or unpleasant outcome upon a group or individual, in response to a particular action or behavior that is deemed unacceptable or threatening to some norm.[5] According to Garland punishment is the legal process whereby violations of criminal law are condemned and sanctioned in accordance with specified legal categories and procedures.[6]

Crime and punishment are interrelated terms. Whenever there is a crime there will be a punishment imposed. There are categories of punishment for different crimes which vary country to country. Punishment can be mainly categorized as corporal and non-corporal. Corporal punishment includes, Capital punishment or death, Imprisonment, Whipping in some countries and banishment and death. Non -corporal punishment includes Fines, Forfeitures, Deprivation of some particular rights and compulsion to do something. In Bangladesh there are five categories of punishment which are Death Sentence, Imprisonment for life, Imprisonment, Forfeiture of Property and fines.[7]

Punishment for a crime is kind of retaliation. In ancient times the victim or his companions conducted this retaliation. And after civilization it has only got a civilized flavor where punishment is implemented in an organized way by the State. There are some theories to justify the imposition of punishment such as Deterrent theory, Retributive theory, Preventive theory, and reformative theory. The common principle of these theories is that, to have a peaceful, organized and balanced society punishment for crime is necessary. This principle is not disputed rather the dispute among the writers is whether punishment in the form of capital punishment is necessary?

Theories of punishment

With change in the social structure the society has witnessed various punishment theories and the radical changes that they have undergone from the traditional to the modern level and the crucial problems relating to them. Punishment can be used as a method of educing the incidence of criminal behavior either by deterring the potential offenders or by incapacitating and preventing them from repeating the offence or by reforming them into law-abiding citizens. Theories of punishment contain generally policies regarding punishment namely: Deterrent, Retributive, Preventive and reformative.

Deterrent Theory: Deterrence is the attempt to discourage crime by punishment. This concept is based on the idea that citizens will not break the law if they think that the pain of the punishment will outweigh the pleasure of the crime. Punishment as a deterrent is expected to serve two-fold purposes, individual deterrence and general deterrence.

Retributive Theory: Retribution is defined as the moral vengeance to satisfy a society to make the offender suffer as much as the suffering caused. This is the oldest justification to impose punishment. The idea behind this theory is that the person who has caused suffering to one should also realize the same.

Preventive Theory: According to this theory the purpose of punishment is to prevent the wrongdoer from committing further crime. The offenders are disabled from repeating the offences by sanctioning punishment such as imprisonment or execution.

Reformative Theory: The main object of punishment is to reform the offender. According to this theory the punishment should be curative, medicinal, clinical and educative rather than inflicting physical pain or harm.

Punishment, whether legal or divine, needs justification. Because the justification of legal punishment has been given greater consideration by philosophers than has the justification of divine punishment by theologians, the philosophical concepts and 'theories of punishment' (i.e. the justifications) will be used as a basis for considering divine punishment.[8]

History of Capital Punishment and methods

We can find the first code of death penalty laws in the eighteenth century B.C in the code of King Hammaurabi of Babylon which set the different punishment and compensation, according to the different class/group of victims and perpetrators and death penalty for twenty five crimes. The death penalty can also be found in the Fourteenth Century B.C.'s Hittie Code, The Torah (Jewish Law), also known as the Pentateuch (the first five books of the Christian Old Testament), lays down the death penalty for murder, kidnapping, magic, violation of the Sabbath, blasphemy, and a wide range of sexual crimes, although evidence suggests that actual executions were rare.[9]

A further example comes from Ancient Greece, where the Athenian legal system was first written down by Draco in about Six Hundred B.C: the death penalty was applied for a particularly wide range of crimes, though Solon later repealed Draco's code and published new laws, retaining only Draco's homicide statutes.[10] The word draconian derives from Draco's laws.

The Romans also used death penalty for a wide range of offenses.[11] Later these codes were translated into different legal systems of the world.

The methods used for death penalty were Severe historical penalties include breaking wheel, boiling to death, flaying, Tearing apart by horses, burial alive, crucifixion, crushing, death flights, decapitation, defenestration, disembowelment, drawing and quartering, electrocution, Hanging, Nitrogen asphyxiation, poisoning, shooting.

Religious perceptions:

Islam

Scholars of Islam hold it to be permissible but the victim or the family of the victim has the right to pardon. In Islamic jurisprudence (Fiqh), to forbid what is not forbidden is forbidden. Consequently, it is impossible to make a case for abolition of the death penalty, which is explicitly endorsed.

Sharia Law or Islamic law may require capital punishment; there is great variation within Islamic nations as to actual capital punishment. Apostasy in Islam and stoning to death in Islam are controversial topics. Furthermore, as expressed in the Qur'an, capital punishment is condoned. Although the Qur'an prescribes the death penalty for several hadd (fixed) crimes—including rape—murder is not among them. Instead, murder is treated as a civil crime and is covered by the law of qisas (retaliation), whereby the relatives of the victim decide whether the offender is punished with death by the authorities or made to pay diyah (wergild) as compensation.

"If anyone kills person—unless it be for murder or for spreading mischief in the land—it would be as if he killed all people. And if anyone saves a life, it would be as if he saved the life of all people" (Qur'an 5:32). "Spreading mischief in the land" can mean many different things, but is generally interpreted to mean those crimes that affect the community as a whole, and destabilize the society. Crimes that have fallen under this description have included: (1) Treason, when one helps an enemy of the Muslim community; (2) Apostasy, when one leaves the faith; (3) Land, sea, or air piracy; (4) Rape; (5) Adultery; (6) Homosexual behavior.

Christianity

Although some interpret that Jesus' teachings condemn the death penalty in The Gospel of Luke and The Gospel of Matthew regarding Turning the other cheek, and John 8:7 in which Jesus intervenes in the stoning of an adulteress, rebuking the mob with the phrase "may he who is without sin cast the first stone", others consider Romans 13:3-4 to support it. Also, Leviticus 20:2-27 has a whole list of situations in which execution is supported. Christian positions on this vary. The sixth commandment (fifth in the Roman Catholic and Lutheran churches) is preached as 'Thou shalt not kill' by some denominations and as 'Thou shalt not murder' by others. As some denominations do not have a hard-line stance on the subject, Christians of such denominations are free to make a personal decision.

Roman Catholic Church

The Church classes capital punishment as a form of "lawful slaying", a view derived from the thought of theological authorities such as Thomas Aquinas, who accepted the death penalty as a necessary deterrent and prevention method, but not as a means of vengeance. In Evangelium Vitae, Pope John Paul II suggested that capital punishment should be avoided unless it is the only way to defend society from the offender in question, opining that punishment "ought not go to the extreme of executing the offender except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent." The most recent edition of the Catechism of the Catholic Church restates this view.

Buddhism

There is disagreement among Buddhists as to whether or not Buddhism forbids the death penalty. The first of the Five Precepts (Panca-sila) is to abstain from destruction of life. Chapter 10 of the Dhammapada states: "Everyone fears punishment; everyone fears death, just as you do. Therefore do not kill or cause to kill. Everyone fears punishment; everyone loves life, as you do. Therefore do not kill or cause to kill."Chapter 26, the final chapter of the Dhammapada, states, "Him I call a brahmin who has put aside weapons and renounced violence toward all creatures. He neither kills nor helps others to kill." These sentences are interpreted by many Buddhists

(especially in the West) as an injunction against supporting any legal measure which might lead to the death penalty. However, as is often the case with the interpretation of scripture, there is dispute on this matter. Buddhist-majority states vary in their policy. For example, Bhutan has abolished the death penalty, but Thailand still retains it, although Buddhism is the official religion in both. Historically, most states where the official religion is Buddhism have imposed capital punishment for some offenses.

Hinduism

A basis can be found in Hindu teachings both for permitting and forbidding the death penalty. Hinduism preaches ahimsa (or ahinsa, non-violence), but also teaches that the soul cannot be killed and death is limited only to the physical body. The soul is reborn into another body upon death (until Moksha), akin to a human changing clothes. The religious, civil and criminal law of Hindus is encoded in the Dharmaśāstras and the Arthasastra. The Dharmasastras describe many crimes and their punishments and call for the death penalty in several instances, including murder and righteous warfare.

Mormons

The Church of Jesus Christ of Latter-day Saints (also called Mormons) neither promotes nor opposes capital punishment. They officially state it is a "matter to be decided solely by the prescribed processes of civil law."

Eastern Orthodox Christianity

Eastern Orthodox Christianity generally has a negative view of the death penalty, but there is little said either way in this religion.

Esoteric Christianity

The Rosicrucian Fellowship and many other Christian esoteric schools condemn capital punishment in all circumstances.

Reforms and Reasons

Gradually people started to criticize the imposition of death penalty and reforms were started to take place. A detailed critique of the death penalty in 1764 actually started the modern abolitionist movement when Cesare Beccaria published “On Crimes and Punishments” in Italy. It was the first systematic, sustained, detailed critique of the death penalty as it was actually carried out.[12] By 1500 A.D England punished people with death penalty only for major felonies such as treason, murder, larceny, burglary and arson. Reform of death penalty in Europe started in 1750 A.D. In 1853 Venezuela and in 1867 Portugal were the first nation to abolish death penalty altogether.

In 1986, 46 countries had abolished the death penalty for ordinary crimes.[13] Sixteen years later, the number of countries in the same category had almost doubled to 89.[14] Moreover, another 22 countries had stopped using the death penalty in practice, bringing the total of non-death penalty countries to 111, far more than the 84 countries which retain an active death penalty. Roger Hood, in his book about world developments in the death penalty, noted that: "The annual average rate at which countries have abolished the death penalty has increased from 1.5 (1965-1988) to 4 per year (1989-1995), or nearly three times as many."[15] International law expert, William Schabas, noted that fifty years ago this topic did not even exist because there were virtually no abolitionist countries.[16] For a world in which the death penalty has been practiced almost everywhere for centuries, this is a dramatic turnaround. Although formal abolition of the death penalty dates as far back as 1867 for Venezuela and 1870 for the Netherlands, and even earlier for the state of Michigan (1846), most of the movement towards elimination of capital punishment has been fairly recent.[17]

The reasons why countries have abolished the death penalty in increasing numbers vary. For some nations, it was a broader understanding of human rights. Spain abandoned the last vestiges of its death penalty in 1995, stating that: "the death penalty has no place in the general penal system of advanced, civilized societies . . . .What more degrading or afflictive punishment can be imagined than to deprive a person of his life . . . ?"[18] Similarly, Switzerland abolished the death penalty because it constituted "a flagrant violation of the right to life and dignity. . . ."[19] Justice Chaskalson of the South African Constitutional Court, stated in the historic opinion banning the death penalty under the new constitution that: "The rights to life and dignity are the most

important of all human rights . . . . And this must be demonstrated by the State in everything that it does, including the way it punishes criminals."[20]

Defining the death penalty as a human rights issue is a critical first step, but one resisted by countries that aggressively use the death penalty. When the United Nations General Assembly considered a resolution in 1994 to restrict the death penalty and encourage a moratorium on executions, Singapore asserted that "capital punishment is not a human rights issue."[21] In the end, 74 countries abstained from voting on the resolution and it failed.

Similarly, Trinidad and Tobago, in withdrawing from the human rights convention of the Organization for American States and preparing to resume executions, insisted that "The death penalty is not a human rights issue."[22] However, for an increasing number of countries the death penalty is a critical human rights issue. In 1997, the U.N. High Commission for Human Rights approved a resolution stating that the "abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights."[23] That resolution was strengthened in subsequent resolutions by a call for a restriction of offenses for which the death penalty can be imposed and for a moratorium on all executions, leading eventually to abolition.[24]

The member states of the Council of Europe have established Protocol 6 to the European Convention on Human Rights calling for the abolition of the death penalty.[25] Similarly, an optional protocol supporting the end of the death penalty has been added to the American Convention on Human Rights.[26]

The European Union has made the abolition of the death penalty a precondition for entry into the Union, resulting in the halting of executions in many eastern European countries which have applied for membership. Russia commuted the death sentences of over 700 people on death row, and is considering legislative change leading to abolition.[27] Poland has voted to end the death penalty, as has Yugoslavia, Serbia and Montenegro.[28] Most recently, Turkey moved closer to admission to the European Union when its Parliament voted to abolish the death penalty except in times of war.[29]

Challenging the death penalty is not seen solely as an internal matter among nations. Many European countries, along with Canada, Mexico, and South Africa, have resisted extraditing persons to countries like the United States unless there are assurances that the death penalty will not be sought. The Council of Europe has threatened to revoke the U.S.'s observer status unless it takes action on the death penalty.[30] Mexico has recently begun a program to provide legal assistance to its foreign nationals facing the death penalty in the U.S. As discussed more fully below, these Mexican citizens were usually not afforded their rights under the Vienna Convention on Consular Relations. This same violation led Paraguay and Germany to pursue relief.

Discussion on justification and deterrence

It can be seen from various writings of scholars from different sectors that, there are arguments for and against the imposition of death penalty. The arguments which have been put forward to retain death penalty as punishment includes that, it removes the worst criminals from society and makes the society clean, that those criminal can not commit further crimes, that death penalty is cost effective, that the criminal should made to suffer in proportion to the crime he has committed, that the fear of death penalty deters people from committing crime, that retribution is necessary in some situations.

The arguments against imposing death penalty include, that death penalty is cruel and unusual, that it denies due process of law, that it violates the constitutional guarantee of equal protection of law, that it is not a viable form of crime control, that it wastes limited resources, that opposing death penalty does not indicate a lack of sympathy for victims, that society should not kill human beings, that capital offences are often committed unintentionally, that there is possibility of error.

One of the most important factors to be considered in this debate is whether capital punishment deters people from capital offences or not. It is hard to prove one way or the other because in most retentionist countries the number of people actually executed per year (as compared to those sentenced to death) is usually a very small proportion. It would, however, seem that in those countries which almost always carry out death sentences, there is far less serious crime. This tends to indicate that the death penalty is a deterrent, but only where execution is a virtual certainty. The death penalty is much more likely to be a deterrent where the crime requires

planning and the potential criminal has time to think about the possible consequences. Where the crime is committed in the heat of the moment there is no likelihood that any punishment will act as a deterrent. Justice Marshall in Furman v Georgia 1972 stated that , " In light of the massive amount of evidence before us, I see no alternative but to conclude that capital punishment can not be justified on the basis of its deterrent effect ." In the following year Richard M Nixon stated that "Contrary to the views of some social theorists, I am convinced that the death penalty can be an effective deterrent against specific crimes." Deterrence is a function not only of a punishments' severity, but also of its certainty and frequency. An argument most often cited in support of capital punishment is that the threat of execution influences criminal behavior more effectively than imprisonment does.[31] Many people particularly politicians, indicate that the death penalty is an effective deterrent for the crime of murder.[32] The argument against this statement is that if the crime is not premeditated (most of the time this is the case) then it is impossible to imagine how the threat of punishment could prevent a crime. Although inflicting death penalty guarantees that the condemned person will commit no further crimes, it does not have demonstrable deterrent effect on other individuals. The fact that no clear evidence that the death penalty has a unique deterrent effect has emerged from the many studies made, and the methodological difficulties inherent in all such studies, point to the futility of relying on the deterrence hypothesis as a basis for public policy on the death penalty.[33] Rather than deter people from committing crimes, abolitionists argue that it actually causes more violence. Increased violence due to capital punishment is referred to in the literature as the brutalization effect.[34] The brutalization effect as a reason to oppose the death penalty is diametrically opposite to the deterrence reason to support the death penalty. There is no evidence to support the claim that death penalty has a deterrent effect. In fact some studies have shown that the rate of murder is not related to whether the death penalty is in force. There are as many murders committed in jurisdictions with the death penalty as in those without. Unless it can be demonstrated that the death penalty, and the death penalty alone, does in fact deter crimes of murder, death penalty should not be imposed in the presence of other alternatives.[35] Some argues that capital punishment sometimes encourages murder. Some statistical evidence doesn't confirm that deterrence works (but it doesn't show that deterrence doesn't work either)

There are some more researches which show that capital punishment in fact deters people from committing crime. One such research was made by Roy D Adler and Michael Summers. They suggest that the death penalty when carried out has an enormous deterrent effect on the number of murders since fear is an inextricable part of human psychology.

If we take examples of some countries it can be said that, in fact capital punishment works to deter people from committing crime.In Britain, the rates have significantly increased since the abolition of capital punishment. In Texas, America the murder rate dropped since death penalty is in existence. Singapore always carries out death sentences where the appeal has been turned down, so its population knows precisely what will happen to them if they are convicted of murder or drug trafficking and hence the crime rate is remarkably lower.

This tends to indicate that the death penalty is a deterrent, but only where execution is a virtual certainty. The death penalty is much more likely to be a deterrent where the crime requires planning and the potential criminal has time to think about the possible outcome of his crime.

Capital punishment is often justified with the argument that by executing convicted murderers, we will deter would-be murderers from killing people. Deterrence is most effective when the punishment happens soon after the crime - to make an analogy; a child learns not to put their finger in the fire, because the consequence is instant pain. The more the legal process distances the punishment from the crime - either in time, or certainty - the less effective a deterrent the punishment will probably be. Executions, especially where they are painful, humiliating, and public, may create a sense of horror that would prevent others from being tempted to commit similar crimes. In our day, death is usually administered in private by relatively painless means, such as injections of drugs, and to that extent it may be less effective as a deterrent. Sociological evidence on the deterrent effect of the death penalty as currently practiced is ambiguous, conflicting, and far from probative.[36] Some proponents of capital punishment argue that capital punishment is beneficial even if it has no deterrent effect. John McAdams states that “if we execute murderers and there is in fact no deterrent effect, we have killed a bunch of murderers. If we fail to execute murderers, and doing so would in fact have deterred other murders, we have allowed the killing of a bunch of innocent victims. I would much rather risk the former. This, to me, is not a tough call.”[37]

International Concerns

International organizations such as united nation and European Union Organization of American States etc are also concerned about the implication of the death penalty as capital punishment upon the society. In most of their resolutions, they have advocated for a change in the current method of applying capital punishment. It can be said that at present, as international actors, they have played a significant role to make people and governments understand that death penalty is inhumane and not a solution for crimes. The result is obvious as most member states of those organizations have either abolished death penalty or limited its application in extreme class of cases.

In 1948 the Universal Declaration of Human Rights was adopted which guarantees right to life and protection from degrading punishment. In 1966 The UN adopted International Covenant on Civil and Political Rights (ICCPR), Article 6 of which speaks for abolition of death penalty in peacetime. In 1984 The UN Economic and Social Council (ECOSOC) adopted safeguard guaranteeing protection of the rights of those facing the death penalty which stated that no one under the age of 18 shall be sentenced to death. In 1989 The UN General Assembly adopted the Second Optional Protocol to the ICCPR which advocates for total abolishment of death penalty but allows state parties to retain it for crimes in time of war. In 1990 the Protocol to the American Convention on Human Rights was adopted by the general Assembly of the Organization of American States to abolish death penalty except in the time of war. In 1993 The International Criminal Tribunal for the Former Yugoslavia stated that death penalty is not an option even for the most serious crime of genocide. In 1995 the UN Convention on the Rights of Child was adopted which prohibits death penalty for persons under the age of 18. In 1999 the UN Commission on Human Rights (UNCHR)passed a resolution calling on the states that still uses the death penalty to reduce the number of offences leading to death penalty with a view to abolish it. In 2002 protocol 13 to the European Convention on Human Rights was adopted which was the first legally binding international treaty to abolish death penalty in all circumstances with no exceptions. In 2005 the UNCHR approved Human Rights Resolution 2005/59 which called for all states to abolish death penalty completely and in the meantime to establish moratorium on executions.

In 2007 the UN General Assembly (UNGA) approved Resolution 62/149 which calls for all states to establish a moratorium on executions with a view to abolish it completely. At present there are one international and three regional treaties that provide for the abolition of the death penalty. This was an important move. Since 2007, the movement to abolish death penalty got extra momentum. The states all over the world are taking the issue seriously and adopting measures to abolish death penalty in all situations.

Suggestions

There is no doubt that the death penalty is cruel inhumane and degrading. Sentencing someone to death violates their right to life. More and more Member States from all regions acknowledge that the death penalty undermines human dignity, and that its abolition, or at least a moratorium on its use, contributes to the enhancement and progressive development of human rights.[38] Execution is a punishment which is ultimate and irrevocable and there is always the risk of punishing an innocent. Deterrence is a concept which is used by the countries that uses death penalty. But there are no concrete statistics to show that is the case. The death penalty is often used as political tool. There are numerous reasons for which it can be said that the death penalty should be abolished. But there is other side of the picture. It can be argued that there are some serious heinous crimes for which justice demands the execution of the offenders. This will not be treated as revenge rather it will be treated as demand of justice. Justice demands that the perpetrator should be made to surrender his life in recompense for his theft of another's life. This is why we need death penalty. Not because killing murderers will restore to life those whom they have murdered, but because it's the closest we can humanly get to extract a measure of justice equal to the crime.[39]The suggestion regarding death penalty should be that the death penalty should be abolished with some exceptions. The exceptions will allow the states to determine which offence they consider most heinous and they can apply death penalty accordingly. The guiding factor in deciding the list of crimes which will attract death penalty would be the acceptance of national and international community about the seriousness of those crimes.

Conclusion

Crime is an evident part of society, and everyone is aware that something must be done about it. Most people know the threat of crime to their lives, but the question lies in the methods and action in which it should be dealt with. There is debate over the morals and effectiveness of such a harsh sentence as death penalty. In some cases capital punishment has proven to have good impact upon some country's crime management process. This is needed to ensure safety and upholding moral values of society. Given the benefits of capital punishment, it is hard to imagine why anyone would be against it, but there are several arguments against the death sentence that need to be addressed. Opponents of the death penalty point out that there is a possibility of wrongly executing an innocent man. Of course, there is a possibility of wrongly sending an innocent man to prison, or wrongly fining an innocent man, but they contend that because of the finality and severity of the death penalty, the consequences of wrongly executing an innocent person are much more wrong. The execution of an innocent man is a strong enough argument to abolish the death penalty. Some say that death penalty is of no use since it does not really deter people from committing capital crimes and presents some data in support of their claim. On the other hand some say that it in fact has deterrent effect, and they have statistical support as well

So at last it can be said that there are different views about whether capital punishment has any deterrent effect or not and about whether there is any justification to impose it or not. Whether death penalty should be retained or not should be decided by keeping in mind the socio-economic condition of a society. In some societies the use of it may be unwarranted but in some societies the use of it is much needed and hence inevitable. Though some countries have reformed this area of law some countries are still adamant to retain it. It can be predicted with ease that, this diversity of opinion and standpoint will continue to be in place for some more years to come.

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Joint Development Agreement in Disputed Maritime Areas

Abdul Mukit[1], Sharif Ashrafuzzaman[2]

Abstract: Joint Petroleum Development occurs where states have overlapping claims regarding their boundaries and as a temporary measure agree to develop and share the petroleum resources in the disputed area under dispute by setting up a Joint Development Zone (JDZ). Joint development may be devised either in the absence of agreed boundaries or additionally where boundaries are delimited. This can be useful practical measure where the dispute over the boundary delimitation remains deadlocked over a long period of time.

Key Words: Maritime delimitation; Joint Development agreement as a provisional arrangement; overlapping claim on petroleum resources located in disputed areas.

Introduction

According to the United Nations Convention on the Law of the Sea (UNCLOS) the coastal state is entitled to extend its Territorial Sea 12 nm, its Contiguous Zone 24nm, its Exclusive Economic Zone (EEZ) 200 nm, and the Continental Shelf (CS) up to 200 nm or upto the natural prolongation 350 reckoning[1] from the base lines of the coastal states concerned. The national maritime zones outlined in the UN convention offer profound benefits to coastal states in respect of resources such as fishing and non-living resources such as oil and gas.[2] But 'because of close geographical proximity of many states, their maritime zones often overlap to a greater or lesser extent.'[3]

To resolve overlapping claims, the relevant rules of international law are those in the delimitation of maritime boundaries can be found in the UNCLOS, which is often referred as 'the constitution of the seas', state practice and jurisprudence. Both the Exclusive Economic Zone and the Continental Shelf, which are 'resource related zones', give the coastal state sovereign rights, but not sovereignty, over certain activities such as 'exploring and exploiting' the natural resources of the sea area adjacent to its cost. The extents of those rights are, sometimes, the subject of controversy and of dispute between coastal states. UNCLOS tried to settle the maritime disputes by requiring the coastal states to exercise their sovereign rights over the EEZ and CS in a manner that has due regard to rights and duties of other states. Article 74 and 83 of UNCLOS set out the rules for the delimitation of EEZ and CS respectively which are similar in content, providing in their paragraph-1 that "the delimitation of the EEZ and (CS) between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."

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1. Formerly Lecturer, Department of EETE, Dhaka International University, Dhaka Bangladesh.
2. Managing Director, Meghna Petroleum Ltd.
Correspondence to: abdulmukittabil@yahoo.com

Though it seems that UNCLOS provisions are very helpful in resolving maritime dispute; problem arise in cases where there are overlapping claim over trans-boundary oil and gas deposits due to their straddling nature. International law has devised some peaceful means, but some maritime boundary disputes have proved extremely difficult to resolve due to their complex nature.[4] However, states realizing their economic interests in resourceful maritime zones that are "subject to overlapping claims or even the subject of sovereignty" carry out a cooperative mechanism- joint development arrangement, apparently with good results.[5] The concept of 'joint development agreement' (JDA) is currently used in different regions of the world as an "alternative way to bypass contentious maritime boundary disputes",[6] most often in respect of Continental Shelf (CS) and Exclusive Economic Zone (EEZ). Although most of the joint development agreements deal with problem of petroleum exploration and exploitation the concept has also been applied to disputes over issues such as fishing management.

The main focus of the article is to analyse the legal aspects of joint development agreement in respect of mineral resources in disputed maritime areas. The paper also discusses the role of States practices and international law in advocating co-operative practices in situations where there are overlapping claims over petroleum deposits.

Origin and Concept of Joint Development

Although the idea of joint development of offshore oil and gas dates back to the judgment of North Sea cases of 1969,[7] the original idea of joint development goes further back to the 1930s when studies and judicial cases on joint petroleum development can be found in the United States.[8] The practice of joint development is also traced back to the 1960s and 1950s with some cases of joint development of coal, natural gas and petroleum across international boundaries on the European Continent.[9] The energy resources were very important for the post World War II rebuilding of the European economy. The increased demand for coal and other petroleum resources led the European countries to make boundary treaties between the coal mines situated along their frontier.

The treaty of Japan-South Korea joint development was a turning point in the history of joint development arrangement. In January 1974 Japan and South Korea signed two maritime agreements. The second agreement specified for fifty years duration was a joint development agreement for the part of the continental shelf extending south-wards into the northern part of East China Sea, which is an area where petroleum development is complicated by the overlapping claims not only of these two states, but also of North Korea and China as well.[10] The Japan-South Korea joint development agreement the example of first application of the idea of joint development of offshore oil where the parties failed to agree on boundary delimitation, as referred in the International Court of Justice (ICJ) judgment of 1969. Infact this agreement was preceded by one day by the France-Spain agreement but latter differed significantly from the Japan-South Korea accord in that it devised a common zone for joint development across the agreed boundary line. Five years later in 1979 the Japan-South Korea precedent was followed by the Malaysia-Thailand Memorandum of Understating for fifty years period, in which they established a joint development zone in the Gulf of Thailand. The

Malaysia-Thailand Memorandum of Understating was another outcome of unsuccessful negotiation to define a Continental Shelf boundary". These development prompted Anglo-American scholars and policy makes to develop some framework of model agreement relating to joint development of offshore oil and gas resources.

Several scholars have offered their respective views on the concept of a Joint Development Agreement (JDA). According to *David Ong*, joint development agreements is "a generic term given to international agreements between states whose main function is to provide for the cooperative exploitation of hydrocarbon resources that come under the jurisdiction of two states."[11]*Lagoni*remarks it as "the cooperation between states with regard to the exploration for and exploitation of certain deposits, fields or accumulations of non-living resources which either extend across a boundary or lie in an area of overlapping claims."[12]*Miyoshi* defines joint developments as "a(n) inter-governmental arrangement of a provisional nature, designed for functional purposes of joint exploration for and/or exploration of hydrocarbon resources of the seabed beyond the territorial sea."[13]

Legal Basis of Joint Development Agreement

Under customary international law states have an obligation, which is enshrined in the UN Charter, to cooperate in the resolution of international controversies and the settlement of disputes through peaceful means. In the 1960s many maritime boundary agreements incorporate a 'deposit clause' calling for cooperation in case 'straddling resources' are discovered. An example of such a bilateral agreement is the Anglo-Norwegian Treaty of 1965. Article 74(3) and 83(3) of UNCLOS 1982 dealing with EEZ and CS respectively are important sources of joint development arrangements. Although article 74 and 83 of UNCLOS neither explicitly referred to the concept of joint development of petroleum resources the language of these articles and the relevant practice of states reveals that "the principal object and purpose of paragraph 3 is to further the provisional utilization of the area to be delimited,"[14] by offering a practical and peaceful solution of boundary dispute between the parties. Article 74(3) and 83(3) of UNCLOS 1982 provides that if delimitation cannot be effected by agreement: "[T]he States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during the transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation." The provision is designed to "promote interim regimes and practical measures that could pave the way for provisional utilization of disputed areas pending delimitation" and "constitutes an implicit acknowledgement of the importance of avoiding the suspension of economic development in a disputed maritime area".[15]

The legal basis of JDA is also provided by some international judicial and arbitral decisions. *Gao* and *Ong* cite three famous international cases relating to maritime dispute where the adjudicatory bodies and jurists made their decision approving joint development arrangement. The first is the North Sea Continental Shelf case wherethe International Court of Justice (ICJ) referred to two joint development arrangements with approval and stated that in areas of overlapping claims: "if . . . the delimitation leaves to the parties areas that overlap,

these are to be divided between them in agreed proportions or, failing agreement, equally, unless they decide on a regime of joint jurisdiction, user, or exploitation for the zones of overlap or any part of them."[16] Outside the North Sea the Judge Jessup pointed to the Persian Gulf where there are agreements between Kuwait and Saudi Arabia, and Bahrain and Saudi Arabia that provide for joint exploitation or profit sharing in areas where national boundaries are unsettled. The second case is the recommendation of the Conciliation Commission established in accordance with the agreement between Iceland and Norway (Jan Mayen). In its decision although the Commission exceeded its terms of reference in recommending joint development, the approach was adopted in the subsequent 1981 agreement on the CS between Iceland and Jan Mayen.[17] The third case is the Continental Shelf case between Tunisia and Libya, where the minority opinion of the ICJ was that joint development represented an alternative equitable solution to the maritime boundary dispute.[18] In 1988 Tunisia and Libya set up a joint development scheme for the E1 Bouri Field in the Gulf of Gales area, split into two parts by the delimited Continental Shelf boundary through the decision of ICJ.[19]

In 1989 Australia entered into a treaty with Indonesia, the Timor Gap Treaty, for an initial period of 40 years to be continued by successive terms of 20 years. The need of a JDA derived from the fact that Indonesia claimed a median line basis for delimitation, whereas Australia maintained its position based on the continental shelf reflecting the principle of natural prolongation of its territorial land, as promulgated in the North Sea Continental Shelf cases. The treaty established the authority to implement the plan in the treaty is divided into two organs: the ministerial council and the joint Authority. The ministerial council has overall responsibility to take decisions, approve production sharing agreements, and make amendments in the contracts. The council authorizes the joint authority to handle many issues and settle disputes. The treaty created a zone of cooperation over an area of 60500 square km. which comprised three distinct areas: 'Area-A' under joint control, 'Area-B' under Australian Jurisdiction, and 'Area-C' under Indonesian control.

In the absence of satisfactory settlement in 1995 Guinea-Bissau and Senegal reached a protocol agreement to establish a JDA beyond their territorial sea within a designated area around Capo Roxo for the purpose of exploiting both living and non-living resources. The protocol also established the Agency for Management and Cooperation of the JDA, based in Dakar. The applicable law with regards to non-living resources was the law of Senegal, with the law of Guinea-Bissau applying living resources. On 21 February 2001 Nigeria and Sao Tome-e-Principe established a Joint Development Zone in their overlapping EEZs covering seabed, subsoil and adjacent waters. The treaty entered into force on 16 January 2003. As with the Timor Gap Treaty, this treaty established a joint ministerial council as well as a joint authority.

After the independence of East Timor from Indonesia, in 2002 the Timor Gap Treaty (Australia-Indonesia Treaty) was modified. The government of East Timor signed the Timor Sea Treaty (TST) on 20 May 2002, the very day this State acceded to independence after Portuguese colonization and annexation from Indonesia. The Timor Sea Treaty, which entered into force on 2 April 2003, changed the sharing of benefits: ninety per cent to East

Timor and ten per cent to Australia. There were also some changes in the administration of joint development agreement based on three tired structure: a Ministerial Council, a Joint Commission and a Designated Authority. The treaty is "explicitly based on the provisions of the UNCLOS" that prescribe for states with opposite or adjacent coasts to enter into "provisional arrangements of a practical nature," pending agreement on boundary delimitation. In 2006 China and Vietnam agreed to increase joint oil and gas exploration efforts in the Gulf of Tonkin, and would continue talks about disputed maritime areas further south. It was reported that on 18 June 2008, Japan and China struck a landmark deal to jointly develop gas fields in the East China Sea, resolving a spat that has been a thorn in ties between the two major energy importers.[20]

The acceptance and legal validity of JDA has been strengthened by decision of the tribunal constituted under Annex VII of UNCLOS between Guyana and Suriname. The Guyana-Suriname is the first international tribunal, dealt with the maritime dispute involving the interpretation and application of Article 74(3) and 83(3) of UNCLOS. The Court concluded that Suriname's conduct in resorting to self-help through the use of force in the disputed area did constitute a failure to meet its obligations under Article 74(3) and 83(3) and Guyana also violated its obligation in these provisions by allowing exploratory drilling activities without directly informing Suriname at an earlier stage. The arbitration not only 'ensures the continuity of case law'[21] concerning to joint development arrangements but also suggested both states to "negotiate actively towards a provisional arrangement".[22]

In addition a number of UN general assembly resolutions (e.g. 3129 and 3128), and programs by other inter-governmental organization and directives from regional bodies such as European Union encourage and suggest to states for sharing their natural resources. Cameron described cooperation between states in relation to maritime dispute as the 'rules of engagement rather than rules of cooperation'. In support of his statement he argued that "where negotiations fail to produce an agreement, no clear guidance is provided to states on their options, particularly with respect to the manner or timing of development or the appointment of reserves."[23]

Thus, it can be said that, joint development arrangement has a strong legal basis resettling 'intractable' maritime boundary disputes. However, although writers are agreeing on the functionality of joint development they disagree on two aspect of this arrangement. Writers like *Ong* and *Gao* argued that joint development arrangement is mandated under customary law, as a viable legal alternative to Continental Shelf boundary delimitation in the presence of common hydrocarbon deposits. Such a legal authority derives from favourable judicial decisions and bilateral state practices. *Gao,* though, found it equally difficult to assert that joint development is binding on all states he finally concluded that under international law states have duties at least to consult and negotiate with neighbouring states with regard to the exploitation of common natural resources in a disputed area.

On the other hand scholars like *Townsend-Gault* and *Thao* argued that under international law it is not mandatory for the states to enter into a joint development arrangement to resolve their maritime dispute. The main point of their argument is that customary law is established

by two fundamental elements, the state practice and the *opiniojuris*. The state practice must be shared by the majority of the countries which are affected by the same interest or situation. Although JDA is wide practiced, its limited number is not sufficient yet to constitute a binding precedent for the states. Miyoshi likes to limit the application of joint development arrangement in particular part of the world, which is evidently contrary to the views of some scholars. The opponents of joint development agreement also argued that as the joint development is required only for 'provisional arrangements', therefore it has a provisional and non-binding nature. But the meaning of 'provisional arrangement' has been left to the interpretation of the states concerned;[24] thus the meaning of 'provisional arrangements' is not confined in a temporary period in terms of duration. 'Provisional arrangements' can include a wide variety of arrangements such as mutually agreed moratoriums on all activities in overlapping areas, joint development or cooperation on fisheries, joint development of hydrocarbon resources, and agreements on environmental cooperation.[25] More important is that provisional arrangement does not constitute an explicit or implicit acknowledgement of the legitimacy of the claim of any other party.

In fact under the present political and economic circumstances the control of the sea means the control of natural resources. In case of maritime dispute international law only demands that states will negotiate in good faith to reach a settlement. If the states concerned can reach at a joint development agreement over a disputed area that fare subject to overlapping claims, and exploit natural resources fully determination tends not to be a difficult problem to overcome.

The Features of a Joint Development

Although concept of joint development is a pragmatic solution to allow mutually beneficial petroleum exploration and development, one of the main advantages is that JDA may be devised either in the absence of agreed boundaries or additionally where boundaries are delimited. Considering the organizational structure *Yusuf Mohammad Yusuf* has identified three most prominent types of joint development arrangements.[26] The first one is that state runs the oil and gas operations in the area under its law on behalf of both states and plays an agreed proportion of the net revenues to its partner, as is the case in the Bahrain-Saudi agreement of 1958. Several of the earliest joint development agreements utilized this model. But many States are not reluctant to accept this first category of joint development arrangements, especially within a disputed seabed area subject to overlapping claims. They are fearful of appearing to accept, however implicitly, a status quo that confers de facto jurisdiction to the other State, even if the de jure position is explicitly reserved. The main disadvantage is the other State's concern regarding the possible adverse inferences drawn from the managing State's pre-emptive role in the disputed area and its effect on the strength of the other State's claims to this area. However, this thesis is not fully supported by the latest manifestation of a JDA in the Southeast Asian region, namely the Brunei-Malaysia arrangements established by the bilateral Exchange of Letters in 2009. That agreement represents a return to a single state model.

The second type of JDA is where both states are actively involved either directly or through a management commission with legal personality that holds licensing rounds. An example is the Japan-South Korea JDZ. This will specially be the case if the joint development is made after the agreement on a boundary, but before an oil or gas discovery is made. This model is the most popular option among the three models. This type of JDA is mainly found in the North Sea region.

The third type of JDA is where both states delegate power to a single body, which becomes responsible for the overall supervision of petroleum activities in the Zone. This model is the most complex and institutionalized option, requiring a much higher level of cooperation than the previous two models. This model differs from state to state with respect to the powers given to the Joint Authority; it can be strong, likened to a separate state or a weaker, purely administrative entity, it can contain more than one level of authority for example, the administration of the Timor Sea Treaty is based on a Three-tier structure; a ministerial council, a joint commission and a designated authority. The Timor Gap Treaty of 1989 is important because it combines two of the models of authority.

There are more than twenty JDAs around the world. Although existing JDA shows a wide variation in structure there are six major issues which can be identified in any typical JDA. These key issues are- (i) sharing resources, (ii) management of joint development, (iii) applicable law, (iv) operator and position of contractors, (v) financial positions, and (vi) dispute resolution. In seeking to understand these alternatives, it is important to note that there is no need for States to draw on any specific form of joint development model. States are ultimately free to appropriately furnish their treaty arrangements to the circumstances of the underlying dispute, and they almost invariably do so. For example, after the independence of East Timor from Indonesia, in 2002 the Timor Gap Treaty (Australia Indonesia Treaty) was modified. The East Timor signed the Timor Sea Treaty with Australia changing the sharing of benefits: ninety percent to East Timor and ten present to Australia. There were some changes in the administration of JDA based on three tired structure: a ministerial council, a Joint Commission, and a designated Authority. The treaty is explicitly based on Article 74(3) and 83(3) of the provision of the UNCLOS that prescribe for states with opposite or adjacent coasts to enter into "provisional arrangements of a practical nature."

Conclusion

Joint development agreement 'have been heralded' as 'the most significant innovative form'[27] of maritime dispute resolution specially where the boundary has yet to be settled. The main advantage of a JDA is that it allows for a fair division of the resources. A joint development regime may be best not only in respect of exploration and exploitation of living and non-living resources but also for the implementation of the rights and duties of states with respect to the protection and preservation of the marine environment, and the conduct of scientific research.[28] However the application of joint development and its success depend largely on considerable political commitment of the states and their willingness to cooperate in good faith. Although the arrangement is provisional states are 'free to change any provisional arrangement into a permanent one by agreement',[29] and that agreement 'may or

may not preclude the resort to final delimitation of the boundaries of the disputed area and even if expressly subject to termination, should not result in the termination of rights acquired by licenses or other states in the area.'[30] Thus joint development agreement is 'not the only attractive, but merely one of the alternatives'[31], to boundary delimitation.

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Impact of Climate Change on Livelihood of *Malo* Community of Bangladesh

Sumaiya Habib[1]
Tahmina Khan[2]

Abstract: Bangladesh is a small but densely populated country of South Asia where a number of religious and ethnic groups abide in together side by side. These ethnic and religious groups are divided into many social classes and sub classes. The study will focus on the impacts of environmental change on livelihood of fisheries community. Fishing is the ethnic occupation of the inhabitants of the study area. They are locally known as '*malo'*. '*Mal*o' is a fishing community, who earn their livelihood by trading fish and fishing as an indigenous community in the southwestern areas of Bangladesh. This fishing community comprises marginal economic development, thus live in a fragile socio-economic and ecological condition. In recent years they are being forced to change their livelihood strategies due to environmental changes and market system.

Key words: climate change, livelihood strategy, fishing community, socio-economic condition, indigenous belief.

Introduction

Bangladesh is one of the vulnerable countries due to climate change. The effects of climate change will be in the form of extreme environmental change leading to the large scale damages to crop, land, river, natural system, ecology, biodiversity and vulnerable groups. For Bangladesh it is a burning issue for its high scale of poverty and the reliance of many livelihoods on climate sensitive sectors such as agriculture and fisheries. Researchers, ecological activists and also the anthropologists all over the world eagerly study environmental issues which are concerned with human societies of different areas of the world. So the significance of studying impacts of environmental change on fisheries community is a necessity in order to the survivable of these indigenous fishing communities of poor countries, like Bangladesh.

Bangladesh is a land of rivers and canals. Hundreds of rivers have crossed this small land. There are numerous canals and other water bodies like *beels, baours, haors* (lakes) etc. in this country. From time immemorial, a large number of people have depended for their livelihood on fishing and related occupations. The fisheries communities are locally known as *malo* in the north-west

[1] Assistant Professor, Department of Anthropology, University of Dhaka.
[2] Associate Professor, Department of Sociology, Dhaka International University.
Correspondence to: disha_habib@yahoo.com

areas of Bangladesh. The socio-economic life of *malo* is in change. Due to decrease of fishing grounds and fishery resources, members of the *malo* community have tended to leave their traditional occupation in search of other job. For generations they are completely dependent on capture fishing. They hunt fishes from local water bodies; with it they take ledge of local water bodies and ponds for fish culturing commercially. But today different geographical, environmental, political, demographic and social aspects are acting as influential indicators to bring massive change in the livelihood strategy of these indigenous people. Thus, indigenous knowledge is threatened by the intervention of climate change. The *malo*s are a socially neglected group because of their lifestyle and occupation. Though fishing is an age old ethnic occupation in Bangladesh; from the unknown past the fisheries communities are considered as a low class human group. They were neglected in the eye of traditional Hindu society because of the *Varna* system. The *malo* people are untouchables. As a result, they are socially distinct from the main stream population of Hinduism. They are in lower position of the social hierarchy of the locality because of their occupation.

As the community's socio-economic condition is mainly based on their occupation; fishery. For this marginalized community it is becoming tough to cope with recent environmental changes which have occurred in the region due to environmental changes.

Though small scale fisheries are considered as the occupation supposed to be in deprivation, many members of the fisheries community are now coming out of the historical trend with their own efforts .The *Malo*s are now introducing modern instruments and techniques for cultivating fishes .And many of them are greatly trying to change their occupation .Because they are not interested to live in uncertainty of fishing. Today they are seeking more secured life through business and services. For this reasons, the development of the professional and educational life of the *malo*s is important for the overall development of the studied area.

Objectives of the study

According to the present context of *malo* fishing community, the broad objective of this study is to understand the environmental change and livelihood strategies among the fisheries community *Balarampur, Jhenaidah* district. Under this broad objective there are some other specific

objectives supporting the broad objective for the better understanding. These are:

(i) To understand the impacts of environmental changes on livelihood of the fisheries community.
(ii) To know the livelihood strategies and changes in occupation of fisheries community
(iii) To explain the socio-economic conditions of fisheries community of the given area.

Methodology

One of the basic aims of my research is to explore impacts of environmental change on livelihood of *malo* community. Therefore, it was important to select a study area where the *malos* are living for generations and where environmental changes occurred due to climate change in recent time. The study area was selected at the bank of *Begobaty* river where the *malo* community are living as an indigenous community for hundreds of years.
The present research has chosen anthropological qualitative method to explore the small fishing community. This qualitative research comprised in depth interview with key informants, following a semi structured questionnaire. The research was conducted in two phase, one during the Bangle month of *Vadra* , when river are usually affluent ; second phase of fieldwork was conducted during the month of *Chaitra* ,the dry period.

Literatures

Higher levels of rainfall decrease the availability of post larvae due to a reduction in water salinity. Many fishers have difficulty carrying out their work when there is heavy rainfall, such as when transporting post larvae to marke.[1] Researchers determined that increased frequencies of drought lead to a decrease in demand for post larvae because there is less water available for prawn farming. Cyclones have destroyed habitat structure in the Pasur River, which likely affect the ecological interactions within the ecosystem.[2] The availability of post larvae prawns is greatly threatened by climate change processes that alter their habitat.
Climate change strongly impacts the socioeconomic wellbeing of post larvae fishers and their families. The survey conducted by Ahmed and others indicates that 35% of fishers identified

poor income as the main impact of climate change.[3] Twenty-five percent of fishers identified inadequate food and nutrition to be the next important impact. The survey also indicated that poor housing (18%), health problems (15%), and lack of clean drinking water (7%) were the next highest ranked negative impacts of climate change. Soil salinity has decreased the availability of agriculture-related occupations available to fishers. The lack of job options for fishers causes the cycle of poverty to continue among the group. Food insecurity is a major problem that causes malnutrition, especially among women and children. Cyclones result in a decrease in rice production and a decrease in fodder for cattle, which results in less available milk, meat, and eggs. Therefore, cyclones are a major contributor to food insecurity and malnutrition problems. Cyclones also exacerbate the poor housing conditions of the fishers. In addition to cyclone impacts, many fishers and their families struggle with drinking water shortages and related health issues, such as cholera, malaria, and diarrhea. According to Ahmed, adaptation strategies are necessary to combat these impacts, such as improved communication, transportation, and infrastructure. In his work **"**Poverty in small-scale fisheries: A review and further thoughts", Christophe Bene (2004) offers a new perspective on poverty in small scale fisheries.[4] He has introduced innovative concepts and ideas and drawing upon in depth case studies. The text makes explicit connection with sustainable livelihood approach. Bene considered the poverty among fishermen is an international reality. Fishing is considered as a low-class profession and fishermen are traditionally poor. Small scale fishermen are socially, economically and educationally disadvantaged communities and lack their own financial resources. He tried to describe the whole argument with historical evidence from different corners of the world; especially of Africa.

Approaches to study climate change and sustainable livelihood

'Climate change' is the most solemn environmental issue that the modern world is going to face. The earth's climate is frequently changing and leading to degradation of biodiversity, water and soil resources, desertification, coastal erosion, decrease in agricultural productivity etc. As per the IPCC, climate change refers to any change in climate over time, either due to natural variability or as a result of human activity.[5] [6]The UN Framework Convention on Climate Change (UNFCCC) refers to climate change as a change that is attributable directly or indirectly to

human activity that alters the composition of the global atmosphere in addition to the natural climate variability observed over comparable periods of time.[7] Climate change mainly refers to a statistically significant variation in either the mean state of the climate persisting for an extended period, usually decades, or in its variability.[8] [9] Climate change occurs due to natural internal processes, external forces, and persistent anthropogenic changes in the composition of the atmosphere or in land use.[10] The world community faces many risks from climate change. The concept of 'climate change' is becoming an important area of research not only in the natural sciences but also in the social sciences.

Global warming and climate change are often interchangeably used and understood. However, these terms are not identical. Climate change includes both warming and cooling conditions while global warming pertains only to climatic changes related to increase in temperature. The climatic system is a complex interactive system consisting of the atmosphere, land surface, snow and ice, oceans and other bodies of water and living things. The atmospheric component of the climatic system most obviously characterizes climate. It is often defined as 'average weather'. Climate is usually described in terms of the mean and variability of temperature, precipitation and wind over a period of time ranging from months to millions of years (IPCC, 2007a).[11]

The sustainable livelihood framework (Figure: 1) places people, at the centre of a web of inter-related influences that affect how these people create a livelihood for themselves and their household. Closest to the people at the centre of the framework are the resources and livelihood assets that they have access to and use. These can include natural resources (land, water, trees, biodiversity, etc) technologies, their skill, indigenous knowledge, capacity, their health, education, sources of credit or their social network to support. The extent of their access to these assets is strongly influenced by their vulnerability context, which takes account of trends (economic, political, technological), shocks (natural disaster, hazards, civil strife) and seasonality (price, production, consumption, market economy, and employment opportunity).access is also influenced by the prevailing social, institutional, cultural and political environment, which affects the ways people combine and use their assets to achieve their goals.

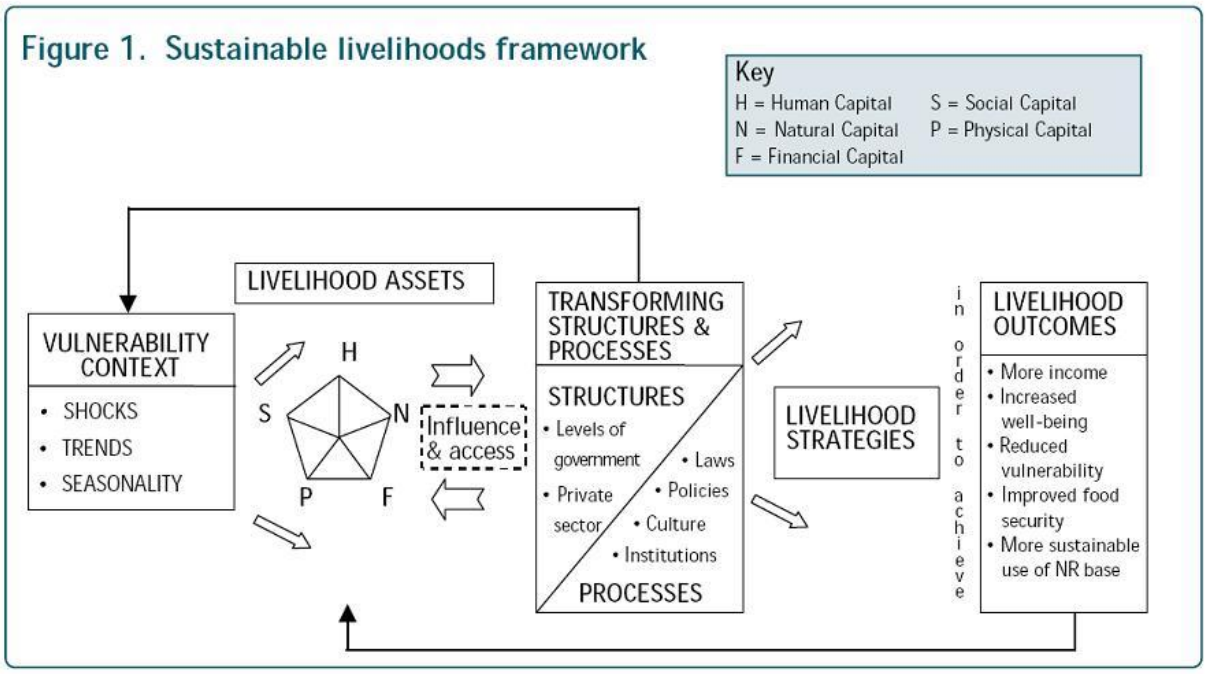

Figure: 1 : Sustainable Livelihoods Framework[12]

Inhabitants of the locality

The population of the village *Balarampur* is about 1376 among them 138 peoples are *malo*. The rest populations are of Muslim and Hindu religious group. (Source: Union Council Report, 2009) *Malo* community are lower caste Hindu population whose occupation is fishing, fish trade and mending fishing net and other instruments of traditional fishing. The rest of population of the *Balarampur* village is mainly farmers and businessmen. *Malo* community lives in the north part of the village, which is known as *malo para*. Previously, there were more *malo* people in the south-western districts of Bangladesh. Many of them left Bangladesh during the partition time with many other Hindus. According to one of the Union Council member *malos* are now living in different villages of Jhenaidah, Jessore, Satkhira, and Kustia district.

There are 33 *malo* households in *Balarampur*. Once the numbers of *malo*s were much in the village *Balarampur* but in different times many *Malos* went India permanently to live. Some *malo* people went India for the last time in 2001. Now the *malos* are the very minority group in

Table 1: Inhabitance of *malo* community of *Balarampur* by sex

Sex	Number	percentage
Male	67	48.55%
Female	71	51.45%
Total	138	100%

Source: fieldwork ,2011

the village. Only 10.02% of the total village population are *malo*. The *malo para* is an extension part of the *Balarampur* village premise. The number of *malos* living in the village *Balarampur* is 138. Among them 67 are male and 71 are female. Thus, 48.55% are male and 51.45% are female of the *malo* community.

Family and Marriage of *Malo* community

There are 28 nuclear families and 5 joint families of the *malos* living in *Balarampur*. Marriage is an important event for the life of a human being. In the *malo* community of *Balarampur* the parents take the initiative for marriage of their children when they reach twelve to sixteen years old. Early marriage is an ordinary event in the community.

Table 2: Family type of *malo* community of *Balarampur*

Family Type	Number	Percentage
Nuclear	28	85%
Joint	05	15%
Total household	33	100%

Source: fieldwork ,2011

The *malos* are endogamous groups, who usually practice village exogamy. Marriage is settled between *malo* families, outside the village. There is no sub-group among them though they use different titles with their names. Such as *Bishwas, Shikder, Mondol, Rajbonshi , Halder* and title

depends on the basis of place. They are traditionally Hindus and they use to marry following the rules of Hinduism. Monogamy is the most practiced from of marriage among the *malos*. Marriage age varies between 12 to 16 years in case of girls and 18 to 22 years in case of boys. Thus, *malo* people observe early marriage and consequently reproduce at an early age. Many mothers had a bitter experience of miscarriage. Although *thana* health complex is not too far from the locality, poor maternal health care is investigated because of the ignorance of the women of *malo* community and fear to be recognized as mother at early age. Though widow marriage is not widely practiced, widow marriage is permitted for both male and female of the community.

Table 3: Marital status of the *malo* people

Marital Status	Number	Percentage
Married	66	48%
Unmarried	68	49%
Widowed	4	3%
	138	100%

Source: fieldwork ,2011

In the *malos* of *Balarampur* village there are 66 married 68 unmarried and 4 widowed people. There is no divorced man or woman in the community. All conjugal arguments are settled with the advice of village head, who is not a member of *malo* community. Choosing divorce as a solution of conjugal conflicts is highly discouraged. The practice of dowry has been observed. The amount of dowry increases if the age of the bride is more than 16 years.

Education in *malo* community

Most of the *malo*s of the studied area don't think that education is important for them because they think that their only destiny is to work in *gang* (River). They think a *malo* will not get a job after he finishes education. And the process of education is not easy. Children of the *malo*s go to the primary school of their nearby village. But, as their parents are not positive towards

education they usually stop going school before finishing primary stage. The teacher of that school informed that the *malo* children who were admitted in their school remain absent most of the time. Most of the day they help their parents to catch fish or they go with their fathers to villages to sell the fish they catch or the dried fish. Only a boy named Amol Bishwas has studied up to higher secondary education. And he is considered as the only educated man of the community by the community members. It can be said observing their life that nothing even education is not more important than the need of food. As the *malo* people need to struggle hard to collect their daily food. Accept a few most of the *malo* people think that going to school is a waste of time. However, though few, but a number of *malo* agree that education is important, these group of people are inspired by different development projects initiated by GO and NGOs. However, they don't dream that their next generation would be doctors, engineers or high officials.

Traditional occupation

Historically, the *malos* living in Bangladesh are fishermen. Hierarchically, *malo* community belongs to the lower caste of Hindu community. Fishing is their inherited occupation, which is ascribed by their caste ideology. The people of the studied area had an eco system which helped them to flourish their fishing career once. In that time, there were much more water body than that of today in the south-western part of this country. Those water bodies were full of different kinds of *deshi* (local) fishes. And the *malos* were engaged in capturing these wild fish or shellfish. Fishing from local rivers, canals, or *beels* can be termed as capture fishing. Capture fishing is one of the most common and ancient form of fishing. From the very beginning of the history the primary or main source of income of the *malo* people living in Bangladesh was hunting wild fishes and selling them in local *haats* (sometime they sell it from door to door).

But the decline of the availability of the exotic fishes forces them to search for the secondary source of income. They used to catch fish when there's water in the River in another time they search for another source. Some of them work in the betel field as a day laborer in the off season. The rainy season (*Ashar-Sharbon*) is the time for fishing enormous amount of fishes. Fishermen continue fishing till water body is affluent with fishes, which includes some months after the rainy season (*Vadro –Agrahayon*). About 35% fisherpersons mentioned that their daily fishing

income fluctuated between 150 -400 taka in on season. While others (65%) mentioned that most of the time they do not get more than 150 taka daily. This money is not sufficient to ensure the costing of living in order to buy rice, oil and other necessary goods. Thus, fishing does not accomplish their living cost which was once done by their forefathers.

However, women of the *malo* community are not directly involved in fishing or trading fishes. But they also contribute to the family earning by working as a day labour, either in the field or at household of others in the village. A few of them also cultivate vegetables (*lau, pepe, kumra, shak*) near home yard and sell them to the local businessman. Though they are trying to contribute their family need, but are not recognized as the earning member of the family.

Indigenous belief on climate change and its impact in reality

The *malo* people have their knowledge about the water body and source of fish. There is a myth of '*jhorna*' which is popular to the aged members of that community. According to that myth *jhorna* refers to the flow of underground water (*patal pani*). Though the younger generation don't belief but the myth exists that *jhorna* is responsible for the fish to grow. Fishes hide themselves under the flow of *jhorna* and inbreed, they appear with the flow of *jhorna*. One of the aged male (who claims that he is 98 years old) of the *malo* community said that they have seen the huge flow of *jhorna* in their childhood, where fishes dance and jump to the boat. However, *jhorna* does not appear recent days. The aged male is distressed to observe loss of *jhorna* and accused the '*koli kal*' (the time of destruction) and religious violation by some of the members of *malo* community. In fact, water scarcity in Bangladeshi river is a common problem in recent decades due to environmental change. Low flow of river water causes many chars (Islands), which obstacles the river flow. Devastating and recurrent droughts caused by varying rainfall patterns occur frequently in many parts of Bangladesh, causing substantial damage and loss to agriculture, fisheries and allied sectors. . Nitai Bishwash (82 aged) describes that after 1990 the *Begobaty* River has begun to dry to a great extend. Now people cultivate rive in the river . Ajit Bishwas (27 aged) and Mala Rani Bishwas (21 aged) that less rainfall and severe drought have occurred in recent decades. And water level of *Begobaty* River has declined to a great extent due to less rainfall. Environmental degradation and fish disease causes various types of exotic (*deshi mach*) fishes extinction. In case of *Begobaty* River, water is highly polluted by using pesticides

and fertilizer. In Rainy season, many farmers decomposed their jute plants in the river. For which water is polluted severely and it causes damage to local fish habitat. In winter season, river water becomes degraded color and taste. People of riverside area usually use river water for household chores. But in winter season reduced flow of water becomes polluted by various man made activities, while significantly destroyed the local fish habitat. Fish disease is another reason for the extinction of exotic fishes.

As fish stocks are declining day by day they are now changing their ancestral occupation. They are not so educated and do not have experience of new jobs. Many fishermen remained struggling to maintain their family. Three families of *malo* community are only engage in capturing fish round the year. But most of the people of *malo* community capture fish as a part time job only in peak season (*Ashar- Agrahayan*).

Thus, the climate change and new opportunities in betel plantations encouraged many to change their economic activity. Four families are not involved in fishing anymore. They have changed their ancestral occupation for the advent of betel cultivation. They are now financially solvent. Others are motivated by them and planning to do same. One of the betel leaf cultivator stated that communication system has improved these days, thus, it turns easier for them to communicate with the betel traders of the town and get maximum interest of their production. Moreover, it is difficult and expensive to preserve river fish for poor *malo* fisherman. On the other hand, many of the villagers (who are not *malo*) are now cultivating hi-bred fish in ponds by taking loan. These fish cultivators can sell huge amount of fish all the year round, which has reduced the necessity of the traditional malo fishermen.

One of the family who are now well established with the cultivation of betel leafs has constructed a *mandir* inside their homestead, though *malo* belongs to the lower caste thus are not allowed to lead a *puja* , they said that in the dream they found ma *Durga* suggesting them to organize *puja* , since after they are offering *puja* by themselves without the interference of *Brahmin pundit*, though orthodox Hinduism requires a *Brahmin pundit* to initiate *puja* . Among 33 household 12 house household belief and offers *puja* in this new *mandir* made by *malo* household. Others visit the nearby village *Brahmin mandir*.

Features of livelihood strategies of *malo* community

NGOs, with the support of government organization, are working on the issue of environmental change by updating knowledge and developing technical and professional skills human resource to migrate the effects of environmental change. The BADC (Bangladesh Agriculture Development Corporation) is encouraging young farmers to cultivate new variety of paddy and other cash crops. Some people of *malo* community have engaged themselves to a market economy by cultivating betel leaves. The solvent *malo* betel leaf producers have introduced their production in front of the local business men, who enable the *malo* to communicate with the wider economic transactions. They have many natural resources, which may play important role to reduce their vulnerability. Policy, process, and institutions also have played important roles to reduce their vulnerability by making them aware about the importance of education. Since, they have no opportunity to capture fish round the year, so they are now leaving their ancestral occupation and engage various types of income sources.

However, *malo* people know that fisheries contribute to poverty reduction of their own household, through income food security. Fisheries may also contribute to the national economy. In the case of *Balarampur*, some members of *malo* community now cultivate crab and Thai *puti* fish in ponds, which they take ledge in the off season. They cultivate fish, trade fish and in this way they support their family. Young *malo* people are interested to learn aquaculture in spite to earn their livelihood. New knowledge and technology is available for the survival *malo* community. They are now introducing with modern technologies and strategies to produce and trade fish.

Many government and non government NGOs are now active to protect the environment. People of *Balarampur* are now conscious about the environmental degradation. And they want now to protect their environment. Government now takes some measures to protect the brink of catastrophe. As part of these, the excavation work of *Begobaty* River is in progress. Many NGOs worker are now active in *Balarampur*, they make people aware about the protection of environment.

But, the micro-credit program has failed in the *malo* community. Among the 33 household 31 has taken loan from various NGOs, they have used that money for food, treatments and house

repair. None of them were able to fulfill the loan, as a result many loss their small land. And, local NGO field officers informed that they are not interested to provide loan to *malo* members.

Conclusion

The indigenous *malo* people of the study area have a weak approach to undertake the climate change problem. Poverty and ignorance of various adaptation strategies are the major obstacles in the development of a suitable and sustainable livelihood of *malo* community. The community members are struggling against the deviant climate change by their own means. But, illiteracy and lack of scientific knowledge sometimes becomes the barrier to understand the reasons and aftermath of climate change by *malo* people. Apart from the consciousness of the climate destroyers, a eco friendly economic development need to be introduced for fishing community ,like *malo*. The socioeconomic condition of the occupational groups who depend upon the ecosystem are at risk with their livelihood approach, so a alternative sustainable livelihood approach is required in the light of indigenous knowledge; so that these simple people can cope with the new economic living system.

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Foreign Aid, Governance and Economic Development in Bangladesh: An Assessment

Abstract: *Countries are getting foreign assistance for their economic, social and institutional development. Bangladesh is not an exception received a large amount of aid since its independence to strengthen its economic, social and administrative reform and development. Though donors prefer to disburse more aid to the democratic government system, we don't find any statistically significant difference in average aid disbursement in the Bangladesh. Moreover, here is no evidence of democracy to enhance aid effectiveness in the growth process. Although Bangladesh is smoothly ruled by the democratic system since the 1990s, it's yet to free from political instability, corruption and administrative complicacy. Transparency International (TI) was ranked Bangladesh 14th in corruption index out of 175 countries in 2014. However, the country experiencing strong GDP growth over the time compare to other low-income countries and got gigantic success in poverty reduction and social development indicators. The foreign aid has been playing a significant role to achieve this success both directly and indirectly. Hence, if Bangladesh can ensure good governance with the implementation of rule of law, then foreign aid can enlarge the countries development process more effectively.*

Keywords*: Foreign Aid, Governance, Bangladesh, Economic Development*

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Md. Rezwanul Hoque[1] and Md. Nazimul Arif Sarker[2]

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*The authors of this paper work at Research Department of Bangladesh Bank as Deputy Director and Joint Director respectively. Any views expressed in this paper are authors own and do not reflect that of Bangladesh Bank. Comments are most welcome to: rezwan_004@yahoo.com

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Introduction

Historically, foreign aid has been given to boost economic growth and development in many low-income countries. This idea got momentum during the post-Second World War II when foreign aid becomes the center of development politics. However, there are many controversies in the development literature about the effectiveness of aid to spur growth and development in the developing countries. The proponents of this idea argued that aid helps to accelerate growth, and thereby reduces poverty and underdevelopment (Hansen and Trap[1]; Dalgaard, Hensen, and Trapp[2]). On the other side, many development scientists stated that aid retards growth (Rajan and Subramniam[3]). In addition, there is a consensus that government system also matters to enhance the effectiveness of aid in the developing countries. Burnside and Dollar[4] has argued that good policies and political institutions are key to aid-growth enhancing and linking aid to alleviate poverty. However, Peter Boone (1996) has mentioned that the influence of external assistance to growth and development does not vary according to whether recipient governments are liberal democratic or highly repressive.

However, the main problem with the aid-growth literature is that most of the empirical analyses are mainly based on cross-country data which only depicts the 'average' effectiveness of the nexus. Moreover, sometimes it's difficult to quantify the relationship by capturing country-specific peculiarities and structural characteristics. As a result, empirical literature observes mixed result on aid-growth relationship based on the various sample size and countries covered. In this backdrop, we need a country-specific evaluation of aid effectiveness by considering the political features as well as major policy reform of the country.

The purpose of this paper is to verify the effectiveness of foreign aid in the economic and social development of the Bangladesh as it receives a significant external assistance from both bilateral and multilateral donors to strengthen its growth, poverty reduction activities and social development. The country disbursed aid over 6 percent of its GDP until the 1990s; however, the portion comes down to 1.72 percent in 2010-14. Though Bangladesh is still a poor country in the world; however, the country has been made an immense improvement in the social indicators such as fertility, life expectancy, school enrollment for girls, child immunization, and incidence of poverty reduction in the last four decades. Hence, here is no doubt that the foreign aid has been played a vital role in the economic and social development of Bangladesh.

The next sections of this paper discuss (i) Aid and development issues, (ii) Economic and Political Background of Bangladesh, (iii) Trends and Patterns of Aid Flow in Bangladesh, (iv) Aid, Governance and Development in Bangladesh, and (v) Finally, Draw Some Conclusion.

Aid and Development

In the post-Second World War II period, many economists and development scientists demonstrated that foreign aid has a strong role to accelerating growth in the developing countries. The consensus generated from the development of growth theory such as Harrod-Domar and later simple Solow growth models. Economists had drawn their conclusion by addressing the saving-investment gap and the foreign exchange shortage as aid can be used to fulfill that gap in many developing countries. Moreover, as developing countries have a lack of efficient institutions and physical infrastructure to attract adequate foreign capital for economic development, foreign aid had become the driving force to free the economy from poverty and underdevelopment. Therefore, both the donors and recipients are calculating aid requirement mostly based on the domestic savings-investment gap. As a result, this 'aid orthodoxy' led to the excessive inflow of external assistance to many developing countries, without considering the growth and development capacity of such lending and the aid absorption ability of recipient countries (Kishor Sharma[5]).

In the 1950s, the most of the aid took the form of a food aid and various kinds of technical assistance to developing countries. However, aid flooded to developing countries in the 1960s when many multilateral institutions had begun their operation to aid disbursement such as World Bank, African Development Bank, Asian Development Bank etc. As a result, many developing countries accepted assistance from donors without proper assessing the growth and welfare prospects (Hudson and Mosley[6]). Consequently, very often aid allocation was motivated by donors' economic self-interest as well as political and strategic self-interest instead of addressing the poverty and underdevelopment (Balla and Reinhardt[7]). Moreover, the disbursement of aid to build up infrastructure, especially in the urban areas in post-war years lead to the development of capital-intensive projects vis-à-vis leads to the growth of urban-based import substitution industries by creating a bias against agriculture sector development. Thus, rural-urban inequality and poverty had risen in many developing countries.

Conversely, in the next decade, the flow of foreign aid shifted towards rural development, in particular education, health, agriculture extension and also poverty reduction. However, the rural development strategy failed to mitigate the income inequality and incidence of poverty because the tendency to divert funds towards urban development and relatively developed regions continued- brought about by the previous decade urban-based infrastructure development programs (Kishor Sharma[5]). However, the ideology of foreign aid changed in the wake of the international debt crisis in many countries, especially in Latin America, by the major world's donor- they decided to finance market approach to development, market reforms and structural adjustment programs in developing countries in the 1980s (Nowak[8]). But this financing policy failed to reap significant changes in the developing countries because donors imposed excessive conditionalities without considering the recipient countries implementation capabilities, involved policy conditionalities with the "agreement" of the bureaucracy, while excluding the larger society, even the parliament (Quibira and Islam[9]).

As a result, in the late 1990s the donor community realized that institutions, good governance and good economic policy are prerequisite to aid to be effective on growth and social development. Hence, Burnside & Dollar[4] stated that where economic policy, governance and institutions are reasonable, aid is effective, and where they are unreasonable, reforms in these areas can have a significant impact on growth and poverty alleviation.

Economic and Political Background

Economic Background

Since independence agriculture is the vital engine of the Bangladesh economy, contributing approximately 29.0 percent of GDP and 38.5 percent of export earnings over the period. However, its share declined significantly over the last decade (Table1) and plummeted to 16.5 percent in 2014. This tremendous declined share of agriculture sector is not because of diminishing productivity instead of rapid expansion of services and industry sectors over the period of time. However, around 47.6 percent of the country's total labor forces are employed in the agriculture sector (Labor Force Survey[10]).

Table1: Composition of GDP (in percentage): 1980-81 to 2013-14								
Sectors	1980-81	1985-86	1990-91	1995-96	2000-01	2005-06	2010-11	2013-14
Agriculture	33.07	31.15	29.23	25.68	25.03	19.01	18.01	16.50
Industry	17.31	19.13	21.04	24.87	26.20	25.4	27.38	29.55
Services	49.62	49.72	49.73	49.45	48.77	55.59	54.61	53.95
Total	100	100	100	100	100	100	100	100
Source: Various issues Bangladesh Economic Review (BER).								

Manufacturing in Bangladesh is yet to become the driving force in GDP as its share is about 21.4 percent over the period vis-à-vis generating only 17.52 percent employment (Labor Force Survey[10]) for the total workforce. About 18.4 percent of total export earnings came from manufacturing until the 1990s because of closed economy policy in the country. Afterwards, the share of the industrial sector (following the liberalization and openness of trade) in export earnings triggered which is mainly driven by the rapid growth of readymade garments exports from the mid-1980s.

Over the last three decades, the service sectors grew on average 4.76 percent per annum, however; the employment share of the service sector has been somewhat unstable during this period of time. The share declined from 24.20 percent to 16.20 percent in 1982-83 and 1989-90 respectively. During the late 1990s and early 2000s, when liberalization of some service activities, like telecommunications and financial intermediation, was one of the major policy reforms, the employment share of the services sector grew substantially. Currently, about 35.35 percent are employed in the service sector (Labor Force Survey[10]). The robust growth in the service sector comes from consistent growth in communications (5.60 percent) as well as financial services (5.56 percent) (which has been triggered by liberalizations and reforms in the services sector in the 1990s) over the last three decades.

Political Background

In 1947, the Indian subcontinent became independent from British colonial rule and divided into two countries India and Pakistan. The nation divided into two parts based on Muhammad Ali Jinnah's *two nation theory*, 'Muslim majority' areas making up multilingual, multicultural Pakistan. After the formation of Pakistan, the East Pakistan faced discrimination on economic and social issues by the West Pakistan which created the conditions that lead to a landslide victory of charismatic Sheikh Mujibur Rahman, the Awami League (AL), in the general election of 1970. Afterwards, the negotiations of handover power of National Assembly to Sheikh

Mujibur Rahman failed and formation of government broke down. Therefore, Pakistani army attacked unarmed Bengalis on 25 March 1971 after the instruction of President Yahya Khan. However, on March 26, 1971, Bangladesh declared itself independent. Therefore, Bangladesh got birth a new independent state on 16 December 1971 after the 9 months liberation war against West Pakistan.

The Bangladesh great leader Bangabandhu Sheikh Mujibur Rahman returned back to the country on 10 January 1972 and took power on 12 January 1972. In December 1972, the state enforced its constitution to make the Bangladesh democratize and secular state. In 1975, President Mujib along with his whole family was assassinated by some army rebellion. Then, Khandoker Mostak became the president of Bangladesh and arrested four national leaders of Bangladesh. Afterwards, in a complicated sequence of military coups and near-coups, General Ziaur Rahman took over in 1976. He was assassinated in an abortive coup in 1981 and General Ershad came of power in 1982. However, the democratic election in 1991 ended the military rule of General Ershad in Bangladesh. The Bangladesh Nationalist Party (BNP) came to power and the leading opposition party, the Awami League (AL), traditionally have dominated Bangladeshi politics. With this, a fresh start of Parliamentary democracy and Constitutionalism became operative in Bangladesh with an exception of two-year military-backed caretaker government ruled during 2007 to 2008.

Trends and patterns of Aid flow in Bangladesh

Radelet[11] mention that the lion portion of foreign aid is disbursed to meet one or more of the following broad economic and development objectives: (1) to stimulate economic growth, (2) to strengthen education, health, environmental, or political systems, (3) to provide subsistence consumption of food and other commodities, or (4) to support the stabilization of an economy following economic shocks. Bangladesh is not an exception received a large amount of foreign assistance during post-independence to rebuild its social and economic infrastructures from the destruction in the liberation war. The country has been disbursed total 62.04 billion US dollars external assistance for its economic and social development during 1973/74-2013/14. The country's total aid as a percentage of GDP was more than 6 percent until the 1990s (Table2). Therefore, the share of aid declined sharply and reached to 1.72 percent in 2010-14. The share of aid decreased as Bangladesh experienced consistent growth of export earnings (followed by the

trade liberalization and policy reform in the 1990s) and huge inflow of remittances from its expatriate workers. Bangladesh received more aid from the bilateral donors (73.67 percent during 1975-79) which are diminished over the years. Among the Development Assistance Committee (DAC) bilateral donors, Japan disbursed highest assistance (18.1 percent) followed by the UK (15.0 percent) and the USA (14.8 percent) respectively over the period. However, in the 1st decade of liberation, Bangladesh received the highest amount of bilateral aid from the USA (28.7 percent) followed by Japan and Canada to its various projects.

Table 2: Bangladesh Average Total Aid, Bilateral Aid and Grants: 1975 to 2014

Year	Total Aid (% of GDP)	Bilateral Aid (from DAC countries) % of Total Aid	Grants Aid % of Total Aid
1975-79	6.03	73.67	42.92
1980-84	6.69	61.55	51.48
1985-89	6.04	59.37	45.55
1990-94	5.20	54.83	47.00
1995-99	3.19	48.96	46.64
2000-04	2.54	46.16	35.09
2005-09	2.07	45.14	30.71
2010-14	1.72	55.75	28.10

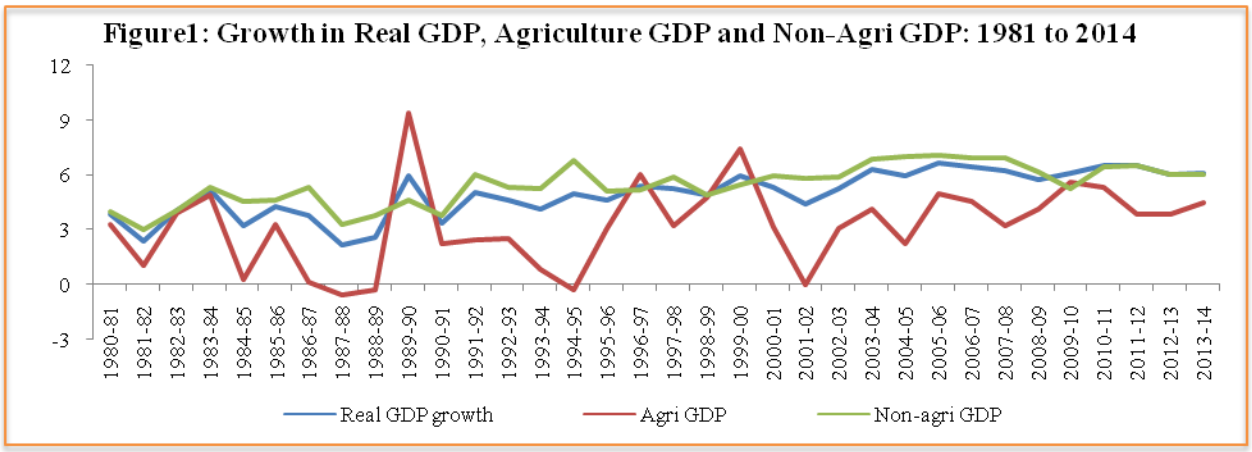
Source: Calculated by the Authors based on data from the BER and WDI

Over the last four decades, Bangladesh has been ruled by both democratic and military government. Bangladesh received aid on average 1.57 billion US dollar per year under the democratic government which is 1.40 billion US dollar in the military period. Though both the bilateral and multilateral donors prefer the democratic government to disburse their aid, however, here is no statistical difference (based on t-Statistics) of average aid disbursement in Bangladesh.

Bangladesh mainly received aid as food aid, commodity aid and projects aid. However, this composition of aid evolved over time. The country got 66.74 percent of total aid as project aid, 20.74 percent as commodity aid and 12.52 percent as food aid during 1970/71-2009/10. According to ERD report in 2013-14, Bangladesh received 37.6 million US dollar as food aid and 2886.3 million US dollar as project aid. However, the country did not disburse any commodity aid during 2013-14. A significant share of aid to Bangladesh has gone into the transport, power and communication (36.10 percent) sector followed by social services sectors during 1996-00. However, the sectoral distributions of foreign assistance changed periodically and get priority to the donors to disburse aid for the restructuring of public administration and enhancement of social services since 2005 (Appendix Table I).

Aid, Governance and Development in Bangladesh: An Assessment

Bangladesh started its journey as a desperately poor and overpopulated country with high food shortages and high incidence of poverty. Moreover, its per capita income was lowest among the countries along with very low levels of various social development indicators. However, the country progresses rapidly in the last four decades with on average 4.84 percent real GDP growth. Moreover, the GDP growth was on average 4.08 percent until the 1990s and it becomes 5.32 percents afterwards followed by major policy reform in the country. This strong and high growth has been achieved through the consistent growth of the non-agriculture sector of the country.



Source: Calculated by Authors based on data from BER

What is more, the country doubled its GDP per capita growth from 1.6 percent in the 1980s to more than 3.3 percent since the 1990s. According to Quibria and Islam[9], this remarkable acceleration of growth was achieved in the face of significant reductions in foreign assistance per capita (from about $20 in 1990 to about $9.5 in 2010). The aid dependency has been diminished over time because the country achieves its own capability of expenditure throughout export earning, workers' remittances etc (Appendix Figure I).

However, one cannot conclude aid has no significant impact on the development though it's difficult to quantify. Much political and development scientists stated that the impact of aid on the economy is high when the country has democratic government system. However, in Bangladesh case, we don't find any significant impact of democracy on the aid effectiveness. From the regression result, we see that the coefficient of aid growth is positive but statistically insignificant implies that aid has no significant impact on GDP growth. Since the share of aid

dependency has been decreased over time, especially from the 1990s (see Appendix Figure1), it's not surprising that aid growth has no significant impact on GDP growth. Moreover, the correlation between aid growth and GDP growth is only 0.156 that is statistically very small. However, we cannot infer that aid has no impact on the various sector of the economy based on just the relationship between aid growth and GDP growth. In addition, we don't incorporate other relevant variables in this model those may have significant impact on growth for simplicity. To capture the governance impact on aid effectiveness, we generate interaction dummy where democracy= 1 when democracy exists in the country and o otherwise. The estimated interaction coefficient is statistically insignificant (Appendix Table II), implies that democracy in Bangladesh failed to enhance aid effectiveness. Though Bangladesh is being ruled by democratic government system in most of the time since its independence, however, there is a significant existence of corruption and nepotism by political leaders and administrative bureaucrats. In addition, political instability is also prevailing in the country in the last four decades.

Bangladesh was ranked the most corrupt country in the world for five consecutive years (2001-2005) by the Transparency International (TI). However, its ranked 14th in corruption index out of 175 countries in 2014. This corruption index has been further addressed by the World Governance Indicators (WGI) of the World Bank. The Worldwide Governance Indicators project of World Bank construct aggregate indicators by incorporating a broader dimension of governance (includes six indicators of governance) than simple corruption for more than 200 countries since 1996 (Kaufmann, Kraay, and Mastruzzi[12]). The WGI reveals that the performance of Bangladesh remains much below the world median in all six dimensions governance. The estimated score has shown little or no progress in improving the performance of the overall governance quality in the Bangladesh during 1996-2014 (Appendix Table III). Though donor agency disbursed a large portion of aid to restructuring the public administration during last decades (Appendix Table I), it seems that Bangladesh has yet to make significant progress in the restructuring and transparency in this sector.

However, Bangladesh has been achieved significant progress to alleviate poverty and to improve in social development indicators over the time. During 1973-05, the incidence of poverty in Bangladesh was declined from 92 percent to 40.4 percent in terms of minimum calorie intake. According to head-count ratio, about 17.6 percent people were living below the poverty line (as

per the lower poverty line) in 2010 that was 41.0 percent in 1991. However, the reduction of poverty was higher in the urban areas compare to the rural areas during the time. The same scenario prevailed when poverty measured by using the upper poverty line in the country. Since independence, Bangladesh received a significant amount of aid for poverty reduction related projects and rural development. Thus, it is obvious that aid plays a significant role in poverty reduction and rural development; however, it is difficult to quantify the exact contribution of aid in this sector.

Bangladesh has made unprecedented development in key social indicators: fertility, life expectancy, school enrollment for girls, and child immunization (Table 3) since 1975, which compare favorably with other low-income countries, including its South Asian neighbors (with the exception of Sri Lanka). Though child and infant mortality rates continue to be high, its rate of improvements has been faster than in most low-income countries. These improvements in infant and under-five mortality had a significant, positive impact on life expectancy, which went up by a decade within a short span of time (Quibria and Islam[9]). Most of this success in the health-related indicators achieve throughout the government high priority to allocate its own resources along with aid to these sectors.

Table 3. Social Indicators in Bangladesh

Indicators	1975–90	1998–08	2001–10	2011
Gross Primary School Enrollment	71	103	109	_
Gross Secondary School Enrollment	19	43	48.1	51.9
Fertility Rate	6.1	2.9	2.65	2.2
Immunization, DPT (% of children ages 12–23 months)	1	88	92.1	96
Immunization, Measles (% of children ages 12–23 months)	1	81	86.1	96
Access to Improved Water Sources (% of population)	71	80	80.5	83.2
Life Expectancy at Birth	55	67	67.1	69.9
Child Mortality (per 1000 children under 5)	205	69	63.2	43.8
Infant Mortality Rate (per 1000 live births)	129	52	48.5	35.2

Source: M.G. Quibria and Anika L. Islam (2015)

Moreover, Bangladesh achieved a gross primary enrollment rate of about 114 percent in 2011, which is one of the highest among low-income countries. In addition, the country has already achieved gender parity in primary and secondary enrollment to meet the MDGs in 2015. Furthermore, its achieved unprecedented success to a gross primary enrollment rate for female (about 118 percent in 2011). To achieve this, not only the contribution of government but also the financial assistance from the ADB and the World Bank has played a key role as they introduced conditional cash transfers, targeted to promote female education.

Though Bangladesh still impetus by the lack of good governance, corruption and political instability, however, its achievements in social indicators are remarkable given its low per capita income. According to Quibria and Islam[9], Bangladesh advancements in social and economic indicators, in some measure, can be attributed to the positive contributions made by aid; however establishing a causal, quantitative relationship between aid and economic development is difficult.

Conclusion

There is a mixed consensus among the economists and development scientists for the aid effectiveness in Bangladesh. The country has been received a large amount of aid since its independence to speed up its growth, social development and institutional reform processes. Whether Bangladesh has been completely successful in this regard, is difficult to quantify. However, it can be said that the country has achieved significant progress in the social development and poverty reduction despite infrastructure constraint, policy deficiencies and weak governance in the last four decades. Hence, no doubt that aid has been played key role to achieve this improvement. From the late 1990s, Bangladesh received a large amount of foreign assistance to accelerate administrative institutional reform and development. However, the country yet to make a significant progress because of corrupts practices, political instability and nepotism by political leaders and civil servants. Many studies reveal that it hindrances the development process of the country and also the aid effectiveness. Hence, if Bangladesh can bring efficient policy change for institutional reform and ensure good governance with the implementation of rule of the law, then foreign aid can magnify the countries development more effectively and can affect on growth more strongly.

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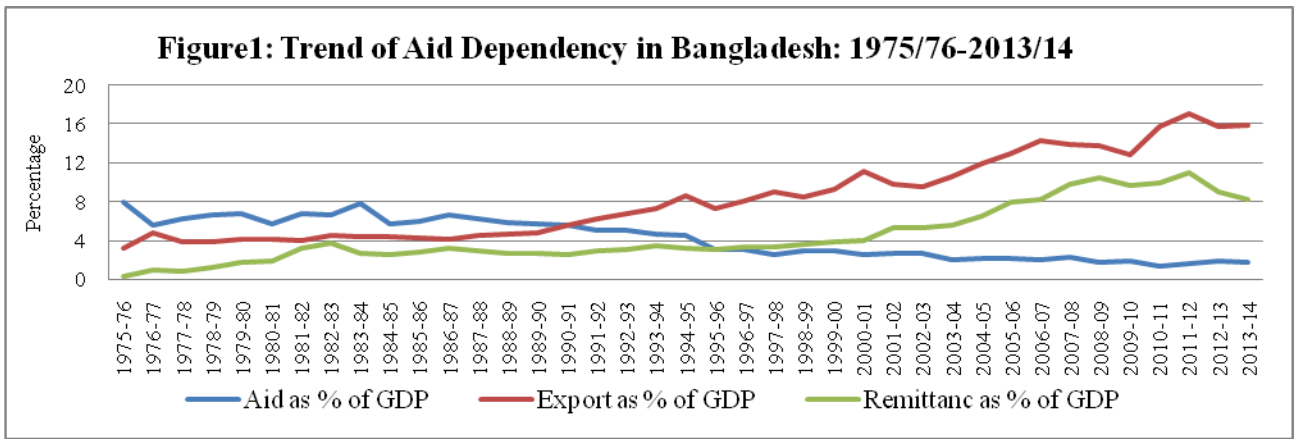
Appendix

Table I: Sectoral Distribution of Foreign Aid:1996 to 2014

Year/ Average	Agriculture, Rural Development & Institution	Industries	Transport, Power and Communication	Water, Oil, Gas & Mineral Resources	Social Services*	Public Administration	Other**	Total
1996-00	12.95	1.07	36.10	16.05	24.54	1.11	8.18	100.00
2001-05	8.98	2.40	37.73	7.79	17.95	13.18	11.98	100.00
2006-10	6.33	1.18	19.45	6.07	26.96	34.28	5.73	100.00
2011-14	6.36	3.77	28.49	5.23	26.36	23.01	6.78	100.00

Source: Computed by Authors based on data from Various Issues of Bangladesh Economic Review.
Note: * Included Education & Religion, Sports & Culture, Health, Population & Family Welfare and Social Welfare, Women Affairs & Youth Development. ** Included Physical Planning, Water Supply & Housing, Mass Media, Science & Technology and Labor & Manpower.



Source: Compilation by Authors Based on Data from BER, WDI and Bangladesh Bank

Table II: Regression result of Foreign Aid on Economic Growth

Dependent Variable: GROWTH
Included observations: 38

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	3.866499	0.395851	9.767555	0.0000
AID_GROWTH	0.020949	0.024504	0.854931	0.3986
GOVT_DUMMY	1.361541	0.479979	2.836668	0.0076
AID_GOVTDUMMY	-0.010662	0.031098	-0.342855	0.7338

R-squared	0.211521
Adjusted R-squared	0.141949

Note: The estimated model is statistically robust as there is no problem of auto-correlation as per Breusch-Godfrey Serial Correlation LM test and heteroskedasticity based on Breusch-Pagan-Godfrey test.

Table III: Governance Indicators of Bangladesh: 1996–2014

Indicator	Year	Governance Score (–2.5 to + 2.5)	Percentile Rank (0–100)	Standard Error
Voice and Accountability	1996	-0.12	47.60	0.22
	2000	-0.31	40.87	0.22
	2005	-0.60	29.33	0.16
	2010	-0.28	37.44	0.12
	2014	-0.47	32.51	0.13
Political Stability and Absence of Violence/Terrorism	1996	-0.61	25.00	0.37
	2000	-0.77	23.56	0.33
	2005	-1.84	4.33	0.28
	2010	-1.40	9.91	0.24
	2014	-0.88	17.96	0.20
Government Effectiveness	1996	-0.73	24.39	0.25
	2000	-0.56	32.20	0.17
	2005	-0.86	21.46	0.17
	2010	-0.75	25.84	0.19
	2014	-0.77	21.63	0.20
Regulatory Quality	1996	-1.06	16.18	0.32
	2000	-0.87	18.63	0.24
	2005	-1.03	16.67	0.17
	2010	-0.83	22.49	0.16
	2014	-0.94	18.27	0.18
Rule of Law	1996	-0.96	18.66	0.21
	2000	-0.95	20.10	0.16
	2005	-0.97	18.18	0.16
	2010	-0.79	25.59	0.14
	2014	-0.72	25.96	0.15
Control of Corruption	1996	-0.73	27.32	0.30
	2000	-0.94	15.61	0.20
	2005	-1.41	4.88	0.18
	2010	-1.02	14.76	0.17
	2014	-0.91	18.75	0.15
Source: World Governance Indicators online database				