

Disputes, Crimes and Pathways of Redress
*A Household Survey on Citizens' Perceptions and Experiences of the
Justice System in Bangladesh*

FOREWORD

This report presents the preliminary findings of a survey on citizens' experience of legal wrongs in Bangladesh, and how both formal and informal justice systems are perceived and utilized to resolve them. The survey was conceived and developed by the World Bank, in conjunction with a multi-disciplinary team from Bangladesh. It takes a broad definition of a legal wrong, as any act which gives rise to legal redress or a legal claim. Both formal and informal justice institutions, including the judiciary, law enforcement agencies, traditional dispute resolution mechanisms, non-governmental organizations that focus on legal issues, as well as local government bodies are all considered as part of the dispute resolution mechanisms availed by Bangladeshis. The body of this report attempts to draw out the major themes arising from the survey results, with the bulk of the tables and data being contained in the annexes as reference material. The report concludes with a discussion of the policy implications of the findings, but does not provide prescriptive recommendations in the belief that this is a matter for Bangladeshis to determine.

To the extent that there has been interest or commitment, the national legal policy agenda in Bangladesh has been determined primarily by senior government officials, politicians and legal professionals, with few opportunities for the general public to actively participate in the discussion. This is despite the fact that present weaknesses in the legal system have serious implications for citizens' rights, basic security and opportunities to participate in the country's development.

The survey focuses on the choices that Bangladeshis make in resolving legal disputes, including their basic legal knowledge; the factors that influence their preference for formal or alternative solutions to legal problems; and their level of satisfaction with chosen courses of action. The study is intended to serve as a reference source for development organizations, scholars and practitioners of justice reform. The extensive data set will be publicly available, and can be used by Bangladeshi researchers and scholars in the coming years. The conceptual framework and survey instrument could potentially be applied in country contexts outside Bangladesh, at once looking at the justice system through the lens of the user and dispute resolution as a service delivery system.

The preliminary findings of this study are by no means exhaustive. There are significant limitations in the quality of information that a household survey of this type can gather. While it can provide a broad outline of the picture of dispute and crime incidence and use of dispute resolution institutions, there is a wealth of further information and insights that remain to be gained from qualitative research and analysis.

The focus of this survey also attests to the changing nature of the lens through which the World Bank has viewed issues relating to the legal system over the last decade. The Bank started working in the justice sector during the 1990s, and for many years the rationale¹ for its

¹ In fact, its engagement in Bangladesh with the Legal and Judicial Capacity Building Project was based on such a rationale. The project commenced in 2001 and was completed in December 2008. It focused on a series of

involvement was to improve the investment climate by providing predictability in the enforcement of contracts and ensuring that property rights are secure and transferable.² Weak justice systems discourage all types of investment and arbitrary expropriation hurts the poor disproportionately. More recently, the development community has recognized that freedom from arbitrary interference and the availability of redress form development goals in their own right, and the rationale for the Bank's involvement in the sector is much broader today.³ Since the 2001 World Development Report adopted a broad definition of poverty incorporating the notions of vulnerability, powerlessness and exposure to risk, the poverty reduction aspiration is logically also one which incorporates the notion of increasing human security, individual dignity and access to redress.⁴ In 2006, for the first time the Bank's Articles of Association were interpreted in separate legal opinions of the General Counsel as comprehending criminal justice and human rights issues within its mandate.

The Bank's broader governance and anti-corruption agenda today reflects an understanding that the legal system is a site where power is contested and is thus a central part of any system of public institutional accountability.⁵ In recent years, there have been attempts to mainstream socio-legal concerns into development programs, in sectors ranging from community-driven development and natural resources to labor-rights advocacy.⁶ The Bank has also increasingly focused on the effects of conflict and state fragility, with the forthcoming 2011 World Development Report examining *inter alia* interpersonal violence as a fundamental development issue⁷ and one that poses devastating costs to development.⁸

technocratic reforms to the civil justice system -- improving the commercial legal framework, increasing court efficiency (strengthening court administration, improving case management, strengthening judicial training), upgrading infrastructure and facilities, establishing capacity in law reform and legal drafting, and attempting to establish and support a legal aid framework -- and yielded few results. Like similar projects of its kind, it proceeded without a clear theoretical basis of social and institutional change or an understanding of the neo-patrimonial structures underlying the formal structures of the state.

² This rationale has been the subject of sustained critique: see further, Alvaro Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development," in David Trubek and Alvaro Santos, eds., *The New Law and Economic Development: A Critical Appraisal*. (Cambridge: Cambridge University Press, 2006).

³ Although its projects continue to provide a challenge -- a 2009 review of public sector projects pointed to legal and judicial reform projects being amongst the weakest projects in the public sector portfolio in terms of results and development effectiveness. In fact, reform of legal institutions has met with scant success anywhere in the world. A World Bank assessment concluded that "less overall progress has been made in judicial reform and strengthening than in almost any other area of policy or institutional reform: James H. Anderson, David S. Bernstein and Cheryl W. Gray, *Judicial Systems in Transition Economies: Assessing the Past, Looking to the Future* (Washington DC, World Bank, 2005).

⁴ The 2001 World Development Report adopted a definition of poverty that incorporates Amartya Sen's capabilities approach: incorporating vulnerability, exposure to risk, voicelessness and powerlessness, seeing poverty as multi-dimensional -- the absence of "fundamental freedoms of action and choice".

⁵ World Bank, *Strengthening World Bank Group Engagement on Governance and Anti-Corruption 2007*, p. 18, § 31.

⁶ Caroline Sage, Nicholas Menzies, Michael Woolcock, "Taking the Rules of the Game Seriously: Mainstreaming Justice in Development, The World Bank's Justice for the Poor Program", (Justice and Development Working Paper Series, The World Bank, 7/2009).

⁷ indicating the breakdown of state capacity to provide basic security and of societal capacity to impose social controls on violent behavior, and as a factor which deters investment, erodes social cohesion, limits access to employment and educational opportunities, drains state resources, and threatens governance at various levels

The report was prepared by Saku Akmeemana, on the basis of extensive inputs from Ferdous Jahan, Phillip Keefer and Munshi Sulaiman, under the guidance of Joel Hellman, Sector Manager. Erik Jensen provided overall guidance in the design of the survey. The conceptual framework was developed by the core team: Saku Akmeemana, Naomi Hossain, Ferdous Jahan, and Erik Jensen. Ferdous Jahan developed the survey questionnaire painstakingly, with the inputs of the other three authors of the framework; Farouk Chowdhury and Stuti Khemani also made a significant contribution to its finalization. Ferdous trained enumerators in what was a complex questionnaire and displayed remarkable patience and enthusiasm throughout what was a long process. Phillip Keefer undertook extensive multivariate regression analysis of the data, with the assistance of Cesi Cruz. Munshi Sulaiman and Sakhiba Tasneem also provided extensive statistical analysis, with Rejwana Farha, Priyani Malik and Rubaba Anwar providing research and administrative assistance. Binayak Sen, Naomi Hossain and Erik Jensen provided extremely helpful feedback at all parts of the process and certainly enhanced the analysis of the data on a number of issues. S. N. Mitra, Shahidul Islam, Haradhan Sen and Shishir Paul provided key contributions from Mitra and Associates. Joel Hellman, Farouk Chowdhury, Dina Siddiqui, Naomi Hossain and David Bergman all provided valuable and insightful comments on the draft text.

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⁸ These represent serious risks in middle- and high-income countries, but are especially debilitating in low-income and post-conflict countries, where chronic violence can pose a significant threat of the outbreak or relapse of violent conflict.

MAP OF BANGLADESH: DIVISIONS



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EXECUTIVE SUMMARY

Thematic Overview

1. *Donors, including the World Bank, have engaged in a number of interventions in Bangladesh aimed at improving the legal system and increasing citizens' access to redress.* These have involved substantial financial investments, but have yielded few results. While there is evidence of improved outcomes for those individuals who have accessed certain donor-funded programs, especially amongst vulnerable groups, there is little to suggest systemic improvements or a substantial overall impact on the quality of legal services available to Bangladeshis. Such an outcome is in part explained by a limited appreciation of the political economy of reform in Bangladesh. But more fundamental may be the fact that these interventions have been undertaken without an evidence base, without a clear understanding of the most frequent or serious legal wrongs faced by citizens, or indeed which actors or institutions they actually use to obtain redress for the legal wrongs they experience.

2. During the first half of 2009, the World Bank conducted a nationally representative survey of citizens' experiences of crimes and civil wrongs and their perceptions of the justice system. *The survey attempts to provide a robust empirical base about the incidence of wrongs and how both formal and informal justice systems are perceived and utilized in Bangladesh. The questionnaire looks at the legal system through the lens of the user -- it attempts to understand what citizens perceive as areas of risk and insecurity in their lives, how they attempt to mitigate those risks, what harms they suffer, which harms impact upon them most severely, and what they want and need from a legal system.* In examining *inter alia* the apprehension of harm, its effect on the way people conduct their lives and the severity of impact of the various legal wrongs experienced by respondents, the survey attempts to connect with the literature on well-being and capabilities. It also examines a large array of personal characteristics that might influence citizens' vulnerability to abuse or the household response to the abuse. In terms of the pathways through which citizens seek redress for harms that they suffer, *the questionnaire treats dispute resolution as a service delivery system.* It focuses on the choices that Bangladeshis make in resolving legal disputes -- the factors that influence their preference for formal or informal solutions to legal problems or their decision to take no action at all; how they interact with institutions in an effort to resolve those disputes, as well as their level of satisfaction with the chosen courses of action. The results provide a springboard for debate in Bangladesh about interpersonal violence, security, disputation, and access to redress and could aid efforts to place these issues at the center of the discussion of development, equity and poverty reduction in Bangladesh.

3. *The survey data reflect the situation in March/April 2009.* The survey was conducted in all 64 districts of the country (with 127 to 278 respondents from each district), and gathers data from a cross-section of ordinary citizens through a formal questionnaire, which is found at Annex 1. The total sample size of the survey was 10,710 households, with 9753 households offering enough information to analyze their experiences. The sample was large enough to

capture the variations amongst Bangladesh's six administrative divisions, which are meaningful units in terms of their diversity. Annex 3 contains detailed socio-demographic and economic information about respondents and their household members.

4. First, the survey seeks to inquire what harms people suffer, what types of disputes they need the legal system to adjudicate. *The results confirm that land is the principal source of disputation and contestation in Bangladesh. Land disputes are the most frequently occurring dispute type (experienced by over 20% of respondents during the period from January 2007 until April 2009). Over 12 percent of respondents reported boundary disputes with neighbors; 4.5 percent had problems with their titles and 2.1% of households reported having suffered land-grabbing. Land disputes were also nominated by respondents as having the most serious impact on their lives of all legal disputes they experienced. Respondents were far more likely to pursue an avenue of redress in relation to land disputes than other dispute types, including seeking legal advice and pursuing remedies through the formal court system, due to both the complexity of the cases and quite possibly the awareness that local authorities have ultimately no control over the cadastre.* The survey results would appear to support the contention in the qualitative literature that land is the driver of the vast majority of disputes that find themselves in the formal court system. The high rate of disputation reflects both a very weak property rights regime and possibly the most intense demographic pressure on land in the world. Bangladesh is the world's most densely populated country outside city-states and micro-states, where large parts of the population live in ecologically fragile areas that disappear during regular flooding, rising sea levels are rapidly reducing the physical size of the country and healthy rates of economic growth have been increasing the demand for land for industrial purposes. As the price of land has increased, the failures in the antiquated and complicated property rights regime in Bangladesh -- based on a mix of secular, religious and customary law -- and a land administration system characterized by an absence of transparency and reliability have become more noticeable. Instruments take effect from the date of execution, not the date of registration, so a bona fide purchaser can never be certain of title. The pressing need for reform is perennially mentioned in policy documents, but little has been done to advance this agenda over many decades.

5. *As with land disputes, deep-seated governance and regulatory failures, reflecting weak political incentives to provide public goods, explain a number of other areas where disputes or grievances are widespread (such as workplace injury) and where articulated fear of harm is extremely high (such as food adulteration).* The survey suggests very high levels of workplace injury and employer exploitation of workers. The vast majority of Bangladeshis work in the unregulated informal economy, but even those in the formal sector are not afforded much protection. The survey results appear to support the qualitative literature which indicates that, despite some protections in the law, there is virtually no compliance regime, and the lack of an effective and engaged trade union movement places little pressure for change. The survey also suggests that greater connections with the global economy in the larger industrial centers (where industries tend to be more export-oriented, and factories tend to be better regulated and more compliant with minimum standards, whether due to their location in Economic Processing Zones or through the corporate social responsibility programs of the buyers of Bangladeshi products) appears to partially mitigate against workplace hazards and exploitation. Khulna, an industrial hub largely catering to domestic markets, appears to have far higher rates of workplace injury than any other region, including the major industrial centers in Dhaka and Chittagong (which has the most extensive ship-breaking enterprises in the country). *When citizens were asked about*

their apprehension of various different forms of harm, almost 70% of respondents indicated they had a fear of food adulteration, the highest of any potential legal wrong. This reflects deep failings in the regulatory system governing consumer products, widespread reporting of food and pharmaceutical adulteration (including some egregious instances involving large scale fatalities), as well as the state's consistent inability and unwillingness to enforce standards. Recent attempts by Government to introduce some measures for harm mitigation and to prosecute egregious breaches of standards are certainly responding to a deep-seated concern of citizens.

6. *Regression analysis of a large number of personal and household characteristics that might affect vulnerability to harm reveals some anticipated correlations as well as some surprises.* The nature of political competition in Bangladesh has a strong influence on vulnerability to crimes and civil disputes. *Those who are politically active are significantly more vulnerable to most types of wrongs except land appropriation, especially abuses by law enforcement authorities.* This finding is unsurprising in a country with a deep partisan political divide, where the law enforcement apparatus is routinely used against political opponents, and where the Caretaker Government had spent a large part of its two year tenure (the period immediately preceding the survey) targeting the main political parties with a law and order campaign. Active political party affiliation/participation is also associated with a greater articulation of fear, especially about abuse by law enforcement authorities and political violence. The spatial analysis did not reveal any stark conclusions on vulnerability to harm, although it displays strikingly high levels of fear on the western border with India (Khulna and Rajshahi) and very low levels of fear in Barisal division. When one examines frequency of incidents by dispute type, the results are generally quite evenly distributed between urban and rural respondents over the previous two years, although abuses by law enforcement authorities are twice as frequent in urban areas.

7. On the other hand, a number of household characteristics that one might expect would insulate households from abuse are, in fact, associated with higher rates of abuse. *Wealth is positively correlated with vulnerability to property crimes, since wealthy households are better targets.* The different variables that track household income and wealth are generally, if anything, positively associated with abuse: for instance, the number of rooms in a house has a positive correlation with the probability of experiencing an abuse by law enforcement agencies. *NGO members are also more vulnerable to abuse than non-members, casting some doubts on the contention in the literature that membership of a micro-finance organizations promotes collective action among members that may have positive impacts beyond, atleast as far as this relates to vulnerability to harm.* The regressions showing the impact of NGO membership have controls for income and education, so the relative wealth of NGO members is not responsible for these results. Yet, it is hard to provide an explanation for the results, due to the extreme heterogeneity of NGOs in Bangladesh. Thirty nine percent of respondents identified as belonging to an NGO of some description -- in the Bangladesh context, this number would to a large extent reflect membership of the large micro-finance providers, BRAC and Grameen, mixed with far lower numbers of a range of smaller, specialized NGOs. Previous surveys that reflected higher rates of gender violence amongst micro-finance members were attributed to the intra-household shift in power dynamics consequent upon the economic empowerment of women, whereas these results suggest greater vulnerability of NGO members to abuses from outside the home as well. What we can surmise is that if NGOs were a significant force in mobilizing citizens vis-à-vis the

state or powerful elites, this result would be unlikely. The findings would appear to provide some support for the contention in the literature that while NGOs may have played a pivotal role in social transformation in Bangladesh, especially in advancing human development outcomes and in improving “bonding capital” at the local level, they have been far less successful in creating “bridging capital” (improving public accountability for poor citizens, promoting direct civic engagement with the state, and in broad-based mobilization of citizens vis-à-vis powerful institutions and actors). With some very notable exceptions, the literature suggests that NGOs adjust to the nature of state-society relations in Bangladesh – they often interact with the state on behalf of citizens, acting as their benevolent patrons rather than mobilizing collective action amongst members.

8. *While there are many available mechanisms for dispute resolution, and citizens often seek assistance from multiple actors or institutions, they prefer to bring the bulk of both crimes and civil disputes to elected local government officials (at the lowest tier, union parishads in rural areas, pourashavas in urban areas).* Forty one per cent of respondents approached elected political officials for both advice and mediation in relation to the most serious dispute they faced. Not only do Bangladeshis avail the assistance of local elected leaders in dispute resolution, when respondents were asked about who *should* be responsible for preventing and solving disputes and crimes in their area, 91% answered in favor of elected local representatives. Eighty four percent favored the involvement of community leaders; with police being cited by 19% of respondents and the courts by only 12%. These results also do not vary substantially with the wealth or education of respondents, their location or by type of dispute. This result is quite instructive in contexts outside Bangladesh – for instance, when donors work in assisting the establishment of legal institutions in post-conflict settings, in countries that are often poorer, less stable and institutionally less developed than Bangladesh, it is a reminder of the limited potential reach of any formal system. While there has been institutional continuity of the courts and police for over two centuries in Bangladesh, only a narrow slice of citizens’ demand – less than 20% -- is for the formal system, even in the case of crime. As would be expected, when more is at stake, the more likely respondents were to exhaust potential remedies and sources of assistance. All avenues of recourse were more likely to be used in response to the most serious of crimes such as murder, or those disputes that have the most severe livelihood impacts such as harassment from law enforcement officials, inheritance disputes and land expropriation. Courts are seen as having a more legitimate role in relation to civil cases of perceived complexity, especially land-related disputes.

9. *That informal justice systems are the predominant means of dispute resolution is a relatively unsurprising finding in a low income country. What is a surprise is the extent of citizens’ preference for the involvement of local government leaders. What does it say about the market for legal services that citizens prefer to use local politicians rather than dedicated legal institutions, which are supposed to be neutral and whose raison d’être is to either resolve disputes in accordance with the law and due process or to investigate crime?* The data suggest some explanations -- the predatory behavior of some of these institutions, low citizen expectations about their utility (especially in light of economic and emotional costs and the administrative burdens), and their poor performance when citizens actually decide to approach them to resolve their disputes. A recurring theme through the survey results is the extent to which central government actors – whether police, court authorities, civil servants, health or

utility providers – are the amongst the most frequent *perpetrators of legal wrongs* against citizens. Harassment and bribery (“horiani”) by service providers (8% of respondents faced such incidents at the hand of utility providers during the two years before the survey and 7% from health providers) and harassment by law enforcement and court authorities is very high in absolute terms (6.5% of respondents faced such incident during the two years). Abuses by law enforcement officials are the most costly type of dispute suffered by citizens, even more expensive than land disputes, indicating the scale of illegal rents extracted by those who are supposed to be responsible for enforcing the law. The rate of interaction of citizens with the criminal justice system is extremely high: 7.7% percent of households have a member who has at some stage been detained, 4.3% have a member who has at some stage been charged of an offence and imprisoned pending trial, and 1% of households have a member who has been convicted of an offence. This is consistent with the high figures of ‘false cases’ being pursued by law enforcement authorities, a practice that has long antecedents.

10. *This data also suggests that citizens’ expectations of formal justice institutions in responding to crime are low, reinforcing many previous opinion surveys which have indicated that Bangladeshis’ expectations of government institutions are very limited. Citizens have little trust in the police, with only a fraction of citizens reporting crime to the authorities. More respondents did nothing in response to a crime as went to the police. The police force is the least trusted public institution (with only 20% of respondents indicating some trust). In another module of the survey, expense – in the form of illegal bribes -- is cited by 29% of respondents as the reason for not approaching the police. Even where crimes are reported to police by citizens, the survey results suggest very poor record-keeping practices by police. When the survey results (extrapolated to national figures) are compared with formal crime statistics, it appears that the complaints of many citizens who actually approach the police to report a crime are not formally recorded. Moreover, citizens do not see the courts as playing a legitimate role in bringing to justice those who commit crimes, one of the principal roles of the courts in developed legal systems. While 90% of respondents indicated that local elected officials should be responsible for resolving criminal cases, 25% felt that the police had a role and only 8% believed that the courts had any role. Only the specialized elite para-military force, the Rapid Action Battalion, scores high levels of approval for reliability, integrity and competence, reinforcing earlier perceptions surveys that indicate that RAB officers are more responsive to the general public and less prone to corruption. Ironically, the extra-judicial executions that RAB is alleged to commit may be a partial reason for its popularity, since the targets of these killings are said to be *mastaans* or organized criminals, a milieu that otherwise operates in a climate of impunity.*

11. *Despite the state being weak, traditional authority being undermined by urbanization, social mobility and modernization, and suggestion of an increased nexus between organized crime figures and political party activists in everyday life at the local level, crime appears to be under check. The incidence of crime is roughly comparable with other Asian countries for which there is reliable data, and considerably lower than in Africa and Latin America. This appears to indicate that community norms still exert considerable influence over citizens’ behavior and that there is not a power vacuum at local level. Bangladesh has not suffered an outbreak of violent conflict outside the political cycles and the separatist conflict in the Hill Tracts, although high levels of violence inside the household have long been documented and a rise in institutionalized organized criminal activity in recent years has been recently noted in the literature. While there*

are substantial inter-divisional variations in crime levels, there is no clear narrative emerging from the data,⁹ apart from the conclusion that Dhaka has low to moderate rates of crime when compared to other divisions (when one looks at both the 2007-9 period and lifetime incidence).

12. *The survey results appear to confirm the trend noted in the qualitative literature about the shift in power from traditional land-based elites to those who are linked to political office, especially elected officials at UP level.* (This finding must not be over-interpreted, since the qualitative research suggests that local government has been infiltrated and adapted from below by traditional elites.) On the one hand, the trend can be interpreted as a negative one, indicating that politics has permeated dispute resolution, that respondents are availing the most powerful patrons they know, and this is being used by better-connected and more powerful individuals against the less powerful in order to obtain favorable outcomes. However, the widespread use of UP shalish across wealth, education and gender divides suggests a much more complex and positive picture, one that is supported by the existing literature and by the rest of the survey data: that this form of dispute resolution has an institutional element and it is more responsive and accountable to citizens than many other dispute resolution mechanisms.

13. The greater involvement of the union parishad chair in dispute resolution was given some impetus by the passage of the *Village Court Ordinance* in 1976, which introduced on paper what is supposed to be the lowest tier of the formal court system to deal with petty civil and criminal cases at the union level. The village court, a five member panel chaired by the union council chairman, has the power to make binding judgments and has enforcement powers. There is a right of appeal to the subordinate courts. Yet, village courts were criticized from their inception for mixing judicial and executive power in one institution; they were never operationalized systematically, and were said to have more or less disappeared by the mid 2000s (outside the 100 union parishads where the NGO Madharipur Legal Aid Association is said to have "activated" them) because they were seen as too time-consuming, bureaucratic and costly. Recently a donor effort in conjunction with the Local Government Division (GoB) has attempted to revive them in 500 sites. UP *shalish* appears to have emerged strongly over traditional *shalish* and the village court, and is arguably something of a hybrid institutional form. Locally elected politicians are acting as mediators, rather than convening a formal village court panel, and in many ways they are exercising a mix of personalized and institutionalized power. Yet, they are approached because they are part of the state structure and have access to other actors who may be able to assist in coming to an acceptable solution to the dispute; the UP chair and to a lesser extent UP members and ward councilors acquire authority by virtue of holding office, which may also contribute to enforcement of mediated outcomes. There is some evidence that UP chairs view

⁹ Over the period 2007-9, Chittagong records the highest rates of robbery or mugging (3.1 per cent), extortion (6 per cent) and domestic violence (2.6 per cent), and is the division which has the second most frequent recording of violent crime (0.7 per cent). Khulna records the highest rates for burglary (11.3 per cent), followed by Rajshahi (9.3 per cent), with the lowest rates being in Barisal (5 per cent). Barisal has the highest rates of violent crime, although this sits oddly with the results on apprehension of crime. If one looks to the lifetime incidence of various crimes, Khulna has high rates of burglary (25.5 percent) and has the highest rates of extortion (1.6 per cent). Chittagong has the highest rates of robbery or mugging (7.5 per cent) and domestic violence (4.8 per cent), and the second highest rate of violent crime (3.1 percent). Sylhet has the highest rates of violent crime (3.6 per cent) and arson (2 per cent). Barisal has the lowest rates of burglary 11.7 percent, and low rates of domestic violence (2.7 per cent), while Rajshahi records the lowest rates of violent crime, robbery, extortion and arson.

dispute resolution work as part of their official duties and “appropriate” the moniker of “village courts” to describe their dispute resolution activities.

14. *Much of the existing literature indicates that, despite a lack of role clarity at the lowest tier of local government, union parishad chairmen are amongst the most accountable and responsive of state actors in Bangladesh.* They are not formally elected on party lists, but are normally affiliated with one or other of the main political parties. However, the literature indicates that the UP chair is commonly not a “hard line partisan” who represents party interests dictated from above, but rather a local politician who tries to navigate a very partisan political landscape in order to attract resources for his or her constituency. Thus, party affiliation is a means of securing resources from the center for the local community, which explains why some union chairmen shift their political affiliations from time to time. While shalish may provide union chairmen with a means of further accumulation and social control, being a relatively fair arbiter of disputes or an impartial source of advice or assistance may also be a means of gaining prestige and votes at the next election. The widespread use of union members and chairs in dispute resolution and the overwhelming preference for their involvement across all demographic groups would provide support for the idea that they do, for the most part, attempt to be even-handed and of assistance to the parties, that they are accessible to most citizens, and a means of mediating relations with other state institutions. Conversely, a reputation for partisan bias or unfair outcomes may have adverse effects on a local leader’s social and political standing and have consequences at the ballot box. *By way of contrast, it would appear that the incentive structure for police, judges, court officials and civil servants accounts for their poor performance, at times predatory behavior and the lack of accountability to the citizens in the local communities where they work.* All of these officials are centrally recruited, poorly paid and constantly transferred throughout the country during their public service careers. Any accountability systems to which they are subjected tend to be vertical and process (rather than outcome) oriented, with a virtual absence of any accountability to the citizens in the localities they are meant to serve.

15. *Donors have invested considerable funds in dedicated NGOs providing community legal services in the belief that they provide better quality dispute resolution services to citizens.* Indeed the data supports this proposition, in so far as those who actually utilized NGO dispute resolution indicate high levels of satisfaction. *Yet, our survey confirms the findings of the 2007 BRAC/Saferworld survey that the coverage of NGOs is poor, with less than 1% of citizens reporting to have sought the assistance of NGOs in relation to the most serious incident they faced.* This is not to argue against donor support for legal services provided by NGOs – in addition to a high satisfaction rate, many NGO services focus on violence against women and provide support services well beyond legal assistance where otherwise none would have been available. Further, legal advocacy organizations have at times succeeded in using the courts to deliver victories for the most marginalized in Bangladesh, which are often of enormous symbolic value beyond the immediate parties. However, the point still needs to be made that there is a very large portion of Bangladesh’s citizens who do not or cannot access such services, and donors need to take this into account in terms of planning interventions in the sector if they are aiming to have broad or systemic impact on access to justice in Bangladesh.

16. *Despite the bulk of Bangladeshis availing mechanisms outside the state's formal law enforcement machinery, it is an area that is largely overlooked by policy makers. A very ambitious justice sector strategy in the most recent National Strategy for Accelerated Poverty Reduction largely ignores this area, as have previous policy documents. The reluctance of governments in Bangladesh and other developing countries to engage with informal systems of dispute resolution maybe based on a belief that developing countries need to "graduate" from reliance on informal dispute resolution as they mature, become more prosperous and modernize. A resistance to the idea that the state should acknowledge or support informal dispute resolution mechanisms is often shared by advocates engaged in protecting the legal rights of the most marginalized, who believe that this could perpetuate systemic biases and inequities, especially against women and socially excluded groups. They argue that while UP shalish does not generally impose the fatwas and harsh punishments that the extreme forms of the traditional practice entail, it often differs little from the traditional process in terms of exclusionary bias, its tendency to reproduce social inequality by advantaging men, elders, and the more powerful and enforcing repressive norms. This has been highlighted in recent years, where cases of cruel and humiliating punishments imposed by UP chairs have gained some media attention after they were ruled upon by the High Court.*

17. Yet, understanding and working with non-adversarial dispute resolution systems outside the courts is a necessary element of a functioning justice system, regardless of the level of development. The evolution of justice in the developed world is in the direction of compulsory conciliation and mediation, diversionary justice and community-based processes. A meaningful reform strategy must address the reality of involvement of political actors in dispute resolution if it is to reach the systems that are used by the overwhelming bulk of Bangladesh's citizens -- it needs to make policy decisions about whether to intervene in existing practices in an effort to ameliorate exclusionary bias, increase compliance with secular law (including the human rights guarantees in the Constitution) and prevent abuses of power. The more conservative policy option is to do nothing and to allow UP shalish to evolve according to the demand for these services and local peculiarities, and to rely upon advocacy groups to bring to attention the more egregious outcomes from a human rights perspective. The more interventionist approach would rely upon the evidence that shalish practices are far from fixed and attempt to harness the potential for UP shalish to change for the good, in an effort to improve outcomes for people living in poverty and to ameliorate exclusionary practices. Not only does this provide scope to bring a level of consistency to practices (or atleast to provide some minimum standards that comply with constitutional standards and criteria for inclusiveness), but also for very serious disputes to be referred to more appropriate fora where indicated.

18. Admittedly, engagement with informal systems is fraught with the risk of potentially formalizing and delegitimizing the informal, in the process undermining its main advantages. Yet there are lessons from other developing countries and from Bangladesh's own experience with the village court system from which it could learn, which have been summarized well by Stephens. The approach in much of Latin America has been for government to provide overarching legal frameworks to recognize non-state justice systems so long as processes and norms are not inconsistent with state law. This form of recognition has the advantage of not introducing new institutions, but building on what already exists. By way of contrast, other countries have attempted to introduce hybrid institutions that carve out a defined jurisdiction for

village-based dispute resolution processes, which are in turn acknowledged by state courts. This approach has been employed in the Philippines, Papua New Guinea and Sri Lanka to far greater success than Bangladesh's effort to introduce village courts. The failure of Bangladesh's effort can be attributed to a number of reasons: the village court was imposed on top of existing institutions, attempted to be prescriptive in terms of the form of the institution, and its processes were still far more time-consuming and bureaucratic than its informal alternatives. It also placed both executive and judicial power in the union parishad chair and members, thereby breaching the separation of powers doctrine in the Constitution, and undermining its legitimacy amongst many. As Stephens has argued, successful efforts to integrate the virtues of state and non-state justice are generally those that take a light touch, often build incrementally on existing systems and are defined by local stakeholders. He argues that central to their success seems to be the absence of prescriptive regulations on process and substance -- this effectively creates "delegalized" environments that seemingly helped the institutions to effectively adapt to the range of social, ethnic, religious and cultural contexts, and allow locally legitimate processes fill the space.

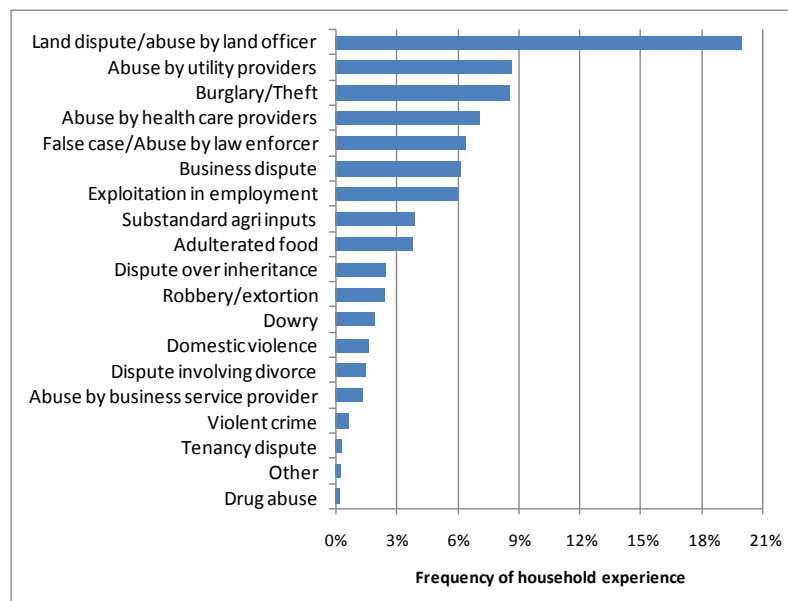
19. Any further reform efforts by donors need to respond to the evidence base being built by this survey and other empirical studies, rather than more theoretical notions of what interventions might work and what may not. *If local government in Bangladesh is given serious priority in the coming years, including credible and predictable fiscal allocations, there is considerable potential for mediation (an administrative function rather than adjudication, a judicial function) of disputes to be institutionalized amongst its functions as there appears to be enormous demand from citizens for a mediation service at UP level.* Before such an effort is made, more detailed qualitative work needs to take place to understand more about the typology of dispute resolution at union parishad level. The World Bank's strong engagement at *union parishad* level through the Local Governance Support Project could facilitate a rich understanding of local government involvement in dispute resolution, which could in turn inform the available policy options.

Summary of Findings

Dispute Incidence and Severity of Impact

20. *Land disputes are the most frequent dispute type in Bangladesh, experienced by over 20% of respondents over the period from January 2007 until April 2009. Over 12 percent of respondents reported boundary disputes with neighbors and 4.5 per cent had problems with their titles. Land grabbing occurred at extremely high rates, with 2.1 per cent of households having suffered such a wrong at the hands of powerful elites, and 0.2 per cent indicating that their land had been expropriated by Government. When respondents were asked to nominate the most serious incident affecting the household, they most frequently identified land disputes (14.9 per cent of disputes with neighbors over boundaries, and 6.5 per cent of disputes over land title).*

Figure: Experience of incidents in 2007-9, by incident type
(per cent of respondents, multiple responses permitted)



21. *Burglary (8.5%), harassment and bribery by service providers (8% for utility providers, 7% for health providers), harassment by law enforcement and court authorities (6.5%), loan recovery (6%) and disputes at work (5.8%) all feature prominently in terms of the most frequently occurring “justiciable” incidents. The absolute levels of certain harms such as harassment by law enforcement authorities and land grabbing are high. The incidence of crime is roughly comparable with other Asian countries for which there is reliable data and lower than in Africa and Latin America. The rate of gender-based crimes, especially domestic violence (1.6%), is understood to reflect only the most serious incidents (occasioning injury requiring medical*

attention), and reflects more general difficulties associated with measuring rates of domestic violence in a household survey as opposed to more focused respondent-centric methodology.¹⁰

22. After land disputes, respondents named personal property loss/burglary (12%), and false cases lodged for the purposes of harassment (8.5%) as the *most serious incident affecting the household*. All of these incidents have considerable economic and livelihood impacts, in addition to creating high levels of distress and worry and the loss of respect and social standing in the instance of false cases. False cases and other abuses by law enforcers involve the highest legal, illegal and other expenses, followed by land disputes, another explanation of why these two dispute types were cited by respondents as having the most serious impact on them.

Correlations between Dispute Incidence and Social Characteristics

23. *Wealth is positively correlated with vulnerability to property crimes, and active political affiliation increases vulnerability to almost all crime and dispute types.* The correlation between wealth and poverty reflects that those who have more, have more to lose, although there may also be other more subtle narratives at play. Those who are politically active are significantly more vulnerable to most types of wrongs except land appropriation, especially abuses by law enforcement authorities, a finding that is unsurprising in a country with a deep partisan political divide and where the Caretaker Government had spent a large part of its two year tenure targeting the main political parties with a law and order campaign. *NGO members are also more vulnerable to abuse than non-members, even when the results are controlled for income and education.*

Apprehension of Harm

24. *The fear of harm is high, especially of everyday, rather than catastrophic, events.* The fear of adulterated food and pharmaceutical products constitutes the biggest fear of any harm (cited by 70% of respondents), one to which all consumers in Bangladesh are vulnerable, regardless of wealth status and personal characteristics. Adulterated agricultural inputs, such as fertilizer, form a significant problem especially for rural respondents. Land disputes and concerns relating to employment (occupational health and safety as well as the terms of employment) also feature prominently amongst concerns, as do crimes which have serious economic effects such as property crime. While fear of violent crime is high, it is less prominent than one would have expected, perhaps a reflection of the state of emergency in place from January 2007 until December 2008 during the Caretaker Government period, during which citizens' perceptions of the law and order situation improved substantially according to available survey evidence. While the incidence of harassment and solicitation of bribes ("hoirani") by state authorities is very high, it is internalized as a part of life by many respondents. There is considerable spatial variation in terms of fear of harm, with Barisal division recording the lowest levels of fear across all dispute and wrong types, and either Khulna and Rajshahi divisions registering the highest levels of fear across all dispute types except in relation to tenancy disputes. There would appear to be a complex of factors which produce high levels of fear and

¹⁰ Half the sample consisted of men, the female respondents were asked to speak on behalf of their households rather than individuals and to focus on the most serious incidents affecting them, which may have reduce the extent to which they focus on domestic violence except that occasioning injury.

insecurity, not only crime incidence levels or personal experience of a harm. These include the social environment (as is reflected in the levels of insecurity felt on the western border with India and highest levels of security felt in Barisal), mediated sources of information about the relevant harm (for instance, from the media about food adulteration) and the absence of redress in the event of harm occurring.

25. *The extremely high fear of food adulteration reflects widespread awareness of its prevalence through media reporting, the potential for serious harm (either long term health effects such as the development of cancers or immediate poisoning through lethal ingestion of contaminants) and the fact that the mechanisms for mitigating risks are limited.* Furthermore, food is an everyday part of life and the likelihood of falling victim to such a prevalent practice appears to be very high (and, for the most part, undetectable). Not only have the most egregious instances of food and pharmaceutical adulteration led to significant fatalities in the past, but the state's ability and willingness to enforce standards is weak and the reality and perception of impunity for perpetrators is high. Consumers are more exposed to adulterated goods in markets in which producers have not developed brand name reputations that they lose in the event of selling dangerous or faulty products.

The Criminal Justice System

26. *The rate of interaction with the criminal justice system is high, consistent with the high figures of harassment by law enforcement and court authorities:* 7.7% percent of households have a member who has at some stage been detained by the police or the Rapid Action Battalion, 4.3% have a member who has at some stage been charged of an offence and imprisoned pending trial, and 1% of households have a member who has been convicted of an offence. Urban respondents are more likely to have had such an interaction with the criminal justice system, as are the moderately poor (viz. neither those living in extreme poverty nor the non-poor).

27. *At the same time, the formal justice institutions are seen as having limited utility when citizens suffer crime, with as many citizens doing nothing as reporting crimes to the police.* The survey reinforces the conclusion that citizens have little trust in the police and do not report crime. While 17% indicated that they approached the police for assistance in relation to an incident they experienced, less than 4% of the total sample sought to pursue the matter through a police investigation. In 85% of burglaries, 79% of robberies and 68% of other violent crimes, respondents did not involve the police at all. When one examines the reasons for respondents not approaching the police, expense – in the form of illegal bribes -- is cited as the major impediment and was cited by 29% of respondents.

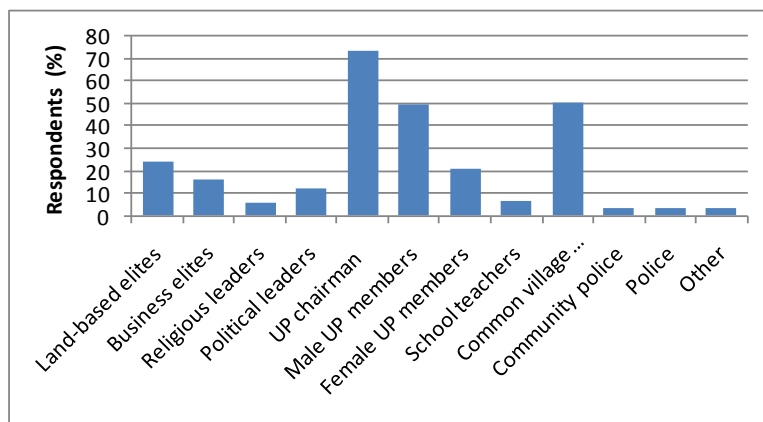
28. *There appears to be a vast discrepancy between the crime incidence rates the survey uncovers and official police statistics.* The results also suggest that the record-keeping practices of the police are very poor, and that the complaints of the majority of those who actually approach the police to report a crime are not formally recorded. For instance, the official police statistics indicate that 12,447 burglaries occurred in the period 2007-2009, a figure that is less than 4% of the total number of burglaries that we can extrapolate as having occurred during this period based on the results of this survey. Furthermore, while respondents in our survey indicate

that 14.2% of the burglaries they suffered in 2007-9 were reported to the police during this period, the official statistics indicate that less than a third of these burglaries were actually recorded.

Pathways to Dispute Resolution

29. *Informal justice systems are the predominant means of dispute resolution in Bangladesh, with only a small number of disputes entering the formal system.* While 16% of respondents who experienced a wrong approached the courts for advice, it was just over 3% who actually approached the courts for adjudication in response to the most serious violation they faced. Expense was cited by almost 30% of respondents as the reason for not approaching the courts. Land disputes were the dispute type which formal institutions were seen as most useful in resolving, with 23% and 21% of respondents respectively indicating they had approached the courts and police. The use of formal mechanisms increased with education level – for instance, 15% of those with no education chose to pursue matters in the courts, whereas 21% of those with tertiary education did so. Tertiary-educated respondents in the sample are most likely to seek the advice of a lawyer, and least likely to utilize either village *shalish* (traditional dispute resolution) or mediation involving locally elected officials. Four percent of respondents indicated that they used the village court, the lowest tier of the formal court system which is supposed to be convened by a local government official, the chair of the *union parishad*. However, since the ordinance establishing the village court has never been operationalized systematically in Bangladesh¹¹, these figures may simply include cases of *shalish* where the union parishad chair presides. The survey pre-dates a recent effort by a donor-funded project to revive the institution in 500 sites in the country.

30. *Respondents overwhelmingly approached elected political officials (41%) at the lowest tier of local government (union parishad in rural areas, pourashavas in urban areas) for both advice and mediation in relation to the most serious dispute they faced;* followed by traditional dispute resolution (village *shalish* 18%, community leader 8% and religious leader 2%). Those identified by respondents as “*shalishkars*” or mediators in their local area are predominantly elected local government officials, followed significantly behind by common villagers and land-based elites.



¹¹ Except through the work of the NGO, Madharipur Legal Aid Association, in its limited area of operation.

Figure: Identity of those who undertake dispute resolution in the respondent's locality

31. This finding appears to confirm the idea that local legal, political and social authority has increasingly consolidated in elected local government officials, rather than traditional land-based elites. Conversely, there appears to be a gradual breakdown in traditional social authority at local level, with the penetration and entrenchment of political party networks down to the village level over the last 30 years and increasing urbanization. The limited involvement of religious leaders in dispute resolution would suggest quite a clear distinction between religion and the state. The survey does not provide sufficiently detailed information to determine if the authority of elected local government officials is itself being undermined by the rise in the power of the ruling party head at *upazila* or sub-district level.

32. *Bangladeshis strongly prefer the involvement of locally elected leaders in dispute resolution.* When respondents were asked about who *should* be responsible for preventing and solving disputes and crimes in their area, 91% of respondents answered in favour of elected local representatives. Community leaders scored 84%; police 19%; political leaders such as MPs 11% and courts 12%. Religious leaders registered less than 3%. In relation to seeking redress for crimes, 90% of respondents indicated that local elected officials should be responsible, while 25% felt that the police had a role and only 8% believed that the courts had a role. The courts are seen as having more of a role in relation to civil cases, especially land cases. There is little variation in these results with the wealth or education of respondents or spatially (rural/urban breakdown or amongst divisions).

33. *Very few citizens seek the assistance of NGOs in relation to serious incidents.* Less than 1% of citizens reported to have sought the assistance of NGOs in relation to the most serious incident they faced. Although rates of satisfaction are high amongst those who seek their assistance, NGOs are not perceived by citizens to be significant actors, and there are low levels of trust in them, even when compared to the police. However, the story is likely to be more nuanced, as their work might be disguised at times: NGOs often work with other institutions such as local shalish or the village court, in an effort to ameliorate their more exclusionary biases, and their presence may not be obvious to respondents.

Perceptions of the Formal Legal System

34. *Whilst informal justice mechanisms are overwhelmingly chosen by respondents over formal law enforcement and judicial institutions, the state appears to have a level of legitimacy.* In contrast to many low income countries where trust in customary norms and institutions trumps that in the state (and in fact the formal system is seen as a mechanism through which the powerful perpetrate injustice to serve their interests), citizens both make the rational decision to pursue informal dispute resolution mechanisms over the court system/police, whilst at the same time (a) increasingly go to a mediator who has some formal role in the state and (b) acknowledging the importance of, and endorsing the legitimacy of, the law of the land and the legal apparatus involved in its enforcement. For instance, 98% believe it is important for citizens to understand their legal rights and responsibilities; 94% agree with the statement that the courts are an important way for citizens to enforce their rights, even if they access them only on rare occasions; 97% believe that it should be the responsibility of the state to provide free legal aid to indigent citizens to access the formal system, regardless of how few people actually access it; and 75% of people believe that the law acts as a restraint on the behavior of the wealthy and powerful. Less than 50% of people agree with the statement that the law only protects the interests of the wealthy and that the law serves the interests of government rather than citizens. There is little support for taking the law into one's own hands.

35. *Trust in institutions generally correlates with the extent to which institutions engage in predatory conduct.* The Rapid Action Battalion remains the most trusted institution in the country, with 85% of respondents expressing trust, the courts at 40% and the police at the bottom with 20% (even after the “honeymoon” period of the Caretaker Government – during which traditional partisan political influences were significantly ameliorated). *At the same time, expectations are very low.* Even amongst those who have been detained or convicted of a crime, 51% reported being treated fairly well or well by the police and 75% by the courts, indicating very low expectations about the treatment respondents expected to receive.

A. BACKGROUND

CHAPTER 1: Disputes, Crime and Harm Avoidance in Bangladesh

1.1 Introduction

36. Discussions about the legal system in Bangladesh have generally been the preserve of the legal community, politicians and Government officials, often part of a discourse focusing heavily on changing the formal rules and processes governing the state's legal institutions or in building capacity within them. They have also featured as a part of the human rights discourse advanced by lawyers and non-governmental organizations on behalf of the most vulnerable sections of Bangladeshi society. However, the public policy debate in Bangladesh has rarely featured issues of interpersonal violence, security, disputation, lawlessness, and access to redress at the center of the discussion of development, equity and poverty reduction.¹² Whatever discussion that has taken place has not been informed by systematic evidence on citizens' experience of crimes¹³ and disputes.

37. At the same time, donors¹⁴ including the World Bank have engaged in a number of interventions in Bangladesh aimed at improving the legal system and increasing citizens' access to redress. These have involved substantial financial investments, but have yielded few results.¹⁵

¹² While there have been repeated references to both institutional reform and access to justice for the poor in formal government policy documents -- *Strategy for Legal and Judicial Reforms* 2000, *Poverty Reduction Strategy Paper* 2005, *National Strategy to Accelerate Poverty Reduction* 2010 -- there has been very little serious policy engagement with, or public discussion about, these issues in the context of the development agenda. Typically, discussion has been driven by donor-driven projects.

¹³ As in many developing countries, official statistics cannot be relied upon in Bangladesh due to the chronic under-reporting of crime -- see Chapter 4 for a more detailed discussion of the extent of under-reporting, comparing the outcomes from this survey with the official police statistics. In fact, some developing countries undertake or use crime victimization surveys in the absence of any other reliable basis upon which to develop public policy in this area. The rate of total crime recorded by police per 100,000 people in Bangladesh is 108 (2009 statistics), while the statistics for the UK are 10,537 (2004/5 statistics) and Canada it is 7518 (2006 statistics). These figures appear to reflect the extent to which victims have confidence that their complaints will be dealt with effectively and impartially by the police, rather than the actual incidence of crime. Further, the methodologies employed by many NGOs for data collection on crimes and human rights violations have also been questioned for their lack of rigor: Mushtaq Khan, *Bangladesh Human Security Assessment 2005* (Dhaka: UK Department for International Development, 2006).

¹⁴ DFID, UNDP, CIDA and DANIDA have been significant actors in the sector.

¹⁵ The World Bank's engagement on legal and judicial reform in Bangladesh through the Legal and Judicial Capacity Building Project is a case in point. It attempted a package of technocratic reforms to the civil system: improving the commercial legal framework, increasing court efficiency (strengthening court administration, improving case management, strengthening judicial training), upgrading infrastructure and facilities, establishing capacity in law reform and legal drafting, and attempting to establish and support a legal aid framework. The project was not informed by any analysis of the embedded political, economic and cultural incentives that surround institutional change. The project had very little impact, focusing on capacity and a series of technocratic interventions, during a period of growing patrimonialism and politicization of the judiciary. (For a critical discussion of this standard package of reform, see Erik G. Jensen, "The Rule of Law and Judicial Reform: The Political Economy of Diverse Institutional Patterns and Reformers' Responses," in Erik G. Jensen and Thomas C. Heller,

While there is evidence of improved outcomes for those individuals who have accessed certain donor-funded programs, especially amongst vulnerable groups, there is little to suggest systemic improvements or a substantial overall impact on the quality of legal services available to Bangladeshis. Such an outcome is in part explained by a limited appreciation of the political economy of reform in Bangladesh. But more fundamental may be the fact that these interventions have been undertaken without an evidence base, without a clear understanding of the most frequent or serious legal wrongs faced by citizens, or indeed which actors or institutions they actually use to obtain redress for the legal wrongs they experience.

38. This survey attempts to provide a more robust evidence base than has been available on the incidence of wrongs and how both formal and informal justice systems are perceived and utilized in Bangladesh.¹⁶ It aims to provide a nationally and divisionally representative profile of civil disputes and crimes and their impacts. It also aims to map a wide range of behaviors through which citizens seek redress for perceived wrongs, and their determinants. The questionnaire asks respondents about those wrongs that most worry them, about their experience of disputes and crimes, the steps they took to avoid or mitigate the potential harm, and a large array of personal characteristics that might influence their vulnerability to abuse or the household response to the abuse. The survey is relatively unique in its effort to track a potential dispute or crime from the apprehension of harm, through to its incidence and the various pathways of redress.

39. This report documents the survey results – while the body of the text contains the major themes emerging from the survey results, many of the detailed tables and a description of the data are found in the annexes. In its analysis, it has attempted to incorporate some of the rich social science literature on dispute resolution and poverty, which rarely feeds into discussions about citizens’ access to legal redress.

40. Since the idea for the survey was first discussed several years ago, there have been a number of efforts at empirical work, although most have had a narrower topical focus than this particular survey.¹⁷ The most substantial piece of work was the BRAC survey on human

eds., *Beyond Common Knowledge: Empirical Approaches to the Rule of Law* (Stanford: Stanford University Press, 2003), pp 336-381.

¹⁶ Survey work on dispute resolution and legal systems has generally tended to be folded into larger “high-end” governance surveys: Hossain Zillur Rahman, *Unbundling Governance: Bangladesh Governance Report 2007* (PPRC: 2007). See also *The State of Governance in Bangladesh 2006* (BRAC University: 2006). This genre of surveys usefully outlines the dimensions of governance problems in Bangladesh including, at a general level, the relationship between institutions that enforce laws and resolve disputes. Four surveys more specifically probe law and order and human security issues: *Baseline Study Report on Community-Police Relations* (The Asia Foundation: 2004?); *Public Attitude Baseline Survey for the “Police Reform Programme – BGD/04/001”* (conducted for UNDP by Research Evaluation Associates for Development) and BRAC, *Bangladesh Crime and Security Survey* (2008). Another survey draws on the data bases of four prominent legal aid NGOs to provide a profile of perceptions of beneficiaries of the services of those NGOs: Mirza Hassan, *Access to Formal and Informal Justice System and Legal Empowerment Strategies in Bangladesh* (BLAST: 2007). And another looks more broadly at public opinion with respect to alternative dispute resolution mechanisms: *Promoting Improved Access to Justice: Community Legal Service Delivery in Bangladesh* (The Asia Foundation: 2007). None looks at the broad incidence of crimes and disputes, nor follows the pathways to their resolution.

¹⁷ Collectively, the existing surveys provide glimpses into the institutional pathologies of law enforcement and dispute resolution from a citizen’s perspective and potential policy prescriptions and programmatic interventions.

security,¹⁸ the results of which are published in a report by Saferworld -- it provides a very useful reference against which to compare some of our results.

1.2 The Survey

41. During 2009, the World Bank conducted a nationally representative survey of citizens' experiences of crimes and civil wrongs and their perceptions of the justice system, with technical support from Mitra and Associates. The data reflect the situation in March/April 2009, just after power was peacefully transferred from a military-backed Caretaker Government to an elected government after a two year interregnum. The survey was conducted in all 64 districts of the country (with 127 to 278 respondents from each district), and gathers data from a cross-section of ordinary citizens through a formal questionnaire.¹⁹

42. The total sample size of the survey was 10,710 households, with 9753 households offering enough information to analyze their experiences. The sample was large enough to undertake a spatial analysis of the data, viz. to capture the variations amongst Bangladesh's six administrative divisions, which are meaningful units in terms of their diversity.²⁰ These six divisions cover the most economically prosperous and socially progressive region (Dhaka division), economically prosperous but socially conservative regions (Chittagong and Sylhet, where human development outcomes have historically been poor) and one in which the bulk of religious and ethnic minorities live (Chittagong). Previous analytical work on poverty and human development outcomes have revealed some surprising outcomes. For instance, the World Bank's most recent Poverty Analysis of Bangladesh²¹ identified Barisal, Rajshahi and Khulna as forming the economically lagging western region of the country, yet these divisions have the best human development outcomes in the country. Some explanations for these results looked to the preponderance of NGOs and the absence of alternative economic opportunities as an

But they have certain limitations, including a narrower topical focus, an insufficient sample to show regional differentiation, or a sample pool being bounded geographically and by beneficiaries of on-going NGO programs. Some of the surveys may also be perceived as biased toward empirically justifying an on-going activity or donor pressure in terms of time frame and methodology employed.

¹⁸ Bangladesh Rural Advancement Committee (BRAC) undertook a national survey and qualitative research in the latter part of 2007 and early 2008. Many of these results were published in Saferworld UK, *Human Security in Bangladesh*, May 2008. BRAC also undertook significant qualitative research around the survey results, published in *State of Governance 2007* (BRAC University, Institute for Governance Studies, 2008).

¹⁹ Annex 1 contains the survey questionnaire in English and Bengali.

²⁰ Studies reflect a significant divisional variation in Millennium Development Goal outcomes in the country which correlate with progressive and conservative social norms; disaggregated analyses of selected social indicators also point out significant inter-district variation as well as social differentiation in certain social MDGs. Sen B. and Ali Z.(2005): 'Spatial Inequality in Social Progress in Bangladesh', *PRCPB Working Paper 7*, Dhaka/Manchester: Bangladesh Institute of Development Studies, Dhaka and Chronic Poverty Research Centre, University of Manchester; Sen, B. and Hulme, D. (2006): *Chronic Poverty in Bangladesh: Tales of Ascent, Descent, Marginality and Persistence – The State of the Poorest 2005/2006*, Dhaka/Manchester: Bangladesh Institute of Development Studies, Dhaka and Chronic Poverty Research Centre, University of Manchester (forthcoming). Ali, Z. and Begum, S. (2006): 'Recent Trends in Poverty and Social Indicators: An Update', *PRCPB Working Paper 16*, Dhaka/Manchester: Bangladesh Institute of Development Studies, Dhaka and Chronic Poverty Research Centre, University of Manchester; Zulfiqar Ali and Taifur Rahman, *A Tale of Two Upazilas: Exploring Spatial Differences in MDG Outcomes* (background paper prepared for the World Bank, 2006).

²¹ Citation

explanation. A spatial analysis was undertaken in this survey with the hope that it would contribute to enriching the existing narrative about regional variations in various development outcomes.

43. The incidents recorded by the survey instrument include crimes ranging from burglary and robbery to murder; a wide range of land disputes, including boundary disputes with neighbors and land grabbing; domestic violence and disputes related to divorce; violence associated with political party competition; commercial disputes ranging from problems recovering loans to violations of labor contracts to the consumption of adulterated goods. It also records justifiable wrongs committed by state authorities, whether those actually involved in law enforcement or more broadly in government service provision. In the case of the latter, we examine the prevalence of *hoirani* -- harassment and mistreatment by public service providers, often associated with bribe-taking and sometimes leading to denial of service.²² The survey also examines citizens' expectations and perceptions of various institutions involved in harm prevention and dispute resolution, their legitimacy and a range of issues relating to the interface between citizens and those institutions.

44. This report examines the survey results in order to answer a number of questions: what is the incidence of various crimes and civil wrongs and how do citizens respond to them? What explains people's vulnerability to different wrongs and their responses to them? How likely are they to report crimes to state authorities? To what degree are citizens victims of harassment by police or maltreatment by service providers, and what do they do about it when it occurs? To what extent has the deep penetration of NGOs²³ in Bangladesh affected vulnerability and pathways to dispute resolution? Does NGO membership affect vulnerability to particular abuses and the options for responding to it? Since vulnerability and responses to harms are likely to be influenced by competition between the two major political parties, often in an environment where such rivalry turns violent,²⁴ this survey seeks to ascertain the prevalence of abuses that are directly linked to political violence. To what extent does membership in a political party influence either vulnerability to abuse or responses to it?

45. In some ways, this research is similar to a number of recent surveys that examine the incidence of wrongs and the use of various dispute resolution processes in different developing country contexts.²⁵ Where the survey attempts to cover new ground is in terms of examining the

²² *Hoirani* or harassment is defined in one publication as "a critical aspect of the mis-governance experienced by citizens. Typically, such experiences take the form having to face unpredictability, time loss, ill-behavior, and, procedural superfluity. *Hoirani* thus stems from both behavioral norms and institutional processes. (PPRC, *Unbundling Governance*, 2007)

²³ Lewis and Hossain at p61 comment that alongside local government structures and informal local institutions, the strongest institutional presence in many rural areas are development NGOS. Most of the country's over 22,000 NGOs have been concerned with delivering services to the poor, mainly in the form of micro-credit, but they are also active in education, health and agricultural services. A smaller group of radical NGOs such as Nijera Kori and Samata have focused on community organizing and social mobilization, such as seeking to enforce rights of poor people to khas land and water bodies, supporting gender rights and scrutinizing local authorities' allocations of welfare goods such as Vulnerable Group Feeding (VGF) cards.

²⁴ In the form of *mastaan* politics, *hartal* politics and political violence.

²⁵ Justice for the Poor Indonesia, Baseline Survey 2008; Extension of Timor-Leste Survey of Living Conditions – Justice Questions 2008; quantitative analysis from Bilal Siddiqi and Justin Sandefur in "Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options" (November 2009, Peaceworks). For guidance

extent to which people regulate their lives because of the fear of harm and in order to mitigate the risk of uncertainty in the pursuit of immediately needed security. This line of inquiry is heavily influenced by the work of Geof Wood²⁶ and the work undertaken on human security by BRAC.²⁷ Bangladesh is an example of a developing country without any ongoing armed conflict²⁸ and a relatively homogenous population, so in many ways it is a good test case for the effect of ‘everyday’ disputation and insecurity on the lives of citizens, especially people living in poverty. In light of the ubiquity of patron-client relationships in Bangladeshi society, the survey instrument also attempted to gather information about the social network of respondents, specifically the three people from whom they seek assistance most often.

46. This survey also attempts to capture the effects on dispute resolution of the social change noted in the literature over recent decades: increased urbanization, the breakdown in the authority of traditional mediators (and thus presumably compliance with the outcomes of traditional dispute resolution) accompanying changes to the rural power structure,²⁹ and the penetration of partisan political patronage into the fabric of collective social life down to the village level in the period since 1991.³⁰

47. Recent years have witnessed the growth in the variety of dispute resolution fora available to parts of the population --- traditional dispute resolution has adapted to the changes in the broader political and social landscape by involving locally elected politicians, and NGO community legal service providers have emerged.³¹ Many of these NGO programs are heavily funded by donors,³² especially in light of the very limited success donors have had in working with the formal institutions involved in the administration of justice.³³ We therefore hope that this survey will provide further insights into the impact of these programs and the extent of their coverage, to inform future interventions. The survey also aims to provide hard numbers to the

about the role that household surveys can contribute to a constructive engagement in discussions around justice in development practice, refer to Kirsten Himelein, Michael Woolcock and Nicholas Menzies, *Surveying Justice: A practical guide to household surveys*, (Justice and Development Working Paper Series, 11/2010).

²⁶ Wood argues that the poor have an exaggerated sense of insecurity and place themselves in informal clientelistic arrangements, relationships and structures (for instance, seeking the protection of local mastaans or organized crime figures), which then displace the longer term prospects of a sustained improvement in their livelihoods by reducing their autonomy.

²⁷ Naomi Hossain, Ferdous Jahan, Munshi Sulaiman, “Crime and development in Bangladesh” unpublished paper, September 2009.

²⁸ Since the armed conflict in the Chittagong Hill Tracts came to an end.

²⁹ David Lewis and Abul Hossain, *Understanding the local power structure in rural Bangladesh* (SIDA, 2008) and “A tale of three villages”, *Journal of South Asian Development*, 3:1 (2008) 33.

³⁰ *The State of Governance in Bangladesh 2006* (BRAC University: 2006), chapter 3; Hossain Zillur Rahman and S. Aminul Islam (ed), *Local Governance And Community Capacities: Search for New Frontiers* (Dhaka University Press, 2002).

³¹ These provide a variety of dispute resolution services in addition to assisting clients with legal advice and representation in the courts where appropriate. For more details, see *Promoting Improved Access to Justice: Community Legal Service Delivery in Bangladesh* (The Asia Foundation: 2007).

³² Update with the most recent information about DFID’s program aimed at upscaling NGO-facilitated local dispute resolution.

³³ In fact, reform of legal institutions has met with scant success anywhere in the world. A World Bank assessment concluded that “less overall progress has been made in judicial reform and strengthening than in almost any other area of policy or institutional reform: James H. Anderson, David S. Bernstein and Cheryl W. Gray, *Judicial Systems in Transition Economies: Assessing the Past, Looking to the Future* (Washington DC, World Bank, 2005).

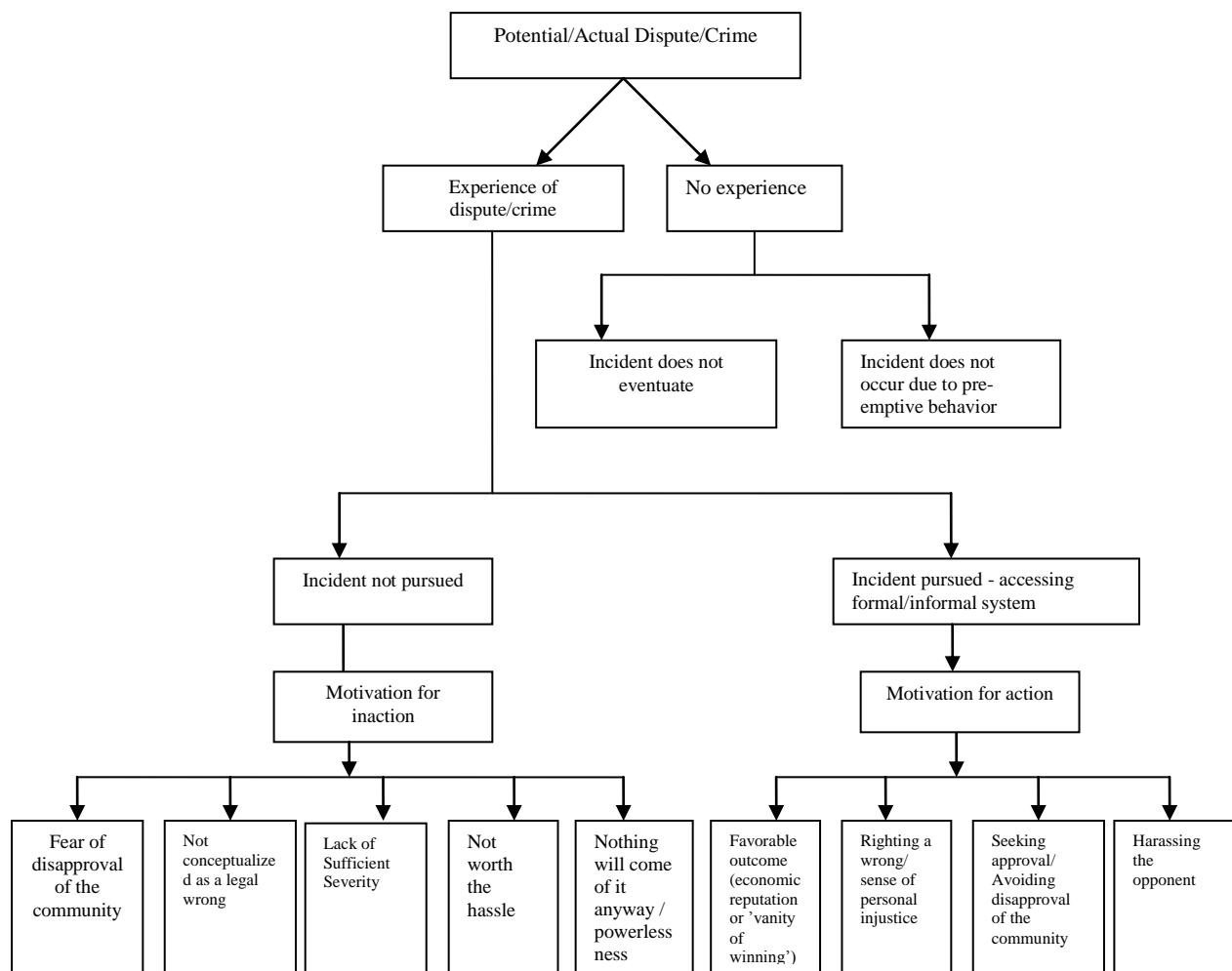
qualitative research that exists about the involvement of politicians at the lowest tier of elected government in dispute resolution.

48. At the outset, we need to acknowledge that there are significant limitations on the quality of information that a household survey of this type can gather. In contrast to common crime such as personal property offences, certain types of harm such as gender-based violence, require a much more time intensive and respondent-centric approach to elicit data of sufficient quality to track over time. While the national household survey can provide a broad outline of the picture of dispute and crime incidence and use of dispute resolution institutions, there is a wealth of further information and insights that remain to be gained from qualitative research and analysis. The identification of a further research agenda is indeed one of the key contributions of this report.

1.3 Conceptual Framework Guiding Questionnaire Development

49. The questionnaire attempts to follow the pathways that citizens take in the face of potential wrongs, civil and criminal, and the avenues they take in response to harms that do occur. The conceptual framework begins with a citizen facing the threat of a potential harm, dispute or crime.

Figure 1.1: Decision tree



50. The questionnaire asks respondents about their fears of a list of different disputes and crimes, and seeks to ascertain whether they actively respond to potential threats by engaging in risk-avoiding or pre-emptive behavior. Such behavior may mean that they do not experience the crime/dispute³⁴ or the threat may simply not eventuate into a justiciable wrong. Some of these pre-emptive behaviors resemble those found in the developed world – using locks on one’s door, locking one’s valuables in a safe place, “neighborhood watch” style programs, avoiding going out at certain times of the day or to various places that are perceived as risky. Others are peculiar to developing country contexts – for instance, BRAC qualitative research found evidence that early marriage was used as a “pre-emptive mechanism” by parents in the face of adolescent girls experiencing sexual harassment, which they feared would escalate into more severe sexual violence.³⁵ Wood has written about the poor protecting themselves through informal clientelistic arrangements, relationships and structures (for instance, bonded relationships with rich patrons in

³⁵ BRAC University Institute for Governance Studies, *The State of Governance in Bangladesh 2007*, (BRAC, 2008).

rural settings or the protection of local mastaans or organized crime figures in urban areas) to overcome the prevailing insecurity in their lives.³⁶

51. In the event of experiencing a civil or criminal wrong, an individual may choose not to take any action to resolve the problem for a variety of reasons: he or she does not conceptualize the matter as a legal wrong or the matter may not be of sufficient severity to warrant action. Even if the matter is of sufficient severity to justify action, a citizen may undertake a crude cost-benefit calculation and decide that the dispute resolution process may not be “worth the trouble” to warrant the investment of time or energy. He or she may fear the disapproval of the community if any action is pursued. Finally, action may not be pursued because of either a rational assessment that nothing will come from taking action in any instance, or a sense of resignation that the individual is powerless to seek redress in the face of such incidents.

52. If an individual chooses to pursue redress for a dispute or crime, the questionnaire seeks to examine the motivating factors for pursuing the case: obtaining a favorable outcome (financial, restoration of reputation, the ‘vanity’ involved in winning a claim or beating an opponent), seeking the approval of the community or avoiding its disapproval where community norms are at play, and the assertion of one’s self in the face of a personal violation. Finally, as is evident in the common practice in Bangladesh of filing false cases, a dispute may be pursued for the purposes of harassing an opponent.

53. The survey questionnaire also attempts to capture the perceptions of citizens regarding the legitimacy of formal and informal dispute resolution institutions they use, according to the indicia of procedural fairness,³⁷ substantive fairness³⁸ and enforcement capacity.³⁹ An effort was made to assess the effect of the Caretaker Government period, which had just ended as the survey was fielded, and thus questions were asked about the differences between perceptions of institutions before and during that period.

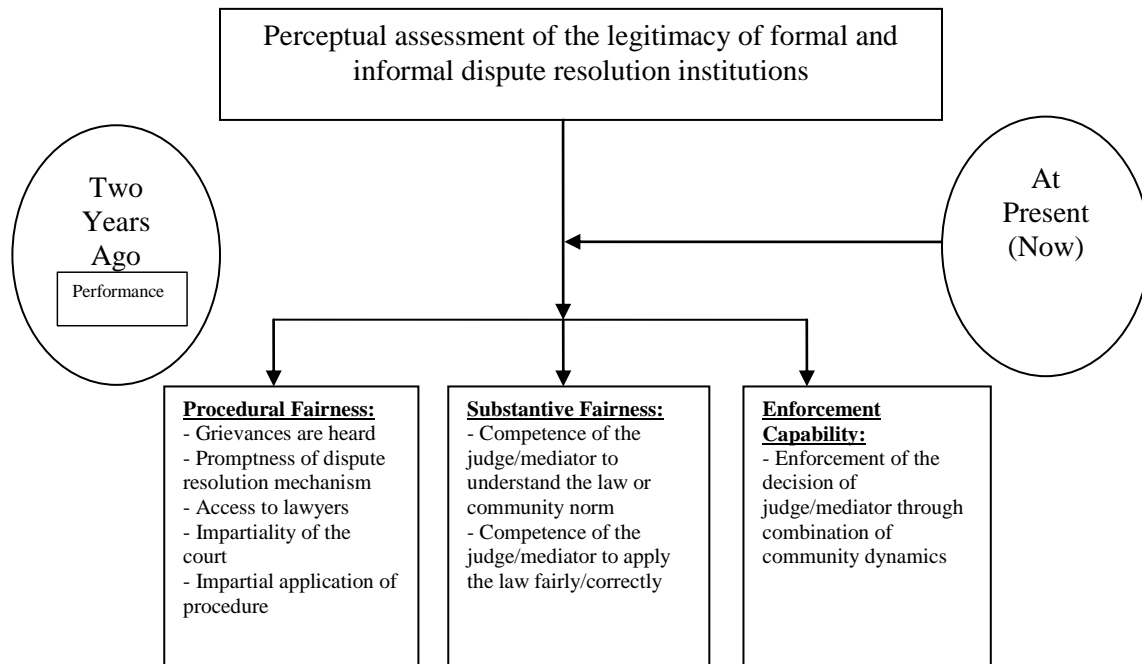
³⁶ Wood, G., 2003, “Staying secure, staying poor: The ‘Faustian bargain’”, *World Development*, 31 (3), pp. 455-471.

³⁷ Relevant factors include the following: the party is heard and not interrupted; the dispute resolution mechanism is relatively timely/prompt, i.e. the party is not struggling for years to be heard; the mediator, judge or arbitrator shows impartiality in conducting the hearing and in the application of procedure. In formal settings, access to lawyers/advocates is available.

³⁸ Substance overlaps with form of the laws themselves (that they are general, prospective, clear, and consistent). Substantive rule of law also has content requirements, such as some protection of individual rights. ‘Thin’ views on content stress limitations on government action. A ‘thicker’ social welfare version of substantive rule of law includes the affirmative duty of the government to make the lives of citizens better, distribute resources justly, and recognize the right to dignity of citizens. We will explore citizens’ perceptions regarding existing laws and their application using a “substantive fairness” lens. Furthermore, the mediator/judge must understand the relevant laws and community norm and apply the law in a just and fair manner.

³⁹ Enforcement capacity refers to some combination of community dynamics (and political dynamics in terms of “higher-end disputes”) that would lead to the enforcement of the decision of judge/mediator/ intermediary. The survey attempts to break this down into different types of cases.

Figure 1.2: Assessment of Dispute Resolution/Legal Institutions Two Years Ago and Today



54. To accommodate the number of hypotheses that were sought to be tested, and to capture comprehensively the details of dispute prevention, incidence and resolution, the survey questionnaire is a long and ambitious one. It comprises Annex 1.

1.4 Sampling Characteristics and Methodology

55. The unit of observation for the survey is the household. Interviews were conducted with an equal number of women and men, each representing their households. Additional purposive sampling was conducted to ensure a representative estimate of ethnic and religious groups as well as communities of ecologically vulnerable areas. The total sample size of the survey was 10710 (257x30) households. However after thorough cleaning, the sample size included in the analysis is 9753 households.

56. A two stage stratified cluster sampling design was followed. The Integrated Multipurpose Sample (IMPS) design developed by Bangladesh Bureau of Statistics (BBS) from the Population Census 2001 was the sampling frame used. The IMPS design consists of 1000 Primary Sampling Units (PSUs) throughout the country. A PSU is defined to be a cluster of around 200 households. In the first stage, 357 PSUs (of which 250 were rural and 107 urban) were selected, using a linear systematic sampling scheme. These PSUs were selected from 12 different strata

(consisting of rural and urban areas in Bangladesh's six administrative divisions)⁴⁰ using proportional allocation. Table-1 below shows the allocation of PSUs to the strata. The households located in these selected PSUs were listed. In the second stage, 30 households from each selected PSU were selected systematically using a random start. Annex 2 contains a map of the *upazilas* or sub-districts in which the survey was conducted.

Table 1.1: Total number of PSUs and allocation of sample PSUs by Division

Div. code	Name of Division	Total Number of PSUs			Number of PSUs selected		
		Total	Rural	Urban	Total	Rural	Urban
10	Barisal	80	55	25	29	22	7
20	Chittagong	179	116	63	64	45	19
30	Dhaka	289	172	117	102	67	35
40	Khulna	146	89	57	52	35	17
50	Rajshahi	251	170	81	90	66	24
60	Sylhet	55	38	17	20	15	5
Total		1000	640	360	357	250	107

57. The draft survey questionnaire was pilot-tested to ensure that the concepts presented and the terminology used in the questionnaire could be understood by all respondents; adjustments were made accordingly. Enumerators were trained for several days on the administration of the finalized questionnaire. Following the selection of an individual respondent, the interviewer requested his or her permission to be interviewed. If the individual was unavailable, two follow-up visits were made to the unavailable respondent's address to avoid substitution, during the two days that the survey team was stationed in each selected area.

58. Annex 3 contains detailed socio-demographic and economic information about respondents and their household members. All respondents were above 18 years of age, and 50 percent were female across all divisions, which is roughly representative of the population generally.⁴¹ Respondents tended to fall between the 31 to 50 years of age, with 46 percent of respondents belonging to that category, again representative of the population as a whole.

⁴⁰ Rural:640; urban:360.

⁴¹ Bangladesh Bureau of Statistics, *Welfare Monitoring Survey Report*, 2009.

CHAPTER 2: A Review of the Qualitative Evidence: A Thumbnail Sketch of Dispute Resolution Options and Institutions in Bangladesh

59. Legal pluralism has existed for centuries in Bangladesh, with multiple sources of law (normative pluralism) and dispute resolution systems (regulatory pluralism).⁴² The secular law of Bangladesh, like many former colonies, is itself a patchwork of various pieces of legislation over the ages in addition to the common law. The English common law entered Bengal during the period of the East India Company,⁴³ before the British became the political rulers of the territory in 1858. Legislation of the Parliament of the United Kingdom applied to Bangladesh until 1947, and then that of Pakistan applied until Bangladesh's independence in 1971. Today, normative pluralism exists primarily in the areas of law pertaining to the family: different religious communities are governed by their own personal status laws.⁴⁴ Personal law covers the fields of marriage and divorce, dower, maintenance, guardianship of children and inheritance.⁴⁵ Regulatory pluralism has been a reality for several centuries. The traditional dispute resolution system or *shalish* has been practiced since time immemorial in rural Bangladesh, although it has been changing in form over recent decades. The formal court system was gradually established through the sub-continent in the 18th century, including in East Bengal, with the Supreme Court established in 1774.⁴⁶

Formal Legal System

60. Today, the formal court system consists of two categories of court – superior⁴⁷ and subordinate. The subordinate courts, which function at the district level, are classified according to the types of cases they are authorized to hear.⁴⁸ The formal courts have remained largely inaccessible for the bulk of citizens as a mechanism for dispute resolution. Delays, case backlogs, corruption and political influence in the workings of the subordinate courts have long been identified as

⁴² Richard Eaton, *The Rise of Islam and the Bengal Frontier, 1204-1760* (University of California Press, 1993).

⁴³ There were separate provincial and district level courts for civil and criminal procedures: Hoque 2003; Islam 1995.

⁴⁴ Law Commission, *Report on a reference by the Government towards the possibility of framing a uniform family code for all communities of Bangladesh relating to marriage, divorce, guardianship, inheritance*, July 2005.

UNESCO, "Marriage, Inheritance and Family Laws in Bangladesh -- Towards a Common Family Code", 2005.

⁴⁵ Kamrul Hossain, "The search for equality: marriage-related laws for Muslim women in Bangladesh", *Journal of International Women's Studies*, November 2003.

⁴⁶ Hence, while the Court in its current form came into existence upon Bangladesh's independence, with the High Court of Bangladesh Order, 1972 (President's Order No. 5 of 1972), the court's predecessors were the High Court of East Bengal (1774-1947) and the High Court of East Pakistan (1947-1971).

⁴⁷ The High Court Division of the Supreme Court hears appeals from orders, decrees and judgments of subordinate courts and tribunals. It has original jurisdiction to hear writ applications under article 102 of the Constitution – a mechanism for ensuring the enjoyment and enforcement of fundamental rights of citizens – which go on appeal to the Appellate Division.

⁴⁸ See further, BRAC University Institute for Governance Studies, *The Judiciary*, (Institutions of Accountability series, background paper, 2009).

issues of serious concern,⁴⁹ quite apart from the specific barriers⁵⁰ facing the poor in accessing the court system. The literature review undertaken before embarking on this survey actually suggested that citizens' principal interactions historically with the formal court system derived from being victims of "false cases" lodged by law enforcement officers in order to extract rents, or at the behest of powerful third parties.⁵¹

61. The narrative of the judiciary during independent Bangladesh is one where the constitutional provision for the separation of the executive and judiciary has been repeatedly undermined. Over time there have been numerous attempts to consolidate and increase executive power over the judiciary, amend the Constitution for political ends⁵² (including the dilution of the Constitution's capacity to limit executive discretion)⁵³ by regimes of all hues, from martial law Governments to those that were democratically elected.⁵⁴ The judiciary has been formally separated from the executive since November 2007, although there remains considerable executive influence over the judiciary.⁵⁵

62. The *Legal Aid Services Act 2000* was intended to create a national legal aid administration for funding legal aid services. However, this scheme has existed mostly on paper for much of the last decade and there were ongoing problems in disbursing even the Government's own modest budgetary legal aid allocation to the scheme, let alone project funds earmarked for legal aid by donors.⁵⁶ The current Government has made a more concerted effort to operationalize the scheme than its predecessors, but the scheme in its present form has several structural problems at local level⁵⁷ which restrict its utility to citizens facing criminal charges and those seeking or defending civil litigation.

⁴⁹ Bode and Howes (2002) at 63; BRAC University Institute for Governance Studies, *The Judiciary*, Background Paper for workshop held in April 2009; Saku Akmeemana, Ferdous Jahan and Asif Shahan in Institute for Governance Studies, *State of Governance 2008* (BRAC University, 2008) (chapter 5 on the judiciary).

⁵⁰ Including costs (both lawyers' fees and informal payments to various actors), the complexity of various legal processes, physical distance from the courts.

⁵¹ Hossain Zillur Rahman, unpublished PhD thesis, 1990; Hossain Zillur Rahman and S. Aminul Islam (ed), *Local Governance And Community Capacities: Search for New Frontiers* (Dhaka University Press, 2002). A recent survey by Transparency International placed police as one of the most corrupt institutions. A baseline survey for Police Reform Programme conducted in February 2007 indicated that 77 percent of households and 71 percent of police considered political influence and local pressure groups obstructed the performance of police.

⁵² Dilara Choudhury, *Constitutional Development in Bangladesh*, Oxford University Press, 1994.

⁵³ Beginning with the fourth amendment to the Constitution, which abandoned the parliamentary system in favour of a one party presidential system, Article 115 was amended to allow the President to appoint judicial officers exercising judicial functions without the recommendation of the Supreme Court. Article 116 was also amended and the control of the sub-ordinate judicial officers and magistrates were transferred to the hands of the President in place of the Supreme Court. Later, the Second Proclamation Order No. IV of 1978 amended Article 116 to, "...provide that the President shall exercise control over the sub-ordinate judicial officers and magistrates exercising judicial functions in consultation with the Supreme Court". Article 115 has remained unchanged.

⁵⁴ Md Halim, *Constitution and Constitutional Politics in Bangladesh*,

⁵⁵ *State of Governance 2008*, Chapter 5.

⁵⁶ For instance, the World Bank's Legal and Judicial Capacity Building Project earmarked over \$US3million for legal aid. This component of the loan was cancelled after it failed to disburse at all.

⁵⁷ The District Legal Aid Committee consists of the District Judge (chair) and various local officials (such as District Magistrate, District Police Superintendent and District Jail Superintendent), with only one position from a "non-government voluntary organization, if any". Some major structural problems with the structure include a lack of awareness amongst its intended beneficiaries; inaccessibility and procedural bureaucracy; inefficiency (the Committee rarely sits and does not go through applications quickly, potential conflict of interest if the case

63. Civilian policing in the sub-continent was established in the middle of the 19th century. The police have generally been viewed as a poorly trained and reactive force with a philosophy of public control rather than community service.⁵⁸ Bangladesh has one of the lowest ratios of police officers to heads of population anywhere in the world and the system is said to be prone to extensive political interference in a context where control over the lower courts and law enforcement agencies through criminal cases is a key mechanism for denying the opposition parties space in the political realm.⁵⁹ With donor assistance, a system of ‘community policing’ has been introduced in parts of the country⁶⁰ although its coverage remains limited.

64. Bode and Howes summarize the perceptions of the formal system thus:

Ordinary people regard both the judiciary and police - that together they refer to a *sorkari* (government) law – as at best largely inaccessible and at worst as another instrument of their oppression by the powerful and better off. Whilst these institutions cannot be disregarded, and have for pragmatic reasons to be treated with a certain amount of respect, they enjoy little moral foundation in popular perception. Local ideas of justice are rooted more in notions of *dharma* (religious law) and *somaj* (social custom), and are concretely concerned with the underwriting of legitimate claims – to payment for work performed, to the ownership of land that has been paid for, and so forth. This is coupled with the expectation that the rural elite should “play by the rules”, provide a fair hearing where these are broken, and afford at least an element of protection from the predatory incursions of the wider world.⁶¹

Traditional Dispute Resolution: The Shalish

subsequently comes for hearing before District Judge); lack of interest and commitment on part of lawyers assigned cases, and poor quality services provided (Government engages private lawyers, often very junior, who are not involved in the case from the beginning and paid very poorly); lack of monitoring by National Legal Aid

Organization.

⁵⁸ UNDP, *Towards Police Reform in Bangladesh*, p27; UNDP, *Human Security in Bangladesh*, 2002, p65. A baseline survey for Police Reform Programme conducted in February 2007 indicated that 77 percent of households and 71 percent of police considered political influence and local pressure groups obstructed the performance of police: *Public Attitude Baseline Survey for the “Police Reform Programme – BGD/04/001”* (conducted for UNDP by Research Evaluation Associates for Development, 2006). Surveys have rated the police consistently as the institutions in which citizens have the lowest levels of trust: PPRC, *Unbundling Governance*, 2007; *State of Governance in Bangladesh 2007*. Transparency International Bangladesh’s *Household Survey 2007* indicated that law enforcement agencies and the Judiciary were respectively and the highest and fourth highest on the list of corrupt institution, which is consistent with a more recent result in TI’s *Global Corruption Barometer 2010*. A recent poll by the International Republican Institute (April 2009) indicates that police was the least trust institution of all the public institutions that were named, and the courts rank in the middle of the list. See also *Bangladesh Crime and Security Survey* (BRAC Research and Evaluation Division and Saferworld, 2008); also refer to the monthly perceptions surveys of the Asia Foundation (2007-8), surveys by BRAC University Institute of Governance Studies (2007, 2008) and surveys undertaken by the International Republican Institute (May 2008 – April 2009).

⁵⁹ *State of Governance 2008*, Chapter 5.

⁶⁰ *Baseline Study Report on Community-Police Relations* (The Asia Foundation: 2004), *Community Oriented Policing in Bangladesh* (The Asia Foundation: 2009). The program functions at ward and union level under the supervision of the union council chairman, or a person of good reputation appointed by the union for this purpose. Committees of 22 concerned citizens have been established at the union level, and similar initiatives have been set up at sub-district and district levels. At ward level, the purpose of these units is to settle small-scale disputes, and to maintain a crime register which can be passed on to the police each month. Community policing is also a central part of the Police Reform Programme being implemented by UNDP.

⁶¹ Bode, Brigitta and Mick Howes. 2002. *The Northwest Institutional Analysis*, CARE Bangladesh, Dhaka.

65. *Shalish* remains a widespread form of traditional dispute resolution across the country, especially in rural areas, and has been described as “the first and only option available to the poor”.⁶² The *shalish* is a small-scale council which is convened by village elders for resolution of local disputes. It is best understood as a process, an informal mechanism, with no fixed procedure; its size and structure depend entirely on the nature and gravity of the problem at hand.⁶³ In reality, it is used to address almost all types of disputes, civil and criminal.⁶⁴ It was previously the case that *sharia* Islamic religious law played some role in the *shalish*, but this is now believed to be quite rare, as awareness of secular law has increased in the past few decades.⁶⁵ This is not to say that normative guidance is solely derived by close reference to secular law; rather, a notion of justice also emanates from religious guidance and sense of social wellbeing deriving from local norms.⁶⁶

66. A *shalish* may involve voluntary submission to arbitration (which, in this context, involves the parties agreeing to submit to the judgment of the panel), or mediation (in which the panel helps the disputants to try to devise a settlement themselves) or a blend of the two. The degree to which its judgments are formalized varies, often depending on the seriousness of the dispute.⁶⁷ Few are aware that *shalish* has apparently been recognized by the state as a mediation body although it has no legal authority in relation to criminal cases or marriage and dowry disputes.⁶⁸

67. While flexibility and informality are amongst the advantages of the *shalish* system, the forum can be a vehicle for imposing subjective notion of justice by socially, economically or religiously powerful people, and can perpetuate exclusionary biases, particularly against women and the very poor.⁶⁹ Because traditional *shalish* is composed exclusively of male members, and women are not even considered as witnesses, women are particularly vulnerable to extreme judgments and harsh penalties.⁷⁰ Bench members exhibit widespread ignorance of the law, and may decree harsh and inhumane punishment. They are also rich, powerful and male, and normally rule in

⁶² It is considered to be affordable, comprehensible, convenient, and efficient: The Asia Foundation, 2007, p. 21-22.

⁶³ Sumaiya Khair: 2001.

⁶⁴ These often involve gender and family issues, such as violence against women whether within or outside marriage, inheritance, dowry, polygamy, divorce and marital issues, maintenance for a wife and children, or a combination of such issues. Other foci include land and other property disputes (Stephen Gloub: 2003; UNDP, *Human Security in Bangladesh 2002*, p92) as well as and local political disputes, of both a party and non-party nature.

⁶⁵ Due to the higher levels of rural education, the rights awareness work undertaken by ngos and the increased roles and activities of local union chairmen in resolving disputes: Lewis and Hossain (2008), p55.

⁶⁶ Biswas, Zahidul Islam, “The Village Court: A Neglected but Potential Rural Justice Forum”, Law and Our Rights, The Daily Star, August 1, 2008. The adjudicator (“shalishkar”) does not have any legal authority, but derives social authority from seniority, wisdom, economic and religious status or by way of village politics.

⁶⁷ Hossain, 2003. A decision on a serious dispute – such as dowry conflict – may be formalized in a written document.

⁶⁸ Apparently rulings are required to be formally registered with the police station, but this is not common in practice (Bode and Howes, 2002).

⁶⁹ The harshest critics of *shalish* argue that sometimes arbitrary solutions are imposed on reluctant disputants by powerful village or community members and are based on subjective judgments designed to ensure the continuity of their leadership, to strengthen their relational alliances, or to uphold the perceived cultural norms and biases. The *shalish* may also be susceptible to manipulation by corrupt touts and local musclemen who may be hired to guide the pace and direction of the process by intimidation.

⁷⁰ Sumaiya Khair: 2002; Haque et al., 2002, p. 22.

favour of their peers.⁷¹ Yet, despite leveling considerable criticism on *shalish*, Bode and Howes write that:

the institution continues to be valued, providing the only forum in which poorer people in general, and women in particular, are able to present their grievances and obtain at least limited redress.⁷²

68. Thus, while one of the main reasons behind the success of traditional *shalish* (in terms of compliance) is its support of traditional values, customs and power structures,⁷³ herein also lies the principal criticism of the system. The literature is divided on the potential for the *shalish* mechanism to evolve into a less exclusionary form of dispute resolution mechanism.⁷⁴

Changing Power Relations and Implications for Dispute Resolution

69. The years that have passed since Bangladesh attained its independence in 1971 have witnessed significant changes in the rural power structure and the declining moral and social authority of traditional elites who were responsible for dispute resolution.⁷⁵ Land ownership was historically the principal determinant of rural power:

control of land, often combined with usurious money lending and trading in agricultural commodities, has traditionally been central to the capacity to accumulate, and differential access to this fundamental resource has underscored a primarily exploitative system of patron-client relations. At the same time, however, moral values, rooted in religion and kin-based social institutions, have served to partially constrain the rich; obliging them to engage in re-distributive activities and to provide minimal social safety nets if they wish to command respect and secure sustained political support. Leaders broadly fulfilling these conditions have been able to control informal local courts.... These, within limits, can be used as a further source of accumulation and social control, but also provide space within which poorer people and women may secure a degree of redress for wrongs they have suffered. The poor also have recourse to a limited range of further devices, but have not been able to create class-based organizations to represent their distinctive interests.⁷⁶

70. The democratic period since 1991 has witnessed an entrenchment of the two dominant political parties, the Awami League and Bangladesh Nationalist Party, down to the village level and a level of politicization of collective social and public life.⁷⁷ Unsurprisingly, this has also had significant implications for dispute resolution. Land ownership alone is no longer the main determinant of rural power.⁷⁸ The qualitative research indicates that the authority of the

⁷¹ Bode and Howes (2002), *The North-West Institutional Analysis*, p18.

⁷² *Ibid.*

⁷³ Halim, pp 6-7.

⁷⁴ Compare Aminul Islam and Birgitta Bode (2002) with Cathy Guiguis (2004).

⁷⁵ David Lewis and Abul Hossain, *A Tale of Three Villages: Power, Difference and Locality in Rural Bangladesh*, Journal of South Asian Development 3:1(2008): 33-51, Lewis and Hossain, *Rural Power Structure in Bangladesh* Birgitta Bode (2002); Bode, Brigitta and Mick Howes. 2002. *The Northwest Institutional Analysis*, CARE Bangladesh, Dhaka; Bode, Brigitta. 2002. *In Pursuit of Power: Local Elites And Union-Level Governance In Rural Northwestern Bangladesh*. CARE Bangladesh, Dhaka.

⁷⁶ Howes and Bode, 2002, p11.

⁷⁷ Centre for Governance Studies, *State of Governance 2006*, BRAC University.

⁷⁸ Lewis 1991; Wood 1999; David Lewis and Abul Hossain, *Rural Power Structure in Bangladesh*, SIDA. Bode's (2002) study reveals more of the changing composition of the rural elite that has taken place from the 1980s onwards, as new rural wealth accumulation based on the privatised introduction of new agricultural technologies has taken root, bringing new non-traditional rural business households into the local power structure at village level. Both new and older elite are exploring new and diversified strategies of livelihood expansion and consolidation,

traditional informal village leaders (*matbars*) is being challenged by the growing power of local political figures at union level:

As politically-connected unions become stronger in relation to the traditional authority of the local informal village leader, there is increasing control of the *shalish* system by the union chairmen which reduces the power of informal village leaders.⁷⁹

71. In their qualitative research, Lewis and Hossain document the ways in which *shalish* is changing. The growing involvement of the union parishad chair and members in dispute resolution has been documented, although the extent of its prevalence has not been measured.⁸⁰ The “traditional *shalish* system based on informal village leader involvement is becoming less common, except on a small scale within the *para*”. More serious cases including land disputes will usually be heard at union level, rather than at the village *shalish*:

it will be adjudicated by a union council member. If there is a union council member from the village, that person will chair within the *shalish* rather than the traditional informal village leaders, who are not trusted as highly as before.⁸¹

72. However, one can overstate the idea of “displacement” of traditional leaders, because the modern period has also witnessed the “superimposition of formal political structures on earlier local institutions”. It appears that local government has been infiltrated and adapted from below by the pre-existing bodies:

Former elites, with their established resource bases, extensive kinship networks and wider political connections, have generally been well placed to reproduce themselves in these new circumstances; sometimes consolidating their position through directly competing for political office, and gaining access to key committees, but often being content to exercise their authority more quietly from behind the scenes.⁸²

73. Bode highlights the ways in which informal institutions have adapted to and now permeate democratic forms of governance:

“Formal and informal institutions are distinguished from one another through the underlying principles which provide the basis for their legitimacy. Practices associated with formal institutions – union parishad, union and village level committees – are those which are based on notions of democracy such as representation and participation, transparent governance and accountability. While practices associated with informal institutions – *gusthi*, *jama't*, and *samaj*⁸³ – are those which rooted in historical patterns of social organization and largely operate through principles of reciprocity and charity... Both types of institutions (formal and informal) employ various forms of social control, including the denial of legally or socially recognized entitlements, accepted forms of dispute resolution, as well as brute force... The relationship between the formal and informal reveals.”⁸⁴

including diversified economic activities, involvement in party political networks, engagement in philanthropy, and setting up NGOs.

⁷⁹ David Lewis and Abul Hossain, *Rural Power Structure in Bangladesh* 2008, SIDA, p56.

⁸⁰ The BRAC Survey asked respondents about their preferred institution to seek justice for unlawful acts, but did not measure the usage of the institution through following disputes from genesis to resolution.

⁸¹ Ibid,

⁸² Ibid.

⁸³ *Gusthi* refers to the patrilineage and denotes the hierarchical nature of family structure and the authority of family leaders. *Jama't* is the local term for a congregation of people who worship at the same *masjid*, while *samaj* refers to the residential brotherhood, sometimes called a ‘corporate religious group’

⁸⁴ Bode, 2002, p 4.

74. In such a context, what constrains the behavior of elites in “a set of expectations and preferences about relations between the well-to-do and the poor”. It is a kind of ‘politics of reputation’ in which a good name is conferred in exchange for adherence to a certain code of conduct,”⁸⁵ and is fused with religious notions about redistribution.

75. The emergence of *mastaans* – the term for local strongmen or mafia – is another distinctive feature of the power structure in Bangladesh, especially in urban areas. These individuals play three main inter-related roles within local society. First, they form part of the structure of the political parties, often overlapping with village political leaders, a phenomenon that has been increasingly observed over the last 15 years. Second, they are active within the organizations and networks of organized crime, in which their own business interests and those of local politicians often become blurred since they use their power and influence to promote and support the careers of activists and politicians; and third, they act as intermediaries or brokers in gate-keeping roles around access to services such as health and education, police and security, and economic facilities such as market-places, land and water resources.⁸⁶

76. Bangladesh remains predominantly rural, with three quarters of the population still based in rural areas, although the rate of urbanization has increased rapidly in recent years and approximately 40% of the population is expected to live in urban areas by 2030.⁸⁷ A study on slum inhabitants suggested they were more vulnerable to disputes, violence, low level organized crime and insecurity of tenure than those in rural areas.⁸⁸

Local Government Structures and Dispute Resolution

77. Territorially, the country is divided into six Divisions, 64 Zilas (Districts), 464 Upazillas (Subdistricts), 4422 Unions and more than 90,000 villages. The union council (*union parishad* or UP) forms the lowest tier of local government in rural areas, and has existed as a local institution since the British colonial period. Its equivalent in urban areas is the *paurashava* (municipality) and city corporations exist in the four major cities. The UP currently has thirteen members, including three seats which are specifically reserved for women. While the upazila or sub-district tier of elected local government has struggled to be established, the union has become the key focal point of local government over the last decade.⁸⁹

78. The union chairmen are not formally elected on party lists, but they are nevertheless commonly affiliated with one or other of the main political parties. In fact, evidence suggests

⁸⁵ Bode quotes from Scott’s study of Malaysian peasantry and draws parallels: Scott, James C. *Weapons of the Weak: Everyday Forms of Resistance*. (New Haven: Yale University Press, 1987), pp. 184-185.

⁸⁶ Devine J, (2008), *Governance, Democracy and the Politics of Wellbeing*, WeD Working Paper 36 (University of Bath, 2008).

⁸⁷ Islam, Nazrul(2006), "Bangladesh" in Roberts, Brian and Trevor Kanaley eds.(2006), *Urbanization and Sustainability in Asia*, Manila: Asian Development Bank, pp. 43-70.

⁸⁸ Asia Foundation, *Urban Justice*, unpublished study, 2008.

⁸⁹ Lewis and Hossain, *ibid*, p 32.

that the influence of party politics is becoming stronger at union level.⁹⁰ The chair needs to be on good terms with the local MP in order to secure more resources from the centre, which explains why some union chairmen change their political affiliations from time to time:

The chairs must operate by balancing their allegiances with other local interests and relationships, and they may from time to time switch political parties depending on circumstances”.⁹¹

There has long been a relatively high turnover of elected officials at the local level,⁹² and some commentators have suggested that this indicates a very strong degree of accountability compared to other institutional actors in Bangladesh.⁹³

79. The passage of the *Village Court Ordinance* in 1976 introduced what is supposed to be the lowest tier of the formal court system to deal with petty civil and criminal cases at the union level. The ordinance provides that the village court consists of five members, chaired by the union council chairman, with each party selecting two notable persons as members of the jury board.⁹⁴ In law, the village court has the power to make binding judgments, has enforcement powers and there is a right of appeal to the subordinate courts. The ordinance provides that proceedings are to be informal, much as in small claims tribunals in many parts of the world, and lawyers cannot appear. The court could order the accused to pay an aggrieved party compensation of up to Tk5000. Alongside the village courts, Arbitration Councils were established by the 1961 *Muslim Family Law Ordinance*. They are meant to be convened by the union council to resolve three specific types of family dispute – divorce, polygamy and maintenance. The structure is similar to that of the village courts.

80. The *Village Court Ordinance* was never operationalized systematically and the village court appears not to be convened *as per the legal requirements* anywhere in the country (except through the work of the NGO, Madharipur Legal Aid Association, in its limited area of operation). Howes and Bode indicated that the courts were “defunct” in 2002. Lewis and Hossain, who undertook their research in the mid 2000s, indicated that “these courts had in many cases more or less disappeared.” Recently, a donor-funded project has led to efforts to revive village courts in 500 sites in the country, and was one of the forces behind a new Village Court

⁹⁰ See Bode, 2002; Lewis and Hossain (2008), p48. The party affiliation of a union chairman can help determine the level of influence he can achieve with the local MP, which in turn has a strong bearing on the share of available resources he can bring into the union from the centre. ‘Special’ development projects (involving food for work, cash for work or ‘test relief’ schemes) are secured through an MP’s efforts to lobby ministries such as the Local Government Rural Development and Cooperatives or Ministry of Education at the central level to secure extra resources for schools, mosques, roads or other infrastructure. “The amount of these funds may be higher than those available from the Annual Development Programme and can mean large amounts of resources in unions where the chairman is in favour with the ruling party MP but offer practically nothing to unions where the chairman is not. These special projects often involve food for work, cash for work or ‘test relief’ schemes.

⁹¹ Lewis and Hossain, p

⁹² The most recent set of union elections took place in 2003, and brought some changes to the rural power structure. Just under half (42 percent) of chairmen elected were found to be new faces, almost all were party-affiliated, and most were aged between 41–50. A total of 22 women union chairpersons were elected, which was a small increase over the 20 women that were elected in 1997 (pprc 2003a).

⁹³ This suggests that voters can to a degree discipline unpopular leaders, as Crook and Manor (1998) showed in their study of the 1990 sub-district chairman elections.

⁹⁴ Such as a village elder or a teacher, each of whom were to be nominated by the parties in dispute.

Law in 2006.⁹⁵ The new law updates the earlier 1976 ordinance by increasing the ceiling for compensation to Tk 25,000 (\$USD215). Implementation of the project has commenced very recently.⁹⁶

81. There appears significant blurring of the lines between union parishad *shalish* (where the union chair or member essentially acts as the shalishkar and uses his or her personalized power to make decisions) and the village court (an institutionalized mechanism, with enforceable judgments and formal links to the subordinate courts). Lewis and Hossain suggest that “UP *shalish*” remains a popular alternative to the formal village court system because the formal village courts are seen as too time-consuming, bureaucratic and costly. They argue that the “*shalish* system allows some union council chairmen to exercise power more flexibly by combining their formal roles and their informal relationships. They can bring in a range of local people to participate in an inclusive *shalish* to suit the situation, and simultaneously maintain their public reputation as local leaders through a managed social ‘performance’.”⁹⁷ What appears to be evolving is a mechanism with elements of formal and informal power -- while UP chairs and members are acting as shalishkars rather than convening a village court panel as per the Ordinance, at the same time the forum has a formal/institutional element (the UP chair or members are approached because they are holding the office). There is some evidence that UP chairs view this work as part of their official duties and “appropriate” the moniker of “village courts” to describe their dispute resolution activities.⁹⁸

82. However, while UP *shalish* does not generally “impose the fatwas and harsh punishments that the extreme forms of the traditional practice entail”, some commentators have argued that they often differ little from the traditional process in terms of exclusionary bias.⁹⁹ This has been highlighted in recent years, where a few cases of cruel and inhuman punishments imposed by UP chairs have gained some media attention after they were ruled upon by the High Court.¹⁰⁰ For instance, in August 2009, a ruling was delivered in a case involving a public interest writ petition filed by five human rights, women's rights and development organizations, in the context of a series of reports of women and men being subjected to extra-judicial punishment including whipping and caning during the course of shalish, often in the presence of or with the active participation of members or chairmen of union parishads. The High Court ordered the government, law enforcers, and local government bodies to take immediate measures to investigate promptly any report about the imposition of an extra-judicial penalty such as beating or lashing by any person or body, including a member or chairman of any union parishad or paurashava; and to take appropriate measures against any person found responsible. The High Court also gave instructions regarding the provision of security and protection to any victim.

⁹⁶ UNDP, *Baseline survey on village courts in Bangladesh*, 2010. For progress about the project, refer to “Activating village courts in Bangladesh”, <http://www.villagecourts.org/>.

⁹⁷ Lewis and Hossain, p40.

⁹⁸ Maitreyi Bordia Das and Vivek Maru, *Framing Local Justice in Bangladesh*, 2008. The authors conducted phone interviews with 40 union parishad chairs, all of whom indicated that they regularly convened a village court.

⁹⁹ Stephen Golub: 2003.

¹⁰⁰ Ripan Kumar Biswas, “HC orders follow-up of its verdict on arbitration court”, *The Independent*, 25 August 2009; A case from Comilla was highlighted in William Gomes, “Woman whipped mercilessly in public on a fatwa”, *UPI Asia.com*, 10 June 2009; “Dealing with fatwa: Human rights activists’ role is crucial”, *Daily Star*, December 8, 2009, editorial.

Legal aid NGOs: community legal service providers in Bangladesh

83. The last two decades have seen the proliferation of community legal services provided by NGOs, with around 140 organizations providing mediation and legal services in the country.¹⁰¹ Beginning in the late 1980s and early 1990s, non-Government organizations (NGOs) became increasingly interested in working with traditional *shalish* and local governance structures to ameliorate some of the exclusionary biases of traditional dispute resolution, and to combat violence and discrimination against women. The Human Rights and Legal Services program of the world's largest NGO, BRAC, commenced in 1986, and has provided legal education, legal aid and support services for poor people accessing both formal and informal systems. It operates over 500 clinics in 61 of Bangladesh's 64 districts and is today the largest NGO-run legal aid program in the world.

84. Beyond BRAC, today's NGO legal aid service providers remain heavily donor-funded, and the shape of this work has arguably evolved from the Ford Foundation's Public Interest Litigation Initiative (PILI) in the 1990s. Since the Foundation's departure from Bangladesh in 1997, the work has primarily been funded by bilateral donors, most notably the United Kingdom's Department for International Development (DFID). One strand of PILI funding created and financed the nation-wide establishment of the Bangladesh Legal Aid and Services Trust (BLAST), under the initiative of the Bar Council. In addition to providing legal aid with regards the formal system, BLAST conducts mediation, policy advocacy and public interest litigation. A second strand supported the operations of four pre-existing legal services groups that, to varying degrees, conduct research, grassroots service delivery and policy advocacy. The Bangladesh National Women Lawyers Association (BNWLA), Ain O Salish Kendra (ASK), and the Madaripur Legal Aid Association (MLAA) focus mainly on women's rights as well as the urban and rural poor; the Bangladesh Environmental Lawyers Association (BELA) works mainly on environmental justice.¹⁰² A number of NGOs have been engaged in efforts to strengthen *shalish* as an institution and make it more responsive to the needs of the poor and women. Apart from the most well-known, the Madaripur Legal Aid Association, other important actors include Ain-o-Salish Kendro, BLAST, Samata (Pabna), Palashipara Samaj Kalyan Samity (Meherpur), Kabi Sukanto Seba Sangha (Goplaganj), Nagorik Uddog (Tangail), Palli Shishu Foundation (Sylhet and Rangpur), Samaj Unnoyon Proshikhan Kendra (Dinajpur) and Bachte Shekha (Jessore).

85. The NGO legal aid model from Bangladesh has very vocal advocates at the international level,¹⁰³ and the limited empirical work that has been undertaken about the work of these NGOs

¹⁰¹ DFID, *Bangladesh Safety and Justice Design Mission Report*, October 2008.

¹⁰² A third component funding legal clinical education at the country's three major law schools did not survive.

¹⁰³ Golub, Stephen. "From the Village to the University: Legal Activism in Bangladesh" in *Many Roads to Justice: The Law-Related Work of Ford Foundation Grantees Around the World*, ed. Mary McClymont, and Stephen Golub. USA: Ford Foundation, 2000; Golub, Stephen. "Non-state Justice Systems in Bangladesh and the Philippines." Paper prepared for the United Kingdom Department for International Development, January 2003.

suggest high rates of satisfaction amongst the users of the services.¹⁰⁴ Family cases are predominant in their workload.¹⁰⁵ However, the BRAC survey suggested that the coverage of such NGOs is very limited, with around 2% of respondents having used such services.¹⁰⁶ Further, the geographical coverage appears to be highly concentrated in rural areas and only covers around 35% to 40% of the country, with many poor and marginalized communities¹⁰⁷ not effectively covered by these programs. Coordination, sustainability and monitoring and evaluation of these services was also said to be in need of improvement.¹⁰⁸

¹⁰⁴ Beneficiaries consider these services contribute to poverty reduction - 96% of beneficiaries interviewed believed that community legal services helped poor people to become less poor (these beneficiaries received favourable outcomes from community legal services NGOs): *Promoting Improved Access to Justice: Community Legal Service Delivery in Bangladesh* (The Asia Foundation: 2007).

¹⁰⁵ Madaripur Legal Aid Association (MLAA) documented cases concern: family disputes (over 50%), financial disputes (13%), land (12%), assault (10%) and social disputes (7%).

¹⁰⁶ Only 2 percent of respondents saw NGOs as the preferred institution for resolving disputes: BRAC, *Bangladesh Crime and Security Survey*, 2008. Furthermore, the Asia Foundation study of 2007 cited above suggested that only 30% of respondents were aware of the much lauded Madharipur Legal Aid Association in the local area in which MLAA worked, after decades of operation.

¹⁰⁷ Such as indigenous populations living in the Chittagong Hill Tracts and other hinterland areas.

¹⁰⁸ *Promoting Improved Access to Justice: Community Legal Service Delivery in Bangladesh* (The Asia Foundation: 2007).

SURVEY RESULTS

CHAPTER 3: Fear and Harm Avoidance

86. Citizens' anxieties about harm are important because they affect the quality of the lives they lead, and because citizens often act upon their fears, either in the adjustments they make in their daily lives or in the manner in which they interact with the state that should be protecting them. This chapter examines those crimes and civil wrongs that Bangladeshis are most concerned about and the extent to which they attempt to mitigate the risk of harm.

87. The first set of questions posed to respondents relates to fears about a number of incident types occurring – the responses were scaled from 1 to 4, where 1 represents “not worried at all” and 4 represents “very worried”. If a respondent answered that they are worried about a particular type of incident, then the questionnaire probed as to why.¹⁰⁹ To those who reported being ‘fairly’ or ‘very’ worried, the questionnaire asked whether the respondent had done anything to feel less threatened.¹¹⁰ Potential crimes and other wrongs were categorized into 11 groups, with some of these containing a number of sub-categories.¹¹¹ In examining both the apprehension of harm and measures of harm avoidance -- whether through measures that one would find in many countries regardless of development level, and those that are peculiar to developing country contexts -- this survey attempts to make the link with the literature on well-being and capabilities.

88. The apprehension of harm in the survey was high, despite more than 50 per cent of respondents indicating that they or their household members did not experience any incident in the last 2 years, and only 1 percent of households reporting being victims of five or more incidents. Incidence rates are only one determinant of fear levels, and indeed there is literature that argues that fear can be independent of incidence. Hossain Zillur Rahman, writing in 2007 about Bangladesh, argues that there may be a high sense of insecurity even if the incidence of crime is comparatively low, because of two other factors playing a key role in determining the sense of insecurity: the perception of risk and uncertainty that characterizes the social environment and the low level of confidence in the possibility of obtaining redress.¹¹² Such perceptions of risk are themselves products of experiences, mediated sources of information such

¹⁰⁹ For instance, whether it was because (i) it has happened before to the respondent or to the family members of the respondent, or other people in the area; (ii) it has been reported by third persons or the press; (iii) the unlikelihood of obtaining any redress for what has happened or compensation for what has been lost, or (iv) it will cause long term damage for which there is no redress (either serious financial problems or damage family name and social standing).

¹¹⁰ So, for instance, respondents were asked whether they improved personal and home security (installed new locks, gate, keeping valuables in secured cabinets etc); discussed their concerns with the person concerned; went to the authorities (police, Union Parishad, other officials) for help in preventing the problem; accepted the situation (“there is no way out and I cannot do anything about it”); avoided the situation (stopped trading with the person, left the job, left the household, avoided travelling to risky areas, or at certain times etc.), made an extra-legal payment or a bribe to secure protection.

¹¹¹ For instance, there were 15 types of crime that were included.

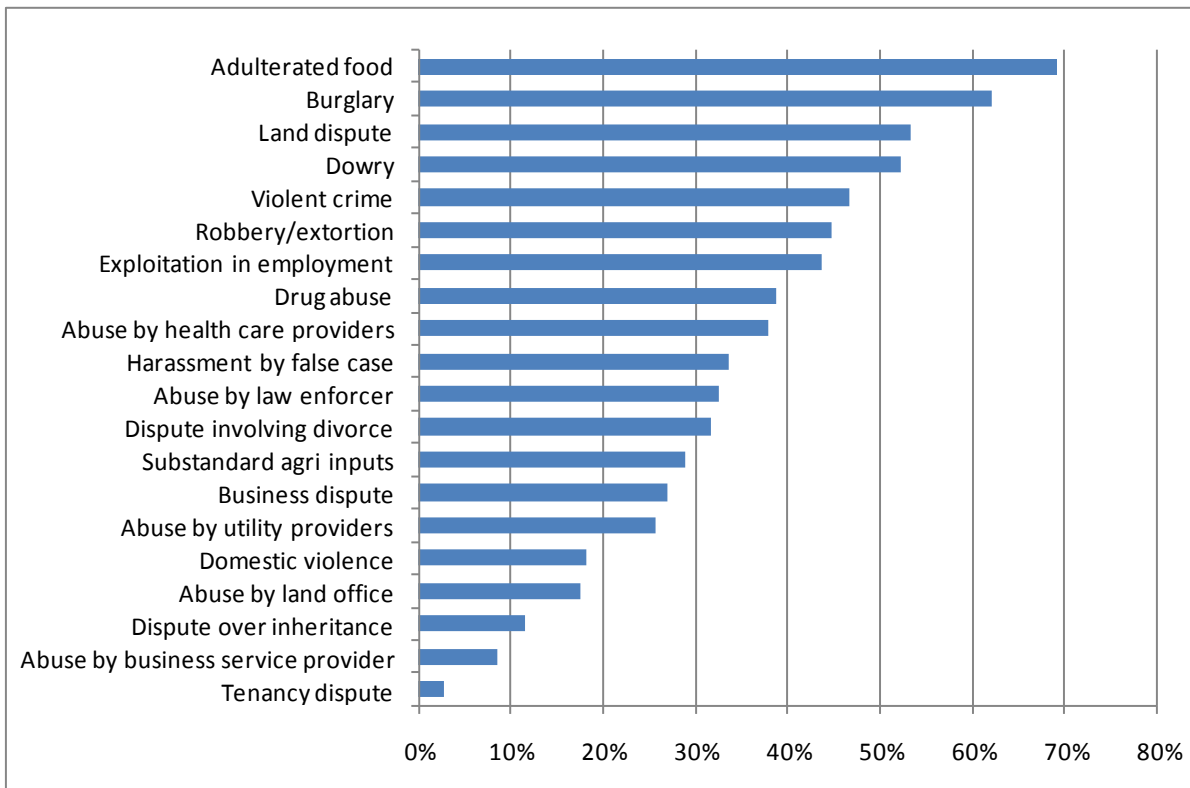
¹¹² Power and Participation Research Centre, *Unbundling Governance*, 2007, Chapter 4.

as through the mass media, and broader narratives. Writing about the fear of crime generally, Lupton and Tulloch state that:

What remains important is the assumption that fear of crime operates at a number of different levels of meaning and consciousness, emerging from and constantly reactive to direct personal experiences, knowledge about others' experiences and mediated sources of information, and also fitting into broader narratives concerning anxieties about 'the way society is today.'¹¹³

3.1 Potential Disputes and Harms that Most Worry Citizens

Figure 3.2: Level of apprehension by incident type
(% of respondents, multiple responses permitted)



89. Figure 3.2 captures those harms that citizens are “very worried” or “fairly worried” about occurring. If one collates these responses, the fear of adulterated food products constitutes the most frequently held fear amongst citizens. Land disputes and those relating to employment (primarily workplace injury and breach of contract such as non-payment of wages) also feature prominently amongst concerns, as do crimes which have serious adverse economic effects. Incidents relating to violent crime are high amongst the list of fears, although less prominent than

¹¹³ Deborah Lupton and John Tulloch, “Theorizing fear of crime: beyond the rational/irrational opposition”, *British Journal of Sociology* Vol. 50 No. 3 (September 1999) pp. 507–523

one might have expected.¹¹⁴ Illegal trading of drugs was also cited by respondents as a key concern, especially in urban areas. This data is not directly comparable with the BRAC/Saferworld survey, because of the different questions that were asked,¹¹⁵ although property crime, dowry, disputes over land and property and the use/selling of drugs appear prominently in response to questions about the issues that citizens are worried about in their locale.

90. Citizens appear to be most concerned about issues that affect their daily lives on a regular basis, rather than exceptional events. Abuses with the highest incidence are generally the ones where apprehension is highest, with past personal experience almost always giving rise to future apprehension. Yet, wrongs in which the consequences are the most serious (such as violent crime) register high apprehension even though their frequency is low or moderate.¹¹⁶ Certain wrongs register relatively low levels of apprehension despite their frequency: they may be internalized as “part of life” probably because the type of incident may occur regularly and the consequences are perceived by respondents as modest (for instance, abuse by service providers, domestic violence, inheritance disputes and tenancy disputes, although note the fear of abuses committed by health care providers). The absence of any apprehension suggests no prior experience of the wrong.

Figure 3.1: Apprehension-experience matrix

		Experience in the last 2 years		
		High (6%-18%)	Moderate (2%-6%)	Low (<2%)
Level of apprehension	High (>40%)	Land dispute, burglary exploitation in employment	Adulterated food, dowry, robbery/extortion	Violent crime
	Moderate (25%-40%)	Abuse in health care, business dispute, abuse by utility providers	Harassment by false case, Abuse by law enforcer, substandard agricultural input	Drug abuse, dispute involving divorce,
	Low (<25%)	-	Domestic violence, abuse by land office, dispute over inheritance	Abuse by business service provider, tenancy dispute

¹¹⁴ Possibly due to the substantial improvement to the law and order situation during the state of emergency that was in place during Caretaker Government period: The Asia Foundation, *Perceptions Surveys* (2007-9), International Republican Institute, opinion surveys 2007-9.

¹¹⁵ The BRAC/Saferworld survey did not limit itself to acts/incidents which are capable of giving rise to legal redress. First, respondents were asked which social issues were the biggest problems; the most common answers were poverty (69 percent) and unemployment (65 percent) and provision of utilities (56 percent). When people were asked what makes them feel insecure, natural disasters were cited as the most common concern, especially in rural areas, followed by a lack of health care (48 per cent), increase in crime (28 per cent) and drug abuse (23 per cent). When asked what they felt were the most frequent crimes or injustices in their area, 77% thought that personal property crimes were the most common, followed by dowry-related crime (56%), disputes over property (35%), and drug abuse (29 percent).

¹¹⁶ So, for instance, while 46 per cent of respondents expressed a fear of violent crime, only 1 per cent reported to have experienced such crime in the household.

3.2 Some Significant Findings

91. *Food adulteration:* The most striking data relate to the extent of fear of food adulteration. Awareness of food and pharmaceutical adulteration is high because it is reported widely in the press¹¹⁷ -- 40% of respondents who were afraid of food adulteration indicated it was because they have heard about it happening from the media or third persons, and 24% have heard about it happening in their community. In contrast to previous administrations, the Caretaker Government undertook a vigorous drive against food adulteration, with mobile courts very active and their activities publicized. For instance, the detection of formaldehyde in the overwhelming percentage of fish tested in wholesale fish markets in Dhaka saw the destruction of 6.5 tonnes of fish in a day.¹¹⁸ Such incidents no doubt increased awareness amongst the general community about the prevalence of adulteration practices across the food and pharmaceutical industries.¹¹⁹

92. Not only have the most egregious instances of food and pharmaceutical adulteration led to significant fatalities in the past, but the state's ability and willingness to enforce standards is weak and the reality and perception of impunity for perpetrators is high. For instance, between 1980 and 1992, more than 2000 children died due to toxic paracetamol syrup.¹²⁰ A recent investigative journalism investigation documents how corruption in the court processes undermined almost all of the criminal prosecutions in these cases, and no one has yet been punished for these crimes.¹²¹ More recently, in mid-2009, 25 children died of renal failure over a six week period due to consumption of contaminated paracetamol syrup,¹²² and a successful prosecution has been undertaken. Consumers are more exposed to adulterated goods in markets in which producers have not developed brand name reputations that they lose in the event of selling dangerous or faulty products. While there are consumer groups in Bangladesh, they have hitherto had little clout in the absence of strong political will in terms of enforcement. Further, as mentioned, there are significant obstacles to pursue legal action through formal means, reportedly¹²³ due to corruption in government regulatory agencies and the courts.

93. The degree of concern about food adulteration can be explained by reference to several issues. Food is an everyday part of life and the likelihood of falling victim to such a reportedly prevalent practice as food adulteration appears to be very high (and undetectable, except for the long term health effects, such as the development of cancers). A victim of food adulteration is rarely aware that they have suffered a crime -- toxins and carcinogens added to food are often not detectable except in fatal doses. This is reflected in the low figure of 4.8% of respondents who report that they are afraid of food adulteration due to a *known* prior experience. When one considers the extent of uncertainty, the high awareness about the potential for serious harm, the

¹¹⁷ "Let them eat poison", SLATE (New Age), September 2006; 14 January 2007, "City dwellers again exposed to adulterated food: *Absence of anti-adulteration drive, inadequate laboratory facilities blamed*", *The New Age*; "Govt orders countrywide drive against food adulteration: National food safety body holds meeting after five years", *The New Age*, 24 February 2010; "Taking in food or poison?", *Daily Star*, 24 May 2010.

¹¹⁸ "Formalin fish back in city markets", *The Daily Star*, 1 March 2007.

¹¹⁹ In fact, the new Government has taken the issue of formalin in fish to be serious one: "Formalin abuse to be monitored strictly", *The New Nation*, 15 July 2009.

¹²⁰ "Justice delayed, justice denied", *The Daily Star*, 11 November 2009.

¹²¹ *Ibid.*

¹²² "Rid's syrup unauthorised, toxic element found", *Daily Star*, 30 July 2009.

¹²³ "Justice delayed, justice denied", *The Daily Star*, 11 November 2009.

fact that the mechanisms for mitigating risks are limited (in the absence of only consuming imported goods or growing all the produce one consumes), and the lack of redress, the reasons for the heightened fear become apparent.

94. It should be mentioned in this context that the current Government's efforts to respond to the issue of adulterated food, through such mechanisms as home-testing kits for formaldehyde in fish, costing around 500 taka (just over \$US7),¹²⁴ are responding to a very real concern of citizens and provide a mitigating measure and an acknowledgement that the enforcement route alone is not sufficient to keep citizens safe. There are calls to monitor and ban imported chemicals used in some types of adulteration such as the ripening and preservation of fruit, and to establish a dedicated court to deal with food adulteration.¹²⁵ Judicial activism and a media campaign may motivate further Government action.

95. *Property crimes and disputes affecting economic well-being:* The available evidence suggests that economic insecurity is still the predominant form of insecurity in citizens' lives: when the BRAC/ Saferworld Human Security Survey asked about the social issues that formed the most serious problems for respondents, poverty, unemployment, provision of utilities and vulnerability to natural disasters rated highly.¹²⁶ While this survey was focused only on issues that could be defined as legal wrongs, which give rise at least at a theoretical level to legal redress, many of the issues which respondents have identified as areas of concern are those that leave them most vulnerable economically: 63% of respondents are worried about personal property crime, 53% about the payment of dowry; 52% about land disputes (see further below); 45% about robbery and extortion.

96. *Land disputes:* Many respondents are concerned about land disputes, a reflection of the fact that land disputes have been a perennial problem in Bangladesh due to an antiquated and complicated legal regime and the fact that the state does not guarantee land title.¹²⁷ The data also reflect the survey findings in Chapter 4 that land disputes are in fact the most frequently occurring dispute type in Bangladesh.¹²⁸

¹²⁴ "Formalin abuse to be monitored strictly", *The New Nation*, 15 July 2009.

¹²⁵ "Taking in food or poison?", *Daily Star*, 24 May 2010.

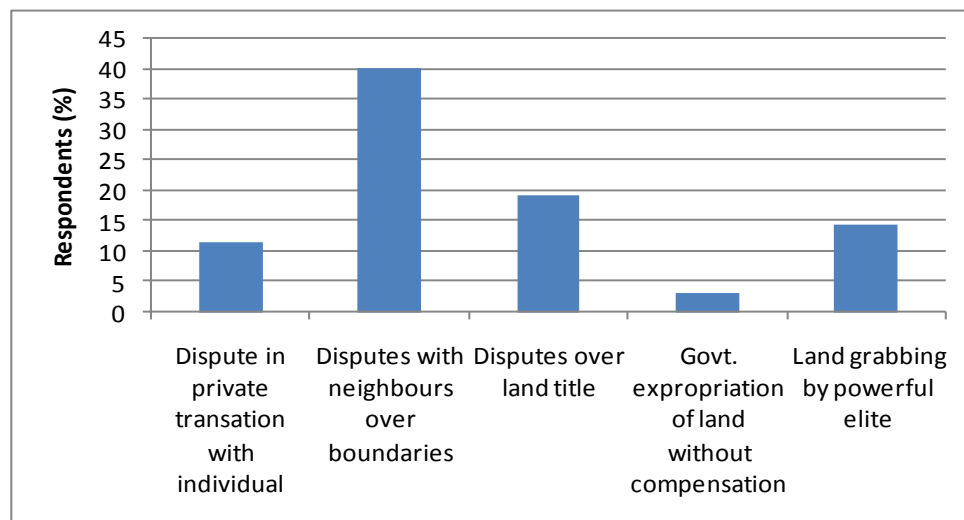
¹²⁶ Saferworld,

¹²⁷ The legal regime governing real property is antiquated and complicated, based on a mix of secular, religious and common law. Land registration records are unreliable, with land disputes leading to the bulk of both civil litigation and criminal cases. Instruments take effect from the date of execution, not the date of registration, so a bona fide purchaser can never be certain of title.

¹²⁸ They have long been said to be the principal cause of cases, criminal and civil, that end up in the court system of Bangladesh.

97. If one disaggregates the type of land disputes that citizens are concerned about, most respondents are concerned about “everyday” forms of disputation that affect their daily lives -- disputes with neighbors over boundaries (40 percent) and disputed land title (19 percent). Land grabbing by powerful elites (14 percent), disputes in private transaction with individuals (11 percent), and government expropriation of land without compensation (3 percent) are not as significant issues of concern.

Figure 3.3: Fear of land dispute by type



98. *Workplace safety and disputes:* Occupational health and safety issues (34 percent), breach of employment contracts by employers (15 percent) and harassment in the workplace (13 percent) feature highly amongst citizens’ fears. Of those who feared an injury at work, 6.5 percent indicated that someone in their household had suffered such an injury, 14.5 percent knew someone in their community who had suffered such an injury and 13 percent heard about it happening through a third party or the media. High rates of participation in the informal economy, low rates of union membership¹²⁹ and the absence of a genuine trade union movement¹³⁰ is reflected in very lax standards. Despite labor laws in place, there is virtually no regulation and enforcement of workplace safety, except arguably in workplaces that are linked to

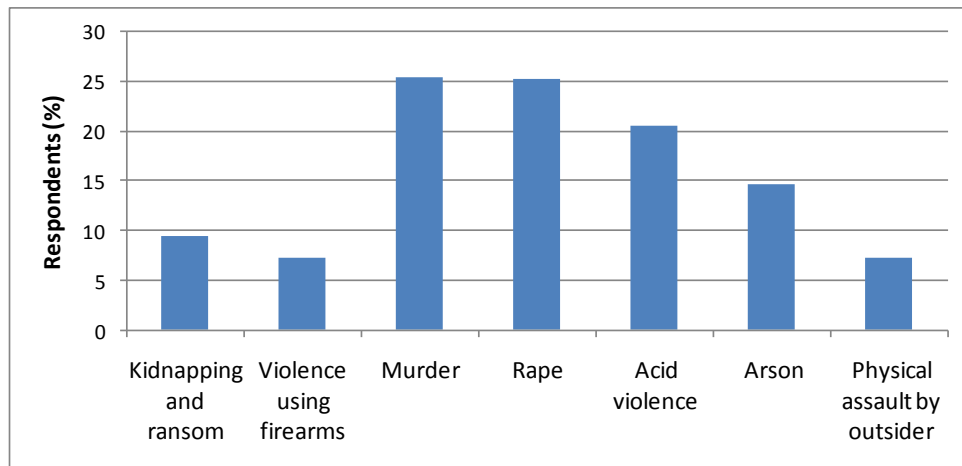
¹²⁹ Only 3.5 percent of the workforce is unionized; most of the unions are limited to the public sector or state-controlled enterprises.

¹³⁰ In Bangladesh, trade unions do not have as their primary concern the safety and working conditions of workers, or the advocacy of broader political, social and economic issues that impact on workers’ lives. Many have argued that trade unions in Bangladesh more closely approximate criminal syndicates linked to the political parties, often controlled by political figures, and leading political action and strikes in the country. The private sector is less unionized and trade unions are virtually absent in the Export Processing Zones (EPZ).

the international economy. The International Labor Organization estimates thousands of work-related deaths per year.¹³¹

99. *Violent crimes:* Fear of the residual group of “violent crimes” -- which does not include domestic, political or inter-communal violence – correlates with the severity of the crime and its consequences. Not surprisingly, murder (25 percent), rape (25 per cent) and acid violence (21 per cent) were the most feared violent crimes. Women were significantly more afraid of violent crime than men (54 percent of women, as opposed to 40 percent of men) as were urban respondents (53 percent compared to 45 percent in rural areas).

Figure 3.4: Apprehension relating to violent crime



3.3 Coping Mechanisms

100. There were limitations in the type of response that the survey questionnaire was able to elicit in terms of coping mechanisms. Because it was structured to ask respondents about their fear of particular dispute types, and their “coping mechanism” in dealing with *each particular wrong type*, the questionnaire elicited “micro-responses” rather than larger questions about how people structure their lives in order to minimize insecurity. As a result, the responses captured by the survey were quite modest, and did not really capture any broader narratives, which need to be obtained through further qualitative work. For instance, qualitative research undertaken by BRAC suggests that early marriage is a coping mechanism employed by families to protect adolescent daughters against sexual harassment and the risk of sexual violence.¹³²

¹³¹ The ILO estimates, for example, that each year there is likely to be about 1,625 industrial and service sector deaths each year. Even though these figures may well be an over-estimate, it is notable that we have only been able to find reports of 305 deaths in 2008 and 247 deaths in 2009. The ILO also estimates that there are as many as 10,145 deaths in the agricultural sector – and we have only identified 15 in 2008 and 18 in 2009.¹³¹

¹³² BRAC University Institute for Governance Studies, *The State of Governance in Bangladesh 2007*, (BRAC, 2008). The BRAC study argues that ‘perhaps the most serious, widespread response to insecurities around women’ is early marriage. Thus, rather than prevent the insecurity caused by sexual harassment, which is often simply taken as a given, families will resort to life-changing measures to avoid this happening”. The implication is that not only

Box 3.1: Extreme coping mechanisms: structuring lives to minimize insecurity

Drawing upon several decades of qualitative research on Bangladesh, Geof Wood argues that all people, especially the poor, must rely upon a range of informal arrangements for maintaining and securing their welfare.¹³³ People living in extreme poverty tend to have a greater sense of insecurity and ill-being due to the systemic vulnerability they are subjected to as a result of the weak control they exercise over their personal destiny. To avert security risks, they see few options but to locate themselves within dependent hierarchical relationships through which survival and welfare have to be sought.¹³⁴ Often patron-client relationships are the only means of some “protection”, even though it also means a loss of legality and independence.¹³⁵

This argument is partially supported by the data discussed later in this report that the very poor have lower levels of fear and experience most crimes and disputes less frequently than the less poor, although this could simply reflect that the poor have less to lose. Further qualitative work needs to be undertaken to examine the methods of risk management that are employed by the poor, especially what Wood and Gough refer to as “adverse incorporation” into relationships of bonded loyalty such as those with organized crime figures.

101. The mechanisms used by citizens as a means of harm prevention provided some unexceptional results.¹³⁶ A significant percentage of respondents indicated that they talked to state actors, friends and neighbors or local elites in the face of various concerns, to keep them abreast of the problem: 39% went to “the authorities”, 34% discussed the matter with local elites, NGOs or media persons and 31% approached neighbors and friends.

do women suffer by actually becoming a victim of sexual harassment, but that they also suffer in more intangible ways from their fear – and their family’s fear – of them becoming victims. This places all sorts of limits on the behavior and choices of young women, some of which are consciously imposed and some which may simply be expected.

¹³³ Wood, G., 2003. Staying secure, staying poor: The "Faustian bargain". *World Development*, 31 (3), pp. 455-471. At the underlying basis of his argument, Wood writes that the “determining condition for poor people is uncertainty”¹³³, security is a key component of wellbeing and that it is a “primordial instinct to seek safety for oneself and valued others”.

¹³⁴ Ian Gough and Geoff Wood, *Insecurity and Welfare Regimes in Asia, Africa and Latin America*, 2009.

¹³⁵ Geof Wood, “Using security to indicate wellbeing”, in: Ian Gough and Allister J. McGregor, *Wellbeing in developing countries: from theory to research*, Cambridge University Press, 2007, pp. 109-132

¹³⁶ The highest overall figure registered for a preventive action was that 52% of respondents registering a fear of adulterated products stopped buying a product if they discovered it was adulterated through personal experience, word of mouth or the media, although this is hardly likely to be an effective strategy. Even if food adulteration of a product has been discovered, since brands are under-developed it is often difficult to know whether the new product that is purchased is not made by the old producer). In the case of those fearing personal property related offences, 18% of respondents kept valuables secured, 18% installed locks on the doors, 13% avoided travelling in areas they perceive as risky, and 9% sought the assistance of friends and neighbors. Twenty five percent simply accepted the situation. By way of contrast, 74% of respondents who were had experienced or were fearful of harassment by health care providers “accepted the situation”, as did 40% of respondents who were afraid of harassment by utility service providers. Avoiding an area of heightened physical risk was another means of avoiding harm: 22% of those expressing fears in relation to workplace safety, 31% of those fearful of robbery, 25% of those expressing fear of violent crime and 12% of those expressing fear of burglary. In relation to potential abuses by service providers, there was a small percentage of respondents who reported paying extra-legal payments as “insurance” against such abuses (2% to utility providers, 4% to the land office, 3% to law enforcement authorities).

3.4 Correlates of Fear amongst Respondents

102. Amongst all the variables included in Table 3.1 below, it is previous experience in the last seven years of a crime or wrong that is the most significant correlate of worry.

Table 3.1: Correlates of concern: “very worried” or “fairly worried”						
	Eq 1		Eq 2		Eq 3	
Rural (1=yes, 0=otherwise)	-0.431	(2.710)***	-0.651	(4.160)***	-0.638	(4.338)***
Respondent is female (1=yes, 0=otherwise)	1.200	(7.415)***	1.125	(7.210)***	1.198	(8.430)***
Age of the respondent	-0.011	(2.118)**	-0.007	(1.367)	-0.003	(0.670)
Respondent's education (1=Primary, 0=Otherwise)	-0.079	(0.466)	0.0862	(0.523)	0.195	(1.297)
Respondent's education (1=Secondary, 0=Otherwise)	0.702	(3.513)***	0.810	(4.184)***	0.715	(3.953)***
Respondent's education (1=Tertiary, 0=Otherwise)	2.310	(6.499)***	2.394	(6.876)***	2.331	(7.172)***
Religious Minority	-0.208	(0.907)	-0.344	(1.541)	-0.140	(0.651)
Ethnic minority	-3.046	(7.537)***	-2.521	(6.465)***	-1.600	(3.871)***
Poverty likelihood	-0.754	(2.455)**	-0.624	(2.098)**	0.0610	(0.222)
NGO participant	0.299	(2.113)**	0.184	(1.327)	-0.148	(1.151)
Participates in political party	0.436	(1.607)	0.490	(1.821)*	1.390	(5.153)***
Experienced any event in the last 7 years	2.765	(20.34)***	2.646	(20.11)***	2.846	(23.25)***
Access to mobile phone (1=none, ..., 5=Frequent)	0.225	(3.562)***	0.296	(4.844)***	0.301	(5.297)***
Physical mobility (1=Very low, ..., 5=Very high)	0.583	(7.418)***	0.485	(6.412)***	0.585	(8.466)***
Receives remittances (1=yes, 0=No)	-0.684	(3.234)***	-0.262	(1.230)	-0.374	(1.833)*
Division (Barisal=1, 0=otherwise)			-3.766	(18.25)***		
Division (Chittagong=1, 0=otherwise)			-0.356	(1.759)*		
Division (Khulna=1, 0=otherwise)			3.749	(15.82)***		
Division (Rajshahi=1, 0=otherwise)			1.512	(8.514)***		
Division (Sylhet=1, 0=otherwise)			0.269	(0.972)		
District dummies	No		No		Yes	
Constant	4.908	(9.860)***	4.345	(8.828)***	4.145	(9.219)***
Observations	9752		9752		9752	
R-squared	0.09		0.16		0.30	

Robust t statistics in parentheses; * significant at 10percent; ** significant at 5percent; *** significant at 1percent

103. Since the incidence data suggests that the wealthy are more vulnerable to economic crimes, it is not surprising that respondents with high levels of education (completed secondary education or tertiary education), lower poverty levels, access to mobile phones and greater physical mobility are more likely to be worried generally about most dispute types. Further, the greater level of knowledge and access to information may lead to these respondents having a

higher level of awareness of almost all categories of disputes or crimes. Access to mobile phones is positively correlated with fears of almost all types except tenancy issues and family disputes. The respondent who regularly travels at least 10 kilometers from his or her house has a greater concern about abuses by state service providers and law enforcement authorities, work-related problems, drug activity and other crimes, presumably because of greater exposure to the public sphere.

104. There is little variation between households of religious minorities and Muslim households, except for the fact that family disputes over property are less of a concern for the former. Poverty was positively correlated with concerns regarding employment conditions and abuses by health care providers (where presumably the poorest citizens have very little power), but was negatively correlated with a range of other crimes and civil wrongs.

105. Active political party affiliation/participation is positively associated with a greater articulation of fear, especially regarding abuses by law enforcement authorities and political violence. Such a finding is hardly surprising in a country with a history of institutionalized political influence over public institutions, particularly the police¹³⁷ and lower judiciary. Bangladesh has an intensely partisan political landscape, where successive regimes have often used law enforcement mechanisms to deny political space to the opposition party.¹³⁸

106. Urban-rural and gender variations in fear levels do not provide any particularly striking findings (refer to Annex 4). Drug abuse, apprehension over tenancy disputes, and the fear of robbery and other violent crime appears to be a more significant issue in urban areas, whereas concern about land disputes was higher in rural areas.

107. Male respondents expressed higher apprehension than female respondents regarding interactions with officials, presumably because of their greater participation in the public sphere. Female respondents predictably expressed significantly more apprehension over wrongs that affect them in a disproportionately adverse manner, including divorce disputes, dowry and domestic violence, as well as certain violent crimes such as murder, rape, and acid violence.

¹³⁷ Transparency International Bangladesh's Household Survey 2007 indicated that law enforcement agencies and the judiciary were the highest and fourth highest on the list of corrupt institutions respectively; the figures are consistent with TI's *Global Corruption Barometer* of 2010. A 2009 poll by the International Republican Institute indicates that police was the least trusted institution of all the public institutions that were named, and the courts rank in the middle of the list. Another by the Institute of Governance Studies (State of Governance 2008) indicates that 49% of professional respondents disagree with the statement "*judges and courts in Bangladesh can work independently*", whereas 46 percent of the general sample did not agree with the statement. Moreover, 25 and 19 percent of professional and general respondents respectively strongly disagreed with the statement. Transparency International ranks Bangladesh as one of the countries where corruption is perceived as one of the highest in the world according to their Corruption Perception Index. Hossain Zillur Rahman, *Unbundling Governance: Bangladesh Governance Report 2007* (PPRC: 2007). See further, survey work undertaken for *The State of Governance in Bangladesh 2006* (BRAC University: 2006), and its successor report for 2007; *Baseline Study Report on Community-Police Relations* (The Asia Foundation: 2004); *Public Attitude Baseline Survey for the "Police Reform Programme – BGD/04/001"* (conducted for UNDP by Research Evaluation Associates for Development, 2006) and *Bangladesh Crime and Security Survey* (BRAC Research and Evaluation Division and Saferworld, 2008).

¹³⁸ Institute of Governance Studies, *State of Governance* 2008, (BRAC University: 2009), Chapter 5.

What is more interesting is that dowry, divorce, rape and acid violence all register as significant concerns for male respondents, presumably in relation to the females in their households.

3.5 Spatial Analysis: Divisional Variation

108. The figures relating to apprehension of harm vary widely across divisions, with respondents from Barisal expressing the lowest levels of concern across all dispute types, even across such categories as adulterated food and substandard agricultural products for which there is little logical reason for significant variation. Khulna registered the highest overall levels of fear. For all but tenancy disputes, which are an urban phenomenon and concentrated in Dhaka and Chittagong districts, either Khulna or Rajshahi divisions registered the highest levels of fear. Barisal, Rajshahi and Khulna were identified by the 2008 Poverty Assessment as the economically lagging parts of Bangladesh, with the highest poverty rates at the division level although paradoxically better health and education outcomes.¹³⁹ The large variation between these three districts in terms of expressed fear, despite similarities in poverty levels, human development outcomes and high rates of NGO presence, may help to unpack some of the factors that create a sense of insecurity.

Table 3.2: Expression of apprehension by division

	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	National
Abuse by utility providers	11	27	23	29	30	22	26
Abuse by land office	14	14	16	22	22	14	18
Abuse by health care providers	14	31	32	48	48	49	38
Abuse by business service provider	6	6	8	11	10	6	8
Abuse by law enforcer	16	32	29	46	35	33	32
Harassment by false case	22	33	30	48	36	26	34
Exploitation in employment	22	38	43	60	48	39	44
Adulterated food	43	71	64	75	77	72	69
Substandard agriculture inputs	15	19	25	38	40	32	29
Business dispute	14	26	26	39	28	19	27
Drug abuse	19	40	37	51	39	38	39
Tenancy dispute	1	4	4	2	2	2	3
Land dispute	45	52	49	62	59	49	53
Dispute involving divorce	14	28	28	40	38	35	32
Dispute over inheritance	9	13	11	17	11	7	12
Dowry	20	51	49	59	64	44	52

¹³⁹ Chittagong and Sylhet has amongst the lowest poverty rates, but also amongst the worst child health outcomes. Khulna and Barisal, despite being the poorest, have higher primary enrolment rates among boys and girls than Dhaka, Chittagong and Sylhet. Along with the best health outcomes, Khulna has the highest enrolment rates at both primary and secondary level in 2005. The Poverty Assessment offers some explanations as to why this may be the case (history of more conservative social norms in those areas with lagging MDG outcomes, as expressed in higher desired family size and more restrictive attitudes on women's physical mobility), lagging regions have a much higher concentration of NGO activities than income-affluent regions (which raises awareness and has positive spill-over effects on non-members), less economic opportunities in lagging regions means less pressure to take children out of school early etc). Nevertheless, the Poverty Assessment still views this story as a puzzle. The results of this survey add a further layer of complexity to this picture.

Domestic violence	9	17	14	30	21	14	18
Burglary	39	55	54	75	77	58	62
Robbery/extortion	28	48	45	54	44	35	45
Violent crime	19	41	45	66	51	45	47
Other	13	23	31	40	29	23	28
Number of observations (n)	786	1,747	2,699	1,458	2,511	552	9,753

The numbers are percentage of the respondents reporting being worried about any of the items in each category.

109. Table 3.2 shows a very substantial divisional difference in apprehension, despite a much smaller divisional difference in the experience of crimes and disputes (discussed in Chapter 4). The district dummies in Table 3.1 reinforce the figures in Table 3.4. A respondent in Barisal is likely to report their apprehension in 3.8 fewer abuse types than an average person living in Dhaka, whereas an average person from Khulna reports their fear in 3.7 more abuse types compared to someone in Dhaka.¹⁴⁰

110. It may be the psychology of the Indian border that is an important determinant of fear, and elevates fear levels in both Khulna and Rajshahi regions, despite significant differences in incidence rates in the two divisions. Upazilas on the border have a higher apprehension level even compared to other upazilas in the same district.¹⁴¹ Bangladesh's 4222km border with India is the longest land border that India shares with any of its neighbors and historically has been poorly delimited.¹⁴² Although the border has been tightened in recent years,¹⁴³ there is still considerable movement, some of it linked with smuggling and trafficking activities. The part of the border that runs along Khulna and Rajshahi divisions is said to be porous for the organized criminal syndicates and extremist political groups (both left-wing and Islamist militants) operating along it in collusion with elements of the two border security forces (India's Border Security Force and Border Guard Bangladesh, formerly the Bangladesh Rifles).¹⁴⁴ India claimed during the tenure of the BNP-Jamaat coalition Government that insurgents from India's north-east cross over into Bangladesh territory on a regular basis and that there are well over 100 insurgent camps within Bangladesh.¹⁴⁵ Human Rights Watch recently claimed that the BSF has killed more than 1000 people in a decade along the border.¹⁴⁶

111. Many studies appear to suggest that Khulna is the most violent region in Bangladesh. The levels of fear expressed in Khulna are consistent with high rates of violent crime and abuses by law enforcement in the BRAC Survey and with another recent study on violence in western

¹⁴⁰ The mean is 8.87 and standard deviation 6.54.

¹⁴¹ See Annex X.

¹⁴² Kanchan Lakshman* & Sanjay K. Jha, "India-Bangladesh: Restoring Sovereignty on Neglected Borders", *Faultlines*, Volume 14, 2003.

¹⁴³ Human Rights Watch, *Trigger Happy - Excessive use of Force by Indian Troops at the Bangladesh Border*, 2010 of the situation a decade ago: Sanjoy Hazarika, *Rites of Passage: Border Crossings, Imagined Homelands, India's East and Bangladesh*, Delhi: Penguin, 2000, p. 15.

¹⁴⁴ E-mail communication with Human Rights Watch (discussion of forthcoming publication, July 2010).

¹⁴⁵ International Crisis Group, *Bangladesh Today*, Asia Report Number 121, 23 October 2006. Writing during the period of the BNP-Jamaat coalition government, the International Crisis Group puts it, "circumstantial evidence, as well as cold political logic, suggests that underground terrorist groups have been cultivated and sheltered by those in power".

¹⁴⁶ Human Rights Watch, *Trigger Happy - Excessive use of Force by Indian Troops at the Bangladesh Border*, 2010.

Bangladesh.¹⁴⁷ Whilst their potency has been much reduced in recent years, most radical left wing groups operating in Bangladesh are based in Khulna and maintain links with similar groups in India, especially West Bengal, where left-wing militancy has remained a potent force.¹⁴⁸ Some of these groups have mutated into purely criminal operations. Organized criminal groups are said to be involved in the smuggling and trafficking of arms, drugs and human beings.¹⁴⁹ There have been substantial numbers of reported extrajudicial killings by law enforcement agencies in efforts to “crack down” on law and order and organized criminal activity;¹⁵⁰ a disproportionate number of the recorded extrajudicial killings allegedly committed by the Rapid Action Battalion have been in Khulna division.¹⁵¹ Of the 98 Bangladeshis killed by India’s Border Security Force in 2009, 40 were killed in Khulna.¹⁵² The Bangladesh Rehabilitation Centre for Trauma Victims also reported 1,102 torture cases and 414 torture-related deaths in Khulna division in 2004 alone.¹⁵³ The high rates of fear are also internally consistent with this survey – past experience is a predictor of high levels of fear of a particular harm type, and the results appear to confirm that rates of burglary, extortion, and harassment by law enforcement and court authorities are highest in Khulna, although most curiously the rates of most violent crimes are not.

112. Yet Rajshahi also registers very high levels of fear; although it has high rates of abuses by service providers and land disputes, it has amongst the lowest rates of violent crime, robbery, mugging, extortion and arson in the country. Other surveys have indicated that Rajshahi also had the second lowest count per population of extra-judicial killings after Barisal.¹⁵⁴ And while Khulna recorded the highest rates of political violence in Bangladesh in this particular survey, Rajshahi recorded the lowest rates. Yet, like Khulna, Rajshahi has had a history of extremist groups operating from its territory. At the height of the Jamaat ul-Mujahadeen Bangladesh in 2005, it may have had as many as 2,000 members or *ehsar* within its stronghold in Rajshahi,¹⁵⁵ with one of its leaders teaching at Rajshahi University.¹⁵⁶ JMB came to international notoriety after the August 2005 bombings, when it detonated more than 450 bombs within minutes of each

¹⁴⁷ "Household exposure to violence and human rights violations in western Bangladesh, prevalence, risk factors and consequences", *BMC International Health and Human Rights*, 2009, 9:29).

¹⁴⁸ Saferworld, *Human Security in Bangladesh*, p42.

¹⁴⁹ Saferworld, *Human Security in Bangladesh*, 2008, p34.

¹⁵⁰ Operation Spider Web was launched in 2004 by the BNP-led government in the south-western districts of Bangladesh after Operation Clean Heart failed to restore public order. Its primary target was the left-wing extremists along the Indian border.

¹⁵¹ Human Rights Watch, *Judge, Jury and Executioner*, December 2006, p62. Reporting on the RAB killings from 2004-6, the report indicates that 107/367 killings during that time period occurred in Khulna. The division had the highest number of killings per head of population – one reported killing per 135,223 persons – followed significantly behind by Dhaka division, with one killing per 330,580 persons. Barisal has the lowest rate – one killing per 737,494 persons.

¹⁵² E-mail communication with Human Rights Watch (to be published in a forthcoming report, July 2010).

¹⁵³ Bangladesh Rehabilitation Centre for Trauma Victims, *Strengthening capacity of the rehabilitation of victims of torture and organized violence in Khulna division of Bangladesh*, (Dhaka, 2004), p 25.

¹⁵⁴ *Ibid.*

¹⁵⁵ Human Rights Watch, *Judge, Jury and Executioner*, December 2006, p62.

¹⁵⁶ Asadullah al Galib, an Arabic language lecturer.

other in 63 of the country's 64 districts.¹⁵⁷ The Government of the time was alleged by some commentators to have quite openly cultivated such groups as a counterbalance to leftist groups¹⁵⁸ – for instance, the JMJB's main focus was initially to eradicate left-wing extremists. It may be this perception of risk in the social environment that may explain the elevated levels of fear for Rajshahi.

113. By way of contrast, Barisal division is an outlier in terms of having the lowest levels of articulated fear across all harm and dispute types. The division's lower rates of incidence with regards to several categories of crime and a number of dispute types only partially explains the results but not the uniformity of the results registering low fear.

114. Barisal is a region with the highest poverty headcount (52%),¹⁵⁹ where the state has minimal presence. Remittance levels are amongst the lowest in Bangladesh and its economy is mainly agrarian. By way of contrast, Khulna has considerable economic activity (jute mills, news print and hardboard mills, the country's second seaport, its only ship building yard and shrimp cultivation) despite its high poverty headcount of 46 per cent. The prevalence of subsistence farming may explain the lower fear of adulterated food – agricultural produce and fish are consumed at source. The levels of harassment by service providers (although not law enforcement agencies) are the lowest in the country; state actors may be less predatory simply because there is less to extort. A finding of both the BRAC survey and this one is that poorer people in general seem to experience and worry less about crime than the less poor. Hossain, Jahan and Sulaiman have attempted to link this finding with Wood's body of research about the very poor making "Faustian bargains" to mitigate the prevailing uncertainty and risk in their lives.¹⁶⁰ Applying this argument to the results in Barisal, a less developed part of the country with older forms of socio-economic structure and semi-feudal relations, one could argue that poor people are more likely to be embedded in patron-client relationships that protect them against risk (but at costs to their autonomy and rights), and thus less likely to experience such external threats and less likely to fear them.

115. Previous surveys have indicated that the population in Barisal is generally more devout (amongst the top 3 regions in terms of religious piety, after Sylhet and Chittagong), but this factor cannot alone account for a lower apprehension than in other divisions. There appears to be something about the interplay of personal factors such as religious piety and the social environment (including relative remoteness, the low state presence, more traditional socio-economic structure, less predation by government service providers, the high NGO presence) which moderates Barisallis' apprehension of harm. Further, the considerable weakening of a local militia, the Armed Decoys Group, in the last decade may also have led to citizens in Barisal perceiving that things are much better than in the past in terms of crime and personal security.

¹⁵⁷ The explosions were small and casualties low but the scale of organization rang alarm bells. Two months later, it engaged in some targeting bombing against courts and police, avowedly because of its aims to establish Islamic law in the country

¹⁵⁸ International Crisis Group, *Bangladesh Today*, Asia Report Number 121, 23 October 2006.

¹⁵⁹ *Household Income and Expenditure Survey 2005*; World Bank, *Poverty Assessment*, 2008

¹⁶⁰ Naomi Hossain, Ferdous Jahan, Munshi Sulaiman, "Crime and development in Bangladesh" unpublished paper, September 2009.

CHAPTER 4: Dispute Incidence

The Dispute Profile

116. This chapter and the next will examine the prevalence of crimes and wrongs, the pathways that citizens use to resolve disputes and the likelihood that they turn to state authorities for assistance. The questionnaire¹⁶¹ begins by asking respondents about their fears about a wide range of crimes, disputes and abuses by state actors from a detailed list of potential dispute types. Respondent households were coded as suffering from an abuse if the respondent indicated that they were fairly or very worried about the abuse¹⁶² and if they indicated that they were worried because the abuse happened to them, to someone living in their household or they had received a credible threat from a potential perpetrator.¹⁶³

117. There were four separate time periods that were examined: the early months of 2009 (current Government), 2007-2008 (the Caretaker Government period), 2002-2006 (the previous elected government), and before 2002. The survey results indicate that respondents most clearly remembered the most recent incidents, illustrated by a very high incidence rate for the early months of 2009, when compared to 2007-8, and even more so when one looks at the previous 5 year period and before. Problems with the accuracy of the recall method and the youth of the sample population (representative as it is of Bangladesh's population) prevent us from placing too much store on any inter-temporal comparisons between these periods. However, we have provided data about lifetime incidence of crimes and other wrongs through adding the numbers from these four time periods together. While we would expect that incidents happening before 2002 would be considerably under-reported, the lifetime incidence figures still provide a useful sense of the lower limits of household dispute incidence.

118. In the analysis below, we have focused on the period 2007-2009, during which respondents reported 7,675 abuses or credible threats of abuse.¹⁶⁴ However, where comparative analysis with other countries is undertaken below, we have extrapolated a yearly incidence rate

¹⁶¹ Question 4, Annex 1.

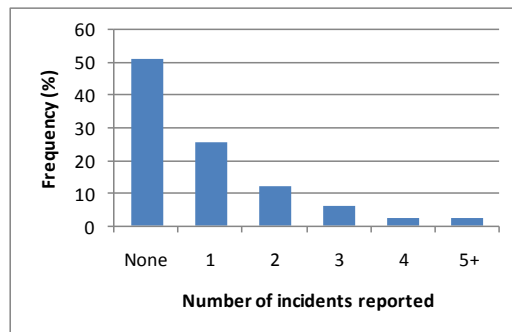
¹⁶² Questions 4.1a – 4.12a.

¹⁶³ Answer codes 1 and 2 to questions 4.1b – 4.12b. This is an odd outcome that was noticed only after the survey had been fielded – the survey only asks if the respondent suffered an abuse after respondents indicate that they fear abuse. So it does not count someone who suffered an abuse but does not fear future abuse. These cases are likely rare, but we do not know for certain.

¹⁶⁴ Of which 3097 were in the partial year 2009 and 4578 in 2007-8. The difference between threat and actual abuse is slight: 18,226 wrongs or credible threats of wrongs were reported by respondents, whereas there were 17,325 actual incidents.

from the data set. Where interesting for the purpose of analysis, we have also referred to the lifetime incidence of crimes. Just over 51 percent of respondents did not experience any justiciable wrongs in the two years from January 2007 – March 2009. Around 25 percent of citizens experienced a single incident, 12 percent experienced two incidents, while the remaining 12.5 percent experienced three or more incidents.

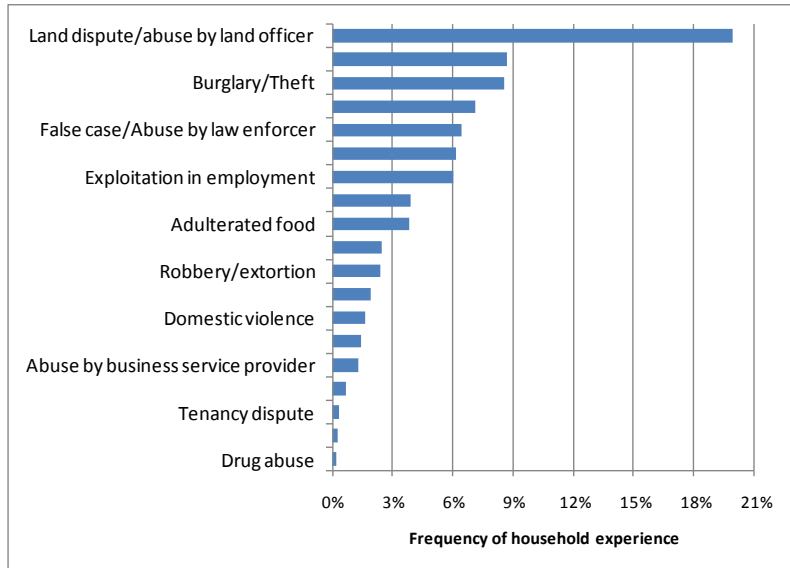
Figure 4.1: Experience of justiciable incidents in the last 2 years



4.1 Overview: Frequency, Nature and Severity of Disputes and Crimes

119. Table 4.1 summarizes the national frequency of a large number of crimes and dispute types for 2007-9, as well as the lifetime incidence. Tables 4.2 displays the frequency of various categories by division for 2007-2009, whereas the divisional data on lifetime experience is found in Annex 6. The 46 categories of disputes and crimes are not all listed, either to facilitate presentation or because the frequency of a particular dispute type was very low. There is some grouping of wrongs: for instance, occupational health and safety violations and breach of employment contract are merged in one category. “Abuse by law enforcer” includes wrongful arrest and “harassment by false cases” either lodged by law enforcement authorities on their own or at the behest of third parties to harass the respondent. Figure 4.2 provides the results at a glance for 2007-9.

Figure 4.2: Experience of incidents in 2007-9, by incident type
(per cent of respondents, multiple responses permitted)



120. The survey results confirm that land disputes are the most frequent dispute type in Bangladesh,¹⁶⁵ experienced by over 20 per cent of respondents over the previous two year period, with a further 3.46 per cent having suffered problems with the land office. Burglary (8.5 per cent, 20 per cent lifetime incidence), harassment and bribery by service providers (8 per cent for utility providers, 7 per cent for health care providers, overall 26 per cent lifetime incidence), harassment by law enforcement and court authorities (6.5 per cent, 15 per cent lifetime incidence), loan recovery (6 per cent, 13 per cent lifetime incidence) and disputes at work (5.8 per cent, 11 per cent lifetime incidence) all feature prominently in terms of the most frequently occurring “justiciable” incidents. In general, when one examines frequency by dispute type, incidents are distributed evenly between urban and rural respondents over the previous two years.¹⁶⁶ Across all divisions except Chittagong,¹⁶⁷ respondents in urban areas faced a greater mean *number* of incidents than respondents in rural areas.

Table 4.1: Frequency of Disputes and Crimes Among Households, 2007-09 and lifetime household incidence

Common Crime	2007-09	Ever
Violence using firearms, murder, arson, assault by non-family member	0.005	0.021
Domestic violence, rape, acid violence (15 of 307 cases were rape or acid violence)	0.016	0.031
Robbery or mugging	0.021	0.060
Burglary	0.085	0.20
Arson	0.0014	0.010
Extortion/kidnapping	0.0034	0.010
Harassment by public officials		
Harassment by service providers	0.072	0.26
Harassment by the judicial system	0.065	0.15
Workplace and consumer abuses and disputes		
Breach of employment contract	0.027	0.043
Suffered workplace injury	0.029	0.067
Purchased adulterated goods	0.034	0.054
Purchased agricultural inputs with misleading labels	0.040	0.051
Commercial and land abuses and disputes		
Unable to recover loan	0.060	0.13
Dispute related to buying/selling land with private individual	0.018	0.041
Dispute with neighbors over land boundaries	0.12	0.22
Dispute over land title	0.045	0.096

¹⁶⁵ A lot of the literature suggests this is the case, although there are no precise figures. IFC/BICF, *Programme Diagnostic and Design for the Process of Review and Simplification of Land Administration in Bangladesh*, (preliminary report December 2008).

¹⁶⁶ The largest disparities were in the case of abuses by law enforcement authorities (4 percent urban, 2 percent rural in 2007-9) in the case of land disputes, 25 percent of urban respondents reported an incident compared with 28 percent of rural respondents.

¹⁶⁷ This may reflect land and inheritance disputes in rural parts of Chittagong Division.

Expropriation of land by gov't.	0.002	0.014
Expropriation of land by powerful people	0.021	0.055
Dispute involving inheritance of land/property	0.024	0.055
Other abuses and disputes		
Dispute involving divorce	0.014	0.034
Violence related to political parties	0.003	0.006
Observations	9753	

Note: The table indicates the fraction of households that suffered the indicated abuse at least once. Few households experience multiple abuses of the same kind. Households may suffer multiple types of abuses and are included in the calculation of the frequency of each abuse type.

Table 4.2: Frequency of Abuses Among Households, by Division (2007-2009)

	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet
Common Crime						
Violence using firearms, murder, arson, assault by non-family member	0.010	0.007	0.004	0.002	0.005	0.002
Domestic violence, rape, acid violence	0.010	0.026	0.009	0.014	0.021	0.007
Robbery or mugging	0.023	0.031	0.025	0.013	0.015	0.013
Burglary	0.050	0.089	0.070	0.113	0.093	0.084
Arson	0.004	0.002	0.001	0.000	0.002	0.000
Extortion	0.005	0.006	0.003	0.002	0.002	0.002
Harassment by public officials						
Harassment by service providers	0.025	0.073	0.045	0.091	0.103	0.077
Harassment by the judicial system	0.071	0.077	0.055	0.071	0.064	0.055
Workplace and consumer abuses and disputes						
Purchased adulterated goods	0.044	0.041	0.026	0.053	0.045	0.033
Purchased agricultural inputs with misleading labels	0.015	0.024	0.019	0.039	0.061	0.033
Suffered workplace injury	0.020	0.034	0.022	0.040	0.030	0.029
Breach of employment contract	0.014	0.039	0.027	0.036	0.018	0.031
Commercial and land abuses and disputes						
Unable to recover loan	0.052	0.072	0.048	0.063	0.069	0.038
Expropriation of land by government	0.003	0.002	0.003	0.001	0.002	0.004
Expropriation of land by powerful people	0.019	0.017	0.025	0.019	0.023	0.018

Dispute involving inheritance of land/property	0.018	0.034	0.028	0.016	0.023	0.007
Dispute related to buying/selling land with private individual	0.019	0.025	0.017	0.020	0.014	0.013
Dispute with neighbors over land boundaries	0.111	0.160	0.108	0.085	0.148	0.089
Dispute over land title	0.041	0.061	0.037	0.035	0.051	0.046
Other abuses and disputes						
Dispute involving divorce	0.010	0.012	0.013	0.021	0.015	0.015
Violence related to political parties	0.005	0.002	0.004	0.003	0.002	0.000

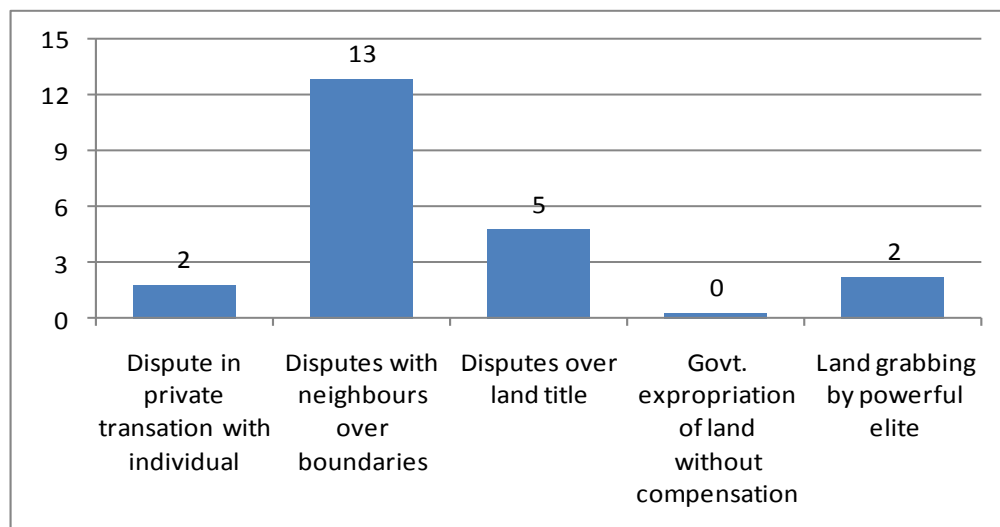
4.1.1 Land Disputes

121. Land is the principal source of disputation and contestation in Bangladesh. Land disputes are the most prevalent dispute type, from everyday disputation between neighbors to very serious abuses of power. Over the 2007-2009 period, 12 per cent of respondents reported boundary disputes with neighbors; 4.5 per cent had problems with land titles. Over 2.1 per cent of households indicated that their land had been grabbed by powerful elites and 0.2 per cent indicated that their land had been expropriated by Government. Over 33 per cent of households reported that they had suffered a land dispute at some stage (a single household may well have faced multiple disputes), eclipsing previous estimates that such disputes affect one-tenth of the population.¹⁶⁸ The survey results would appear to support the prevailing view in the literature that over three quarters of both civil disputes and criminal cases before the courts are land-related or arose from land disputes.¹⁶⁹

¹⁶⁸ Abul Barkat and Prosanta K Roy, *Political Economy of Land Litigation in Bangladesh, A case of colossal national wastage*, (Association for Land Reform and Development, 2004).

¹⁶⁹ The aggregate number of land related cases currently in court in 2004 is estimated at between 800,000 and 3,200,000, and the average time of completion for cases is 9.5 years: see background paper prepared for Khan, *Human Security Assessment for Bangladesh 2005, 2006*. International Finance Corporation, *Programme Diagnostic and Design for the Process of Review and Simplification of Land Administration in Bangladesh*, (preliminary report December 2008).

Figure 4.3: Experience of Land Disputes in the Last 2 years, by Incident Type



122. These numbers are quite extraordinary, reflecting at once a very weak property rights regime and possibly the most intense demographic pressure on land in the world. Bangladesh is the world’s most densely populated country outside city-states and micro-states,¹⁷⁰ and faces a unique set of ecological challenges. Large parts of the population live in ecologically fragile areas which disappear during regular flooding and rising sea levels are reducing the physical size of the country.¹⁷¹ One form of land dispute, *char dakhla*, appears to have no equivalent in other countries, and involves the fight to possess recently surfaced deltaic land (“accreted land”) through force of arms.

123. Bangladesh remains a largely agricultural country,¹⁷² is severely land-poor and the incidence of landlessness is said to be rising.¹⁷³ At the same time, almost two decades of steady economic growth of 4-5%¹⁷⁴ and rapid economic development in and around urban centers has raised land values significantly and rapidly. In light of a stratified social setting where elite capture is common, some commentators have argued that speculators sometimes deploy political

¹⁷⁰ 979 people per square kilometer (Bangladesh Bureau of Statistics, *Welfare Monitoring Survey Report*, 2009).

¹⁷¹ The *CIA Factbook* 2009 estimates that Bangladesh is 143,998 sq km in size, with 9 million hectares of arable land. It is estimated that with a one meter inundation depth, an area of about 23,764 sq. km. of land will be affected by 2050. If it is over three meters of inundation depth, the area affected will be 17, 193 sq. km: World Bank, *Vulnerability of Bangladesh to Cyclones in a Changing Climate*, Policy Research Working Paper 5280.

¹⁷² Over three quarters of the population resides in rural areas, and more than 60 per cent of the labor force is engaged in agriculture.

¹⁷³ Mushtaq Khan, *Bangladesh Human Security Assessment 2005*, (2006: DFID), p32.

¹⁷⁴ World Bank, *Strategy for Sustained Growth*, 2007.

power, *mastaans* and grand corruption to capture land that is rapidly appreciating in value.¹⁷⁵ Estimates indicate that more than a quarter of the country's arable land is disputed.¹⁷⁶

124. As the price of land has increased, the failures in the antiquated and complicated property rights regime in Bangladesh – based on a mix of secular, customary and religious law – and a land administration system characterized by an absence of transparency and reliability have become more noticeable. Land registration records are unreliable. Instruments take effect from the date of execution, not the date of registration, so a bona fide purchaser can never be certain of title.

125. While land disputation is high throughout the country and there is not significant spatial variation, land grabbing is most prevalent in Dhaka division, where land values are highest and the incentives to land grab or challenge ownership claims are presumably greatest. Chittagong Division registers the highest *lifetime* incidence rates of expropriation of land, as well as disputes involving inheritance of land, buying and selling with a private individual and disputes with neighbors over land boundaries. This likely reflects not only the industrial growth in urban Chittagong but also the historical dispossession of the tribal population¹⁷⁷ from the Chittagong Hill Tracts after the region's special autonomous status was revoked in 1964, and the area was opened up to economic exploitation.¹⁷⁸ The figures are likely to reflect the legacy of tribal lands being taken away¹⁷⁹ and ongoing competition between the tribal population and Bengali settlers – since the 1970s, successive governments have promoted the migration of Bengalis to the Hill Tracts region. Chittagong also has high levels of disputes over land title. Even in 2007-9,

¹⁷⁵ Khan cites qualitative evidence of powerful political figures capturing high-value land near urban centers, such as Gazipur, Narayanganj and Ashulia. Victims are often squatters and slum dwellers, but also middle class owners whose incomes (to buy protection) are not commensurate with the new values of their land. See also Mahbub Ullah 1996. *Land, Livelihood and Change in Rural Bangladesh*. Dhaka: University Press Limited; Titumir, Rashed Al Mahmud (2006). *Contestations of Power and Security of Property*, an input paper into *Human Security Assessment*, fn 8.

¹⁷⁶ Abul Barkat and Prosanta K Roy, *Political Economy of Land Litigation in Bangladesh, A case of colossal national wastage*, (Association for Land Reform and Development, 2004).

¹⁷⁷ The Chittagong Hill Tracts (CHT) region of southeastern Bangladesh borders tribal areas in neighboring India and Burma. The region contains significant natural gas deposits, covers 10 percent of Bangladesh's territory, and 60percent of the country's reserve forests. The Chittagong tribes differ significantly from the majority Bengali Muslim community, in terms of linguistic diversity, different social customs and religious traditions (animist and Buddhist). The tribal population consists of 13 tribes, of which the Chakmas are the largest, making up almost half of the group's population. See further, James D. Fearon and David Laitin, "Sons of the Soil, Migrants and Civil War", *World Development*, 2011 (forthcoming); KM de Silva, *Conflict and Violence in South Asia: Bangladesh, India, Pakistan and Sri Lanka* (Kandy, ICES, 2000).

¹⁷⁸ The geographic and social isolation of the tribal groups ended with the building of the Kaptai Hydroelectric Dam in the early 1960s. Along with flooding more than 40percent of the arable land in the CHT, more than 100,000 Chakmas were displaced (some 25percent of the area's population). The tribal population was subject to violent attacks by Bengali settlers and this led to the formation of a self-defense organization, whose military arm, the Shanti Bahini (Peace Force), launched an armed struggle in the mid-1970s for independence or widespread autonomy. The campaign continued until a peace accord was signed in December 1997 to end the two-decade long rebellion that cost over 25,000 lives. The agreement provides some measure of autonomy for the Chittagong Tribes, although tribes remain substantially underrepresented in the political and economic arenas primarily due to historical neglect.

¹⁷⁹ The tribal population also wants an end to Bengali migration, the return of tribal lands that were confiscated and transferred to Bengalis, and an end to communal attacks against group members.

Chittagong division registers the highest figures for disputes over land title, those involving inheritance, the selling of land to a private individual and disputes with neighbors.

126. Further qualitative work is required to “drill deeper” into the results obtained through the survey. For instance, we need to better understand the differences between rural and urban land disputation, which have been argued by some analysts to be very different, both in terms of drivers and consequences.¹⁸⁰ A household survey such as this is unable to determine the nature of the nexus between land disputes in rural areas and the *lathial violence*¹⁸¹ that is documented in the literature to threaten the lives of the poor. Further work is also required to explore links between land grabbing and the electoral cycle, to better understand whether different politically-affiliated factions capture land from each other in a cyclical manner, as is claimed by Khan. A research method known as case file analysis may also provide some insights into how the courts are dealing with land cases at present. Such a research program would be helpful if one was to focus on some feasible land-related interventions, which target land-related impediments to economic growth as well as protection of the most vulnerable groups, rather than wholesale reform of land administration.

4.1.2 Crime

127. Crime is a function of many social and economic factors, not only the state’s exercise of its law enforcement function, including social cohesion profile of a community, the extent to which norms are internalized by citizens, and the extent to which community sanction is an effective deterrent. Over the period 2007-9, 8.5 percent of households reported a burglary; 2.1 percent reported a robbery for the same period. The lifetime household incidence for burglary was 20 percent, whereas 6 percent of respondents indicated that they or someone in their household had *ever* been a victim of at least one robbery or mugging. Approximately 0.5 percent said that violent crime had touched their household over 2007-09, whereas four times that number indicated that they or someone in their household had *ever* been a victim of a violent crime.

128. Data on robbery, assault and burglary are available for other countries. The United Nations conducts occasional crime victimization surveys (ICVS); the last ones were undertaken in 1996 in Asia, Africa and Latin America. While the ICVS results refer to the calendar year preceding the survey year and are thus not directly comparable to the Bangladesh survey data, one can use the total abuses reported in the partial 2009 period and the two year period 2007-

¹⁸⁰ Khan (2006: DFID) argues that land grabbing by the more powerful has always been a feature of rural Bangladesh. This includes grabbing the land not only of the relatively weak, but also lands that are public property, including *khas* land earmarked for the poor, publicly owned water bodies and parts of rivers rich in fish. Surveys of land holdings show high levels of market and non-market transfers of rural land. The net effect of all the land transfers is therefore often described as ‘churning’. This, together with demographic growth and the land subdivision that happens when families grow, results in complex outcomes. There is *a*) a growth in landlessness, but also *b*) a growth in the share of marginal and small farms (under 2.5 acres), and *c*) a *decline* in the share of medium to large farms (over 2.5 and over 7.5 acres), which are the key to increasing agricultural productivity.

¹⁸¹ Rural land-grabbers often employ gangs of *lathials* (literally stick-wielding thugs) for this purpose.

2008 to establish a plausible range for the yearly incidence of crime in Bangladesh.¹⁸² By developing country standards, the incidence rates for these crimes is in the low to moderate range and is certainly low compared to rates in Africa and Latin America. This may have its roots in various factors, including Bangladesh's relative ethnic homogeneity outside the Chittagong Hill Tracts, but also speaks to the fact that there is not a power vacuum at local level. Bangladesh has not suffered an outbreak of violent conflict outside the political cycles, and the separatist conflict in the Hill Tracts, although high levels of violence inside the household have long been documented.

129. The imputed 12 month incidence rate of burglary in Bangladesh, depending on the method of calculation, is between 2.5 per cent and 3.5 per cent, just higher than the Asian mean of 2.3 per cent.¹⁸³ It is higher than Indian burglary rate (the lowest in Asia at 1.4 percent) and lower than 3.9 percent in Indonesia. By way of contrast is the category classed as "contact crime" by the ICVS – robbery, sexual violence and assaults with force. These (roughly) correspond to three abuse rubrics in the Bangladesh survey, robbery or mugging, violent crime, and domestic violence, which were reported by 4.2 percent of respondents over 2007-9. Using the same procedure as with burglary, the imputed yearly rates in Bangladesh for this category range from 1.24 to 1.72 percent. This is substantially lower than in India (3.5 percent), China (3.4 percent), Indonesia (5 per cent) and the Philippines (3.1percent).

130. These figures compare very favourably with Africa and Latin America. The burglary rates are 8.3 percent in seven countries in sub-Saharan and North Africa and 5.3 per cent in six countries in Latin America. The corresponding "contact crime" figures in Africa are 9.7 per cent and 15.8 per cent in Africa and Latin America. While the burglary figures in Bangladesh and other developing countries are much higher than for developed countries,¹⁸⁴ the levels of contact crime are not (although refer to the discussion of domestic violence below regarding the limitations of the data in Bangladesh).

¹⁸² The average number of abuses reported per respondent for the 2009 partial year period was .32. The average number reported for the 2007-2008 period was .47, or .235 per year. And the average reported for the entire 2007-2009 period was .79. The abuses reported in 2009 are therefore .32/.79 of the total, or 41 percent of the total reported over the period 2007-2009. Half of the abuses over the 2007-2008 period correspond to 29.5 percent of the total. This trend suggests either that abuses were rising over the period, or respondents' recollections of the precise timing of abuses faded for the earlier period. One can use either 41 percent or 29.5 percent as the adjustment factor with which to estimate the yearly incidence of, for example, burglaries, from the total reported in Table 1 for the period 2007-2009. If one assumes that 41 percent of total reported burglaries occurred in 2009, then the fraction of respondents that would have reported a burglary over the past 12 months would have been at least $.41 * .085$ (at least, because 2009 was a partial year), yielding an incidence of 3.5 percent of respondents.

¹⁸³ In the four countries in Asia -- Indonesia, the Philippines, India and China -- 2.3 percent of respondents reported being victims of a burglary in the past year.

¹⁸⁴ Alvazzi del Frate, Anna (1998). *Victims of Crime in the Developing Countries*. UNICRI Publication no 57, Rome, http://rechten.uvt.nl/icvs/pdf/files/c01_57.PDF. Crime statistics collected by the Federal Bureau of Investigation in the United States show that, in 2008, the number of burglaries was 0.7 percent of the total population and the number of violent crimes was 0.45 percent of the total population (FBI Uniform Crime Statistics, <http://www.fbi.gov/ucr/ucr.htm>). Since the entire population includes a large number of individuals (e.g., children) who would not be surveyed in the crime victimization surveys, these numbers would be higher if they had been based on such surveys.

131. While there are substantial inter-divisional variations in reports of all types of abuses, including crime, there is no clear narrative emerging from the data,¹⁸⁵ apart from the conclusion that Dhaka has low to moderate rates of crime when compared to other divisions (when one looks at both the 2007-9 period and lifetime incidence). To complement this household survey, it may be a useful exercise to undertake focus group discussions in a number of primary sampling units (PSU), in order to undertake a more robust assessment of the influence of community level institutions and infrastructure on respondents' experiences (with a qualitative rating being given to each PSU).

4.1.3 Gender-based Violence: Domestic Violence and Dowry

132. The figures for domestic violence have to be treated with some caution. The data suggests that 1.5 percent of households suffered domestic violence during the period 2007-9 and that 1.6 percent of households either paid dowry or had dowry solicited from them. The BRAC survey, which covers the period 2006-7, suggests that 2.6 percent of households experienced domestic violence and 2.7 percent made a dowry payment. Domestic violence and dowry are considered together because of a close link between them -- the escalation of dowry demands over the last half century among Muslims and Christians in Bangladesh¹⁸⁶ has created another manifestation of violence against women.¹⁸⁷ When asked what crimes most frequently occur in their area in the BRAC survey, 64 percent of respondents cited dowry-related problems, the most frequent response. The qualitative research in this area suggests that some men explicitly claim that the inadequate dowry gives them a right to abuse their wives.¹⁸⁸

133. Those familiar with the qualitative research on gender violence find the figures for domestic violence very low if one interprets them to refer to any assault or psychological abuse inflicted by intimate partners or household members. The World Health Organization's Global Survey (2005)¹⁸⁹ and the survey undertaken for the World Bank's Gender Assessment (2008) reflect a problem of very different magnitude. The WHO study, which examined two sites (urban

¹⁸⁵ Over the period 2007-9, Chittagong records the highest rates of robbery or mugging (3.1 per cent), extortion (6 per cent) and domestic violence (2.6 per cent), and is the division which has the second most frequent recording of violent crime (0.7 per cent). Khulna records the highest rates for burglary (11.3 per cent), followed by Rajshahi (9.3 per cent), with the lowest rates being in Barisal (5 per cent). Barisal has the highest rates of violent crime, although this sits oddly with the results on apprehension of crime. If one looks to the lifetime incidence of various crimes, Khulna has high rates of burglary (25.5 percent) and has the highest rates of extortion (1.6 per cent). Chittagong has the highest rates of robbery or mugging (7.5 per cent) and domestic violence (4.8 per cent), and the second highest rate of violent crime (3.1 percent). Sylhet has the highest rates of violent crime (3.6 per cent) and arson (2 per cent). Barisal has the lowest rates of burglary 11.7 percent, and low rates of domestic violence (2.7 per cent), while Rajshahi records the lowest rates of violent crime, robbery, extortion and arson.

¹⁸⁶ A relatively new phenomenon amongst non-Hindu Bengalis.

¹⁸⁷ Santi Rozario, *Purity and Communal Boundaries: Women, and Social Change in a Bangladeshi Village* (Dhaka: University Press Limited, 2001).

¹⁸⁸ In the words of one man cited by White, "I'll take out the difference in beating": Sarah C. White, *Arguing with the Crocodile: Gender and Class in Bangladesh* (London: Zed, 1992). See also other studies of rural Bangladesh which discuss wife-beating and/or rape: Betsy Hartmann and James K. Boyce *A quiet violence: view from a Bangladesh village*, (London: Zed, 1983); Kabeer (1989).

¹⁸⁹ World Health Organisation, *WHO multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses*, (WHO, 2005).

and rural), indicated that 62 per cent of women in the provincial location and 53 per cent in the city location have experienced physical or sexual violence at least once. Further, 21 per cent said they had experienced moderate violence from an intimate partner and a further 19 per cent in both locations said they had experienced severe violence. The World Bank Gender Norms Survey 2006¹⁹⁰ indicated that 24 percent of women in the 45-60 age group and 30 percent of women in the 15-25 age group reported ever experiencing violence from their husbands. Over 43 percent of male household heads reported having been violent to their wives.

134. The disparity between the figures reflects more general difficulties associated with measuring rates of domestic violence in a household survey as opposed to more focused respondent-centric methodology.¹⁹¹ With a household survey, men are more likely to under-report an incident of domestic violence or not perceive domestic violence as a serious occurrence in the first place. Female respondents are likely to either internalize domestic violence as a way of life or feel a level of shame or taboo about the topic. Further, female respondents may feel that they have to speak on behalf of the household when they are asked to nominate the most serious incident faced by the household -- in a very poor country, those crimes or disputes with serious economic ramifications are likely to take precedence if a woman speaks on behalf of her household.

135. The most plausible explanation of the figures for domestic violence is that is that it represents only the most serious incidents (serious beating occasioning injury or requiring medical attention). This interpretation is supported both internally by the survey results and by the existing qualitative research. Studies of rural Bangladesh suggest that while a certain level of beating may be tolerated and accepted as one of the gender dimensions of the social order in Bangladesh, severe brutality may provoke community outrage as unacceptable.¹⁹² Such incidents may be seen as the type worthy of reporting. Of the 2.2 per cent of respondents who indicated that domestic violence had affected their household in the previous seven years, 0.7 per cent of respondents described that incident as the most serious that had affected the household.

136. The division with the highest domestic violence rate is Chittagong at 2.5 per cent, consistent with the division's greater social conservatism in terms of gender norms. Dhaka has the lowest rate at 0.8 per cent, perhaps the result of the moderating influence of stronger "fallback" positions for women, who have better opportunities of paid work and more opportunity to leave violent relationships than in rural Bangladesh.¹⁹³ Female respondents reported domestic violence more frequently than men. Three times as many female urban respondents identified that the household had experienced domestic violence as male respondents, with twice as many rural women reporting domestic violence as men.¹⁹⁴

¹⁹⁰ Discussed in depth in: *From Whispers to Voices, Gender Assessment for Bangladesh* (World Bank, 2008).

¹⁹¹ Half the sample consisted of men, the female respondents were asked to speak on behalf of their households rather than individuals and to focus on the most serious incidents affecting them, which may have reduce the extent to which they focus on domestic violence except that occasioning serious injury.

¹⁹² Hartmann and Boyce (1983:78-9) note a case of angry villagers tying up and assaulting a man who had beaten his wife too brutally. White (1992:137) mentions that in Faridpur district, a *bichar* (a community hearing) might take place in such cases.

¹⁹³ The BRAC/Saferworld study noted that the subject was not discussed in detail during focus group discussions, because it was still somewhat taboo.

¹⁹⁴ See annex 5.

4.1.4 Abuses by State Actors – Law Enforcement and Service Providers

137. State actors are the perpetrators of significant abuses of citizens. High levels of *hoirani* or harassment associated with bribe-taking and denial of service are recorded by service providers (utility service providers, land administration officials and personnel in health facilities). In the period 2007-9, 7.2 percent of respondents experienced such an incident, whereas the lifetime incidence was 26 percent. There was much variation across divisions. During 2007-9, Khulna and Rajshahi had the highest levels of harassment by service providers, with Barisal having only a quarter the incidence (indeed, if one looks at lifetime incidence, Barisal has half the levels of Rajshahi and Khulna).

138. Of the problems with service providers, respondents most frequently encountered problems with health care providers. This finding provides some explanation of the reason why only 7.5 percent of patients seek care for illness from a government doctor in a government institution -- preferring to consult a private pharmacy (38.6 percent), private doctor (24.4 percent) or government doctor in private practice (15.1 percent)¹⁹⁵ -- despite a lot of resources being channeled into government-run upazila health care centers. While government rural posts remain vacant and absenteeism is high,¹⁹⁶ the high levels of harassment and ill-treatment by government doctors as suggested by this survey would also appear to provide some explanation.

139. Seven percent of households indicated that they had experienced harassment by land administration officials. Most of these complaints emanate from households that recorded land disputes of various kinds. For example, 20 percent of households that report a title dispute also report harassment by land administration officials, compared to 6 percent who did not report a title dispute. Twelve percent reported harassment by utilities service providers (water or electricity). Among households with electricity (slightly more than half of total respondents), 16 percent complained about electricity authorities.

140. Harassment by law enforcement and court authorities is a significant concern. In the period 2007-9, such harassment affected 6.5 percent of households. Over fifteen per cent of respondents reported that they or members of their households had ever been arrested or detained without any reason (494 cases); had been victims of harassment by law enforcement authorities (police, the Rapid Action Battalion, other security sector actors including the military – 312 cases); or had false cases lodged against them by law enforcement authorities (at the behest of third parties or as a means of extracting bribes – 1098 cases). In contrast to service provision by

¹⁹⁵ *Household Income and Expenditure Survey 2005*, cited in *Public Expenditure and Institutional Review Towards A Better Quality of Public Expenditure*, Volume II: Sectoral Analysis, June 2010, p26.

¹⁹⁶ According to Chaudhury and Hammer, the vacancy rate for all types of providers in rural health centers nationwide was 26 percent, and absentee rates for physicians were over 40 percent. Government doctors serve almost twice as many patients in their private practices as they do in their government jobs. Nazmul Chaudhury and Jeffrey Hammer, “Ghost Doctors: Absenteeism in Bangladeshi Health Facilities”, (World Bank Policy Research Working Paper, 2003).

other state actors, there is no division in which residents are significantly less vulnerable to arbitrary behavior by police or judicial authorities. Abuses by law enforcement and court authorities was relatively evenly distributed across the divisions, with Chittagong having the highest levels. Khulna has the highest lifetime incidence rate for such abuses (18.2 percent), consistent with the high rates of extrajudicial killings by security sector actors described in Chapter 3. These numbers are consistent with the figures that indicate that citizens' interactions with the criminal justice system as defendants are very high: 7 percent of households have a member who has at some stage been detained by the police or other security sector actors; 4.3 percent have a member who has at some stage been charged of an offence and imprisoned pending trial; and 1 percent of households have a member who has been convicted of an offence.

141. Rural households are significantly less likely to encounter abuses by either law enforcement authorities or by service providers. This could reflect scarcer public services in rural areas, giving rural respondents fewer encounters with these officials.

4.1.5 Political Violence

142. Political competition in Bangladesh has historically been associated with violence.¹⁹⁷ The survey was fielded in early 2009, after two years of a military-backed Caretaker Government and a period of considerably improved law and order, due to the 23 month state of emergency. On the one hand, the usual partisan political rivalries were moderated during this period, as was the ruling party's tendency to utilize law enforcement agencies and the courts against rival political party networks. On the other hand, the CTG itself spearheaded an effort to restructure the nature of political competition in the country through a combination of means. The CTG conducted an anti-corruption drive in conjunction with its law and order drive that resulted in the arrest of large numbers of senior politicians as well as lower cadres and the organized groups that are affiliated with the major parties. Attempts at political party reform and electoral reform were made, and new parties were encouraged to emerge,¹⁹⁸ although these efforts proved ultimately to be unsuccessful.

143. The survey asked respondents about their experience with violence related to conflict between political parties. Eight percent of respondents categorized themselves as active members of political parties. Three percent of these respondents reported ever experiencing violence associated with parties, compared to 0.4 percent of the remaining respondents. Rates of political violence varied substantially across divisions. In Rajshahi, little more than 0.5 percent of party members reported ever experiencing violence associated with inter-party conflict

¹⁹⁷ "Party Politics and Political Violence in Bangladesh", South Asian Survey, Vol. 16, No. 1, 81-99 (2009); Sreeradha Datta, "Political Violence in Bangladesh: Trends and Causes" 427 *Strategic Analysis*, Vol. 29, No. 3 Jul-Sep 2005, (Institute for Defence Studies and Analyses), p 427. Datta argues that "Notwithstanding the institutionalisation of electoral democracy, political tolerance is lacking and criminalisation of politics has become an established norm with criminals/dons being the patrons and the main beneficiaries of the politicians. Money power plays a large role in this nexus between criminals and politicians."

¹⁹⁸ The most visible case involved plans by Nobel Laureate, Mohamed Yunus, to launch his own party, which was abandoned only months after it was announced.

compared to 4.9 percent in Khulna. One should not make too much of these numbers, since the survey sample was not drawn to be representative of members of political parties in Bangladesh. However, they provide some confirmation of the high level of violence associated with political competition. Even in Rajshahi, one out of every 200 party members experienced violence, which is already high by the standards of stable democracies. One out of 20, the rate in Khulna, is correspondingly extremely high.

4.1.6 Workplace Disputes

144. During 2007-9, 2.9 percent of households report workplace injuries, whereas 6.9 percent of respondent households report such an injury having ever occurred. These figures extrapolate to almost 870,000 households experiencing such injuries in the 27 month period from 2007-March 2009 (note that some of these households may have suffered multiple incidents). These figures would appear to confirm a problem of the magnitude suggested by the International Labour Organization. The ILO estimated in 2008 that 1700 workers died in industrial and service sector accidents annually (with over 12,000 deaths in the agricultural sector) and that a further 1.2 million suffered workplace injury. For the same period, official Government statistics indicate 12 deaths.¹⁹⁹

145. It is unsurprising that in a setting of great poverty and scarcity of employment opportunities, employees not only accept lower wages, but also more hazardous jobs. Despite labor laws, including occupational health and safety legislation, there is virtually no regulation and enforcement of workplace safety, except arguably in workplaces that are linked to the international economy which appear to be subject to more effective compliance regimes (whether due to their location in Economic Processing Zones or through the corporate social responsibility programs of the buyers of Bangladeshi products). Most employers have little understanding of their legal obligations and are provided minimal guidance to help understand what they need to do to comply with the law. Up to 80 per cent of workers are said to be engaged in informal and unregulated jobs without legal protections, with nearly two thirds of Bangladeshis employed in the agricultural sector.

146. Only 3 percent of the workforce is unionized²⁰⁰ and there are many restrictions on freedom of association.²⁰¹ Unions at a workplace level tend to be very weak, and only gain

¹⁹⁹ The Bangladesh Institute for Labour Studies states that in 2005, there were 480 workers killed by accidents or violence against workers in the workplace, and 950 injured.

²⁰⁰ There are various figures as to the size of the workforce, but union membership estimates remain similar. The United States Bureau of Democracy, Human Rights and Labor (2010) indicates that the total labor force was approximately 50 million, of whom approximately 1.9 million belonged to unions, many of which were affiliated with political parties. The ICFTU states three years earlier that the total work force is approximately 65 million persons, of whom 1.8 million belong to unions: International Confederation of Free Trade Unions (ICFTU), *Internationally recognized Core Labour Standards in Bangladesh, Report for the WTO General Council Review of the Trade Policies of Bangladesh*, (Geneva, 13 and 15 September, 2006). Two million textile workers fare badly both inside and outside the country's export processing zones (EPZs) according to the ICFTU.

²⁰¹ Unions must have government approval to be registered, and no trade union action can be taken prior to registration. Yet before a union can be registered, 30 per cent of workers in an enterprise have to be members and the union can be dissolved if its membership falls below this level. Civil service and security force employees are forbidden from joining unions because of their allegedly political character. Teachers in both the public and the

strength by allying themselves to a national federation. The national unions do not appear to form part of a genuine social movement.²⁰² They are often affiliated with the political parties, controlled by political figures, are involved in political action and strikes, and are not interested in disputes at a workplace level.

147. Workplace injuries are highest in Khulna, with 11.9 percent of respondent households having suffered a workplace injury, more than twice the incidence in all other divisions except Chittagong (7.1 percent suffered harm). Khulna is home to hazardous industries such as shipbreaking, as well as industries producing jute, textiles and hardboard. The difference between the rates of industrial injury in Khulna and the country's two major industrial centers in Dhaka and Chittagong is perhaps explained by the fact that many of the industries in Khulna are producing items for the domestic market, and have even fewer protections for workers than those producing goods for export. The greater integration of the factories in the larger industrial centers with the global economic community and the exposure to global pressure to mitigate workplace hazards might explain the difference.

148. Two percent of respondents report that employers breached the terms of labor contracts with someone in their household. These results imply a substantial degree of contractual insecurity in labor markets, where jobs are scarce and employees have little ability to demand tenure guarantees from employers.

4.1.7 Other Dispute Types

Consumer abuses

149. Nearly 10 percent of all respondents report adulterated foods or mislabeled agricultural products. Consumers are more exposed to adulterated goods in markets in which producers have not developed brand name reputations that they lose in the event of selling dangerous products or products that are not as advertised, where there are no consumer groups or government agencies that make and publicly disseminate a record of such products, where consumers confront high costs to using government agencies and the judiciary to enforce their contractual rights or where the regulatory and law enforcement agencies effectively protect the perpetrators of breaches of product standards.

150. The figures for known food adulteration are likely to be significantly lower than the actual incidence, since a victim of food adulteration is often unaware that the food they have ingested is dangerous. Toxins and carcinogens added to food are often not detectable except in fatal doses. Adulteration of agricultural inputs (primarily fertilizer) was predictably a much more substantial problem in rural areas (5 percent *cf* 1 percent).

private sector are not allowed to form trade unions either. Managerial and administrative employees can form welfare associations, but they are denied the right to join a union. See further, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices 2009*, March 11, 2010.

²⁰² Many trade unions do not appear to place the safety and working conditions of workers as their primary concern, or the advocacy of broader political, social and economic issues that impact on their lives. The private sector is less unionized and trade unions are virtually absent in the Export Processing Zones (EPZ). (ICFTU, 2006, *fn* 198 above).

Loan Recovery

151. Six percent of respondents reported having difficulties in recovering a loan over the period 2007-2009, with 13 percent indicating a lifetime incidence of such a problem. Interpretation of this result is difficult. Such loans do not appear to be explicitly contractual and arm's length, but rather informal loans to family or friends. Over 97 percent of those respondents who cited loan recovery as a problem indicated that they knew the other party. There is a significant difference between respondents who are members of NGOs (14.5 percent of whom report difficulties with loan recovery) and non-members (12.2 percent of whom report difficulties with loan recovery). This could be simply reflecting the fact that NGO participants are more involved in the informal financial market. There is evidence that micro-credit participation and informal financial market participation are positively correlated.²⁰³

Family Disputes

152. Approximately 3.1 percent of households report ever having suffered disputes related to divorce and separation, such as problems related to the maintenance of wife and children (1.6 percent in the 2007-9 period), or not receiving a dower. Divorce-related disputes are reported more frequently in Khulna, Rajshahi and Sylhet than in Barisal, Chittagong and Dhaka. The figure for Sylhet is something of a surprise. According to the available research, the division is a socially conservative one, a characteristic one would assume would mitigate against high rates of divorce. Possible explanations include the separation of husbands and wives due to the extent of migrant labor that is exported from the division, with remittances coming to 25 percent of households. However, this would not account for the division having substantially higher divorce rates than Chittagong division, where 26 percent of households receive remittances.

4.2 Severity of Legal Violations as Perceived by Respondents

153. The survey attempted to chart which legal violations (criminal actions, human rights violations and civil wrongs) are the most serious for the average citizen, in terms of increasing vulnerability. When respondents were asked to nominate the most serious incident affecting the household, they most frequently identified land disputes (14.9 per cent of disputes with neighbors over boundaries, and 6.47 per cent disputes over land title), followed by personal property loss/burglary (12 per cent), false cases lodged for the purposes of harassment (8.5 per cent) and difficulties recovering loans (7.1 per cent). All of these incidents have considerable economic and livelihood impacts, in addition to creating high levels of distress and worry.

²⁰³ Cross financing between informal and microcredit and its affect on informal creditworthiness of microcredit borrowers have been reported in other studies: Sinha and Matin, 1998.

Table 4.3: The most serious incident affecting the respondent’s household (if experienced any incident)

	Frequency	Percent
Abuse by utility providers	389	7
Abuse by land office	152	3
Abuse by health care providers	302	5
Abuse by business service provider	54	1
Abuse by law enforcer	162	3
Harassment by false case	481	8
Exploitation in employment	304	5
Adulterated food	93	2
Substandard agriculture inputs	151	3
Business dispute	450	8
Land dispute	1,549	28
Dispute involving divorce	138	3
Dispute over inheritance	181	3
Dowry	148	3
Domestic violence	71	1
Burglary	676	12
Robbery/extortion	199	4
Violent crime	56	1
Other	55	1
Number of observations (n)	5,628	100

154. While the economic impact of personal property crime is self-explanatory, false cases and land disputes are the most costly disputes to resolve for respondent households in terms of both formal and illegal payments (as is described in detail in Chapter 5). False cases may entail a loss of liberty and require time and money to resolve, and involve the loss of respect and social standing as well. Harassment by health care providers also rates quite highly – apart from the inherent harm inflicted by the absence of health care when a person is unwell, the loss of health also has potential livelihood impacts when it prevents participation in the labor force in a context where legal protections are virtually absent.

155. When asked about the non-economic costs of the most serious incident faced by respondents, emotional distress or worry was identified as a significant consequence across all dispute types at very high rates. Over 40 percent of those facing false cases were concerned about the loss of social respect or family name, as were 18 percent of those who faced a neighborhood dispute and 12 percent of those who faced a dispute over land title. Physical harm to a family member was cited as a concern by over one-fifth of those who suffered an abuse by health care providers (presumably the deleterious consequences of being denied medical treatment). Almost ten percent of those who had false cases lodged against them cited physical harm and 5 percent cited restricted mobility, likely related to the loss of liberty and possible mistreatment in custody. Ten percent of those involved in disputes with neighbors over boundaries cited physical harm (presumably violence evolving from a dispute).

4.3 Correlates of Vulnerability

156. The survey asks about a large number of personal and household characteristics that might affect the likelihood that a respondent's household will suffer a crime or dispute.²⁰⁴ Table 4.4 presents the regression analysis that was undertaken -- it presents correlates of vulnerability for suffering any dispute or crime, and then looks at eight specific incident types. Annex 6 contains several other tables containing the regressions that form the basis for the discussion that follows. These tables present correlates of all abuses (2007-9) by division, as well as the correlates of two specific categories of disputes (land grabs by private individuals and abuses by law enforcement and judicial authorities) by division.

157. *Wealth* is positively correlated with vulnerability to property crimes. This makes immediate sense in the case of burglary and other property crimes (since these households have more to steal), although there may also be other more subtle narratives at play.²⁰⁵ The different variables that should track household income and wealth are generally, if anything, positively associated with abuse: wealthier households seem to be targets. For instance, the number of rooms in a house also has a positive effect on the probability of experiencing judicial and police abuse.

158. Eight percent of respondents for whom dispute incidence data are available are active members of political parties. Those who are *politically active* are more vulnerable to most types of wrongs except land appropriation, especially abuses by law enforcement authorities. This finding is unsurprising in a country with a deep partisan political divide and where the Caretaker Government had spent a large part of its two year tenure targeting the main political parties with a law and order campaign. Consistent with the CTG's attempt to reshape the nature of political

²⁰⁴ Many other variables contribute to the probability of suffering abuse but cannot be observed. Many of these are unchanging characteristics of districts and are taken into account with the district fixed effects (differences across villages do not matter if estimates are based only on differences between households within villages). Another important concern is that controls for a large number of fixed effects (e.g. like the controls for 63 districts) lead to biased estimates when estimating non-linear models like the probit or logit (and unlike ordinary least squares). However, while theoretically a concern, in this case no bias seems to emerge. The results are similar using ordinary least squares with fixed effects – this approach is inefficient (the dichotomous dependent variable demands a non-linear estimation approach), but not biased. The tables in Annex 6 repeat the regressions in the first, third and fifth columns of Table 4.4, respectively (looking at correlates of all abuses; land expropriation/land grabs; and judicial/police harassment), but estimates the correlates of the abuses for each division separately. As in Table 4.4, all estimates control for district fixed effects. The results are uniformly less significant (not surprising, given relatively few experiences of many abuses in different divisions).

²⁰⁵ A number of variables are included in the regressions to control for wealth and household position: the construction quality of the home (whether the house is made of hay or wood, as opposed to cement); the number of rooms in the house; and whether the household owns the home and the size of the plot on which the home is located (the value of homes differs dramatically across the country, but district fixed effects control for cross-district variations in home prices). To indicate both the level of public services to which the household has access, there is also a control for whether households have electricity. Households with cattle are wealthier than other (rural) households without cattle. Most of these are not significant and are not displayed in the table. The regressions also control for dependency ratio of a household (the number of household members 15 years old or younger or 65 years old or older). A second measure of dependency is also taken into account, the fraction of total household members who earn no income. These are usually insignificant.

competition in the country, party members were more likely to respond that they had been victims of harassment by law enforcement and judicial authorities. Almost eleven percent of party members reported this category of abuse during the 2007-09 period. Violence related to directly to the political parties was reported by 1.7 percent of those respondents. Party members are (weakly) more vulnerable to all abuses in Dhaka district.

Table 4.4: Correlates of Vulnerability to Abuse ((Probit regressions; marginal effects reported; z-statistics in parentheses) (2007-2009)

	Any Abuse	Service delivery	Law Enforcement/ Judicial	Mislabeled Products	Adulterated Food	Land Expropriation (Private)	Land Expropriation (Govt)	Robbery	Burglary
NGO Membership	0.037 (0.00)	0.016 (0.00)	0.019 (0.00)	-0.0051 (0.03)	0.0013 (0.71)	0.00051 (0.86)	0.0018 (0.21)	0.0041 (0.12)	0.0099 (0.10)
Party Membership	0.052 (0.02)	-0.0070 (0.47)	0.052 (0.00)	0.0054 (0.30)	0.021 (0.01)	-0.0024 (0.68)	0.000016 (1.00)	0.0087 (0.10)	0.00081 (0.94)
In reference to the three people from who respondent seeks help most often:									
Are they politically affiliated?	0.012 (0.15)	0.004 (0.25)	0.0001 (0.98)	0.005 (0.01)	0.004 (0.10)	-0.0006 (0.79)	-0.0001 (0.93)	-0.002 (0.30)	0.002 (0.60)
Are they highly educated?	0.0030 (0.66)	0.0017 (0.58)	-0.002 (0.56)	0.002 (0.18)	0.004 (0.06)	0.003 (0.08)	0.00083 (0.31)	0.0039 (0.00)	0.007 (0.04)
Are they (1) more, (2) as, or (3) less wealthy than respondent?	0.011 (0.03)	-0.0014 (0.55)	0.0015 (0.54)	0.003 (0.02)	0.0030 (0.09)	-0.001 (0.32)	-0.00004 (0.95)	-0.0002 (0.86)	-0.003 (0.23)
Are they closely related (1), distantly (2) or unrelated (3)?	-0.012 (0.05)	-0.0040 (0.16)	0.0063 (0.02)	-0.007 (0.00)	-0.0053 (0.03)	0.005 (0.00)	0.00098 (0.15)	-0.0035 (0.03)	-0.003 (0.44)
Hindu	-0.084 (0.00)	-0.010 (0.22)	-0.017 (0.04)	-0.009 (0.02)	-0.013 (0.03)	-0.005 (0.33)	-0.0013 (0.66)	0.0024 (0.59)	-0.012 (0.16)
Buddhist	-0.27 (0.00)				0.017 (0.28)				-0.047 (0.06)
Size of Household	0.015 (0.00)	0.0034 (0.05)	0.005 (0.00)	0.0022 (0.00)	0.0019 (0.11)	0.0014 (0.14)	0.0002 (0.66)	0.003 (0.00)	0.0001 (0.97)
Head of Household	0.002	-0.00002	-0.0002	0.001	0.002	-0.0003	0.0004	0.0004	0.0013

Education Level	(0.36)	(0.98)	(0.80)	(0.00)	(0.00)	(0.41)	(0.10)	(0.21)	(0.09)
Years resided in area	- 0.0006 (0.12)	0.0002 (0.21)	0.0004 (0.02)	0.00003 (0.64)	0.00012 (0.28)	-0.00003 (0.73)	-0.00002 (0.52)	-0.0001 (0.28)	-0.0003 (0.07)
Rural	-0.015 (0.36)	-0.016 (0.01)	-0.019 (0.00)	0.013 (0.00)	0.0070 (0.15)	0.0012 (0.71)	-0.0010 (0.54)	0.0046 (0.13)	0.0052 (0.45)
Age dependency ratio	0.0042 (0.88)	0.013 (0.27)	0.0077 (0.48)	0.0078 (0.19)	-0.007 (0.43)	-0.008 (0.20)	-0.0005 (0.88)	-0.011 (0.09)	-0.013 (0.33)
Household has electricity	0.019 (0.18)	0.0013 (0.81)	0.008 (0.17)	0.0047 (0.10)	0.011 (0.02)	-0.0013 (0.72)	0.001 (0.53)	0.0091 (0.00)	0.011 (0.07)
Household owns cattle	0.0077 (0.50)	-0.0002 (0.96)	0.004 (0.42)	0.018 (0.00)	-0.0074 (0.04)	-0.0032 (0.32)	0.0015 (0.31)	0.0002 (0.94)	0.015 (0.01)
Number of Rooms in the household	0.016 (0.01)	-0.002 (0.44)	0.006 (0.01)	0.0025 (0.01)	0.002 (0.16)	0.001 (0.47)	.00008 (0.99)	-0.001 (0.41)	0.006 (0.01)
Household Owns Home	0.018 (0.46)	-0.006 (0.57)	0.018 (0.05)	0.006 (0.37)	-0.013 (0.17)	0.0082 (0.11)	0.0008 (0.75)	-0.006 (0.25)	0.008 (0.49)
Observations	9183	8904	9128	8456	8186	8152	2876	8207	9183

Note: Regression includes 63 district dummies (Thakurgaon is the omitted district against which others are compared). Other controls are included but not reported: the land occupied by homestead is insignificant; the dependency ratio of the household is borderline significant negatively associated with robbery; the number of non-earners in the household is negatively associated with judicial abuse; whether respondent is Christian is insignificant; households with wood or hemp/hay/mud homes are significantly less likely to experience burglaries than those in cement housing; the age of the household head is insignificant, except that it is negatively related to judicial abuse; whether households own cattle is positively associated with receiving adulterated/mislabeled products and with burglary, but is otherwise insignificant.

159. The results hold some surprises. A number of household characteristics that one might expect would insulate households from the incidence of crimes and disputes are, in fact, associated with higher rates of abuse. Members of NGOs, who comprise 39 percent of the sample, are significantly more likely (3.7 percent more likely) to be exposed to any abuse, 1.6 percent more likely to experience a service delivery abuse, and 1.9 percent more likely to be the victim of false arrest or other arbitrary behavior from law enforcement or judicial authorities. NGO membership is associated with significantly greater vulnerability to judicial/police abuse in four out of six divisions. The regressions showing the impact of NGO membership have controls for income and education, so the relative wealth of NGO members is not responsible for these results.

160. It is hard to provide an obvious explanation, due to the extreme heterogeneity of NGOs in Bangladesh. Thirty nine percent of respondents identified as belonging to an NGO of some description -- in the Bangladesh context, this number would to a large extent reflect membership of the large micro-finance providers, BRAC and Grameen, mixed with far lower numbers of a range of smaller, specialized NGOs. The broader literature on the social capital effects of membership of micro-finance organizations might lead to the expectation that NGO members would be less vulnerable to abuse because they are linked to a solidarity group that might deter abusers.²⁰⁶ However, this data indicates that they are in fact more vulnerable, perhaps because their membership offers them benefits that are seen as attractive targets for abuse. Previous research in Bangladesh that reflected higher rates of gender violence amongst micro-finance members were attributed to the intra-household shift in power dynamics consequent upon the economic empowerment of women,²⁰⁷ whereas these results suggest greater vulnerability of NGO members to abuses from outside the home as well. It could possibly be argued that NGO members are more aware of when their legal rights have been violated than non-members; the argument does not stand when one looks at the statistics about crimes that all citizens are presumably equally capable of recognizing (such as burglary). Whatever the explanation for the result, it does appear to indicate the obstacles to collective action in the Bangladesh context, the subject of further discussion in Chapter 6.

161. One would expect that individuals who can turn for assistance to others who are more powerful, politically active, educated or wealthy would also be less vulnerable to abuse. This is not necessarily the case. Question 3.16 of the questionnaire asks respondents to describe the main three individuals from whom they seek assistance most often. This question represented an effort to obtain information about the social network of respondents.²⁰⁸ From

²⁰⁶ Benjamin Feigenberg, Erica M. Field, and Rohini Pande. *Building Social Capital Through Microfinance*, HKS Faculty Research Working Paper Series RWP10-019, June 2010.

²⁰⁷ Changes in economic empowerment may lead to violence in the near term, and only become protective after a critical threshold of empowerment and a substantial shift in gender roles. See further Bates, L, Schuler S, Islam F, and Islam M, "Socioeconomic Factors and Processes Associated with Domestic Violence in Rural Bangladesh", *International Family Planning Perspectives*, 30 (2004) 4, pp 190-199; see also Imran Matin, "The very poor who participate in microfinance institutions and those who never did", *Small enterprise development*, 2005; I. Matin and S. Sinha, "Informal Credit Transactions of Micro-Credit Borrowers in Rural Bangladesh", *IDS Bulletin*, 1998; Naila Kabeer, "Conflicts over credit: re-evaluating the empowerment potential of loans to women in rural Bangladesh", *World Development Report*, 2001, 29(1):63-84; Simeen Mahmud, "The gender dimensions of programme participation: who joins a microcredit programme and why?", *Bangladesh Development Studies*, 2000, 26 (2-3): 79-101.

²⁰⁸ Analysis of the profile of such patrons reveals several trends. In terms of occupation, salaried government employees, the self-employed and farmers make up over 60% of the sources of assistance named by respondents. Half have either no education or only primary education, are related to the respondents (more than half are close relatives), and are either wealthier or of the same wealth status as the respondent. Almost 90% are not politically affiliated. Education and employment seem to be the patron characteristics with the clearest

answers to these questions, four variables were coded and taken into account. First, are these individuals politically affiliated? Second, are these people more wealthy, just as wealthy or less wealthy than the respondent? Third, are they highly educated? Fourth, how closely related to the respondent are these people?

162. Respondents who seek assistance from politically affiliated individuals are not less likely to experience abuse. On the contrary, if the individuals to whom respondents were most likely to turn for assistance were affiliated with political parties, the households were also more likely to suffer abuse, regardless of whether the respondents themselves belonged to a political party. One might expect that more educated households (or those households that are able to turn for assistance to more educated individuals) would be less vulnerable to abuse because more educated individuals can presumably navigate the administrative apparatus of the state more easily and have better connections with key individuals. In fact, it appears to have little effect.²⁰⁹ Respondents who turn for assistance to non-relatives are less likely to be victims of abuse, including land expropriation. The likely explanation for this is that those who can turn to non-relatives have a deeper, broader set of social connections than those who must rely on family. It is this network of connections – or the underlying household characteristics that give rise to such connections – that protect the household from abuse.

163. Minority religions are less vulnerable to abuse or susceptible to disputes. Buddhists are substantially less vulnerable, Hindus somewhat less, and Christians similarly vulnerable to most abuses compared to Muslims (the omitted religious category).

164. Household size plays a mechanical role in vulnerability to abuse: the larger a household, the more likely that at least one person in the household has suffered some abuse. This should be most true for abuses that affect individuals, and least likely for abuses that target households by definition, such as land expropriation and burglary. This is, in fact, the pattern observed in Table 4.4. The years a household has resided in the area has a systematically positive effect on vulnerability to abuse and disputes, except for robbery and burglary. This is difficult to explain: those who have been longer in an area should have more developed social networks that insulate them from abuse.

4.4 Profile of Disputing Party

165. The questionnaire asked respondents whether they knew the person responsible for the relevant incident (disputing party or perpetrator) before it took place. Over 97 per cent of disputing parties were known to the respondent in the case of loan recovery, disputes over land title and boundary disputes with neighbors. The perpetrator was known to the respondent in just over 90 per cent of false cases. By way of contrast, less than 20 per cent of disputing parties were known in cases relating to conflicts between political parties. In all dispute types except burglary, over 60 percent of respondents indicated that the perpetrator

difference depending on respondent income level: respondents who rank themselves as having a "surplus" of food consumption tend to have sources of assistance with higher education and who are either employed in Government or self-employed.

²⁰⁹ Households with more educated heads of households are more vulnerable to most abuses, but this effect seems to be entirely driven by their social network: once one controls for the level of education of the three people to whom a household is most likely to turn for assistance, the education of the household head no longer matters.

was of a higher socio-economic position than the respondent. Almost twice as many respondents indicated that the perpetrator was linked to the Government party as the opposition party, although over 70 percent of “perpetrators” had no political affiliation at all.

166. Close relatives formed a substantial percentage of disputing parties – almost 30 percent overall across dispute types, 40.7 percent of disputes with neighbors over boundaries, 37.7 percent of disputes over land title, and 23 percent of false cases. Distant relatives formed the opposing party 19 percent of the cases, whereas a person from the same area was the responsible in 47.6 percent of cases.

4.5 The Discrepancy between Crime Incidence Rates and Police Statistics

167. There appears to be a vast discrepancy between the crime incidence rates the survey uncovers and official police statistics.²¹⁰ Numerous responses in this survey reinforce the conclusion that citizens have little trust in the police and do not report crime. The police were rated as the least trustworthy institutional actor, a finding elaborated upon in Chapter 5. While 17 percent indicated that they approached the police for assistance in relation to an incident they experienced, less than 4 percent of the total sample sought to pursue the matter through a police investigation. In 85 percent of burglaries, 79 percent of robberies and 68 percent of other violent crimes, respondents did not involve the police at all. When one examines the reasons for respondents not approaching the police, expense – in the form of illegal bribes -- is cited by 29 percent of respondents and formed the major impediment.

168. The results also suggest that the record-keeping practices of the police are very poor, and that the complaints of the majority of those who actually approach the police to report a crime are not formally recorded. For instance, the official police statistics indicate that 12,447 burglaries occurred in the 36 month period 2007-2009, a figure that is less than 4 percent of the total number of burglaries that we can extrapolate as having occurred during this period based on the results of this survey. Furthermore, while respondents in our survey indicate that 14.2 percent of the burglaries they suffered in 2007-9 were reported to the police during this period, the official statistics indicate that less than a third of these burglaries were actually recorded.

4.6 Citizens’ Interactions with the Criminal Justice System

169. As indicated above, ordinary citizens have considerable interaction with the criminal justice system as suspects or accused persons -- 7 per cent of households have a member who has at some stage been detained by the police or other security sector actors; 4.3 per cent have a member who has at some stage been charged of an offence and imprisoned pending trial; and 1 per cent of households have a member who has been convicted of an offence. Urban respondents are more likely to have had such an interaction with the criminal justice system, as are the moderately poor (viz. neither those living in extreme poverty nor the non-poor).

Table 4.5: Experience of justice system as suspects or accused persons (Q15a)

Type of experience	Chittagon			Khuln	Rajsha	Sylhet	Total
	Barisal	g	Dhaka	a	hi		
Been detained by the police/RAB	7	6	7	11	7	9	7
Been charged of an offence	4	4	4	7	4	5	4
Appeared before the court on	7	6	7	11	7	9	7

²¹⁰ Refer to Annex 7.

summon							
Been convicted	7	6	7	11	7	9	7
Any of the above	14	9	11	16	13	12	12
Observations (n)	786	1,747	2,699	1,458	2,511	552	9,753

170. Citizens' expectations of treatment by actors in the criminal justice system are extremely low. While just over half the respondents who had an encounter with the criminal justice system did not change their mind about the institutions, 31 percent actually increased their respect for the relevant institutional actor after their experience as a defendant in the criminal justice system. This result can only be explained by extremely low expectations of these institutions on the part of citizens, especially when one examines the responses to questions about legitimacy and fairness of the institutions, discussed in Chapter 5. Seventy five percent of respondents reported being "treated well" by the courts, 51 percent by police and 40 percent by prison guards.

Table 4.6: Reported being "treated well" by different agencies in justice system (Q16)

Agencies	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	Total
Police	69	49	54	55	42	61	51
Prison guards	36	40	37	50	34	59	40
Courts	83	69	74	74	80	61	75
Observations (n)	78	131	185	144	221	47	806

Table 4.7: Change in attitude towards the institutions after interaction (Q17)

Change	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	Total
Increased respect	38	27	36	37	26	25	31
No change	49	47	52	49	58	49	52
Reduced respect	9	19	8	11	12	19	12
No respect at all	4	6	4	3	4	7	4
Observations (n)	78	131	185	144	221	47	806

CHAPTER 5: Pathways of Resolving Disputes: Utilization and Perceptions of Dispute Resolution Mechanisms

171. When designing this survey, we made several assumptions. As in other developing countries of its income level, where the police and courts are in large part inaccessible to average citizens, we assumed that the bulk of dispute resolution in Bangladesh takes place outside the formal legal system. Indeed this is what all of the available qualitative and quantitative research suggested. Thus, an effort was made to examine through the questionnaire a number of more complex issues: the nature of the informal mechanisms that are availed, any changing patterns that have been observed over time, the extent to which the formal system casts a “shadow” over the informal system, the type of disputes which respondents actually take to the formal system and the legitimacy of all the institutions that are used in dispute resolution, both formal and informal.

172. This chapter examines the utilization of dispute resolution mechanisms by citizens in response to the crimes and disputes they have experienced, and their assessment of the efficacy of those mechanisms. It also examines citizens’ perceptions about which institutions should be involved in dispute resolution.

5.1 Pathways to Dispute Resolution: an Overview

173. The survey asks how households responded to abuse and disputes, ranging from self-help, seeking the aid of family members, asking local leaders for assistance or approaching formal law enforcement or judicial institutions. One set of questions²¹¹ asks respondents how they reacted to every abuse they experienced. Questions 9.1 through 9.6 identify 23 different responses that respondents made to the dispute or crime they considered the most serious, including “doing nothing”. Table 5.1 presents an overview of respondents’ responses to crime and disputes for the period 2002-2009.²¹²

²¹¹ Questions 4.1.1c – 4.12c.

²¹² We have used the longer time frame than the period 2007-2009, because 42 per cent of respondents did not report having suffered an incident in the shorter time frame 2007-2009. The disadvantages of the recall method are not so significant here as with dispute incidence.

Table 5.1 Overview of responses to crimes and disputes (2002-2009)

Major actions taken	Urban		Rural		National
	Male	Female	Male	Female	
Did nothing	18	25	16	25	21
Personally contacted the other party	45	35	44	32	38
Sought help from family members	41	38	45	38	41
Personally threatened the other party	3	4	3	4	3
Took violent action	0	1	1	1	1
Took non-violent action	0	1	1	1	1
Consulted political leader/chairman	40	34	44	40	41
Consulted Community leader(s)	7	6	10	6	8
Went to village <i>shalish</i>	18	12	21	16	18
Went to village court	3	4	5	3	4
Consulted religious leader	1	2	2	3	2
Consulted MP	3	2	2	1	2
Went to the police	20	21	17	16	17
Sought advice from lawyer	14	6	13	6	10
Court	19	14	17	13	16
NGO	1	1	1	1	1
Observations	1,220	1,169	1,694	1,545	5,628

174. The striking findings relate to the central role that independent action and political leaders play in dispute resolution, and the modest role played by police and judicial authorities across all types of crimes, disputes and abuse of authority. Forty one percent of respondents approached elected officials at the lowest tier of local government -- union parishad (UP) in rural areas, pourashavas in urban areas -- for both advice and mediation in relation to the most serious dispute they faced. This was followed by traditional dispute resolution: village *shalish* (18 per cent), community leader (8 per cent); and religious leader (2 per cent). Four percent of respondents indicated that they used the village courts, but in light of the multiple typologies of dispute resolution at union level and the fact that village courts are not operationalized through much of Bangladesh, these numbers may in large part comprise informal dispute resolution conducted at the UP level.²¹³ Only 1 per cent sought the assistance of a legal aid NGO, which is largely consistent with previous findings of the BRAC survey.

175. The survey results confirm the suggestion in the qualitative literature discussed in Chapter 2 that locally elected politicians (especially UP chairmen and members) play a pivotal role in resolving disputes, as well as being the first point of call in the event of crimes and abuses of authority by state actors. Traditional elites and unelected community leaders continue to play a significant role in dispute resolution, but the numbers appear to confirm two trends mentioned in the qualitative literature that are not mutually exclusive. Firstly, that the social authority of traditional elites has declined significantly vis-à-vis locally elected leaders; secondly, that traditional elites have consolidated their authority through acquiring elected local office.

²¹³ Note however that Hossain's (2003) survey of local disputes and conflicts found that that only around 6 percent of them were dealt with in the village court.

176. Religious leaders have a very small role to play in traditional dispute resolution when one compares the situation with other predominantly Islamic societies, from Indonesia through to Afghanistan.²¹⁴ This appears to suggest that a very clear distinction is being maintained between the state (public space and secular institutions) and religion (which is in the private or personal sphere). This is despite some evidence of the growth of Islamic social organizations at the village level,²¹⁵ the role of religious institutions in legitimizing secular authority at the local level and the influence of Islamic values on rural social organization (these are discussed in Chapter 2).²¹⁶

177. Wood and Devine, among others, have written about the growing influence of ruling party officials at the local level, undermining or at times displacing the power of the union parishad chair.²¹⁷ Some researchers with whom we reviewed the results shared this view and pointed specifically to the power of the leader of the ruling party at the *upazila* or sub-district level.²¹⁸ Unfortunately, our results shed limited light on this issue. In relation to the pathways followed, the survey instrument did not distinguish local elected politicians from other political leaders at the local level in relation to this set of questions. However, it did make the distinction elsewhere, in questions relating to the identity of mediators in a respondent's locality and the identity of those who respondents felt *should* be responsible for dispute resolution (see the discussion below at paragraph 200 onwards). In any event, the survey was fielded just after the Caretaker Government period, during more than two years without a sitting Parliament and when the political parties were very much lying low. The results reflect that the union parishad chairman played a predominant role during the two year period, in as depoliticized environment (in terms of partisan political influence) as Bangladesh is likely to see.

5.1.1 Self help/Independent Action

178. A large fraction of respondents (more than one-third) took independent action, either by talking to (even threatening) the perpetrator. In the context of a neighborhood dispute, independent action is hardly unusual. However, in societies where the law is predictably and thoroughly enforced, victims of burglaries, robberies or violent crime do not tend to take matters into their own hands, and yet the survey results indicate that this is what happens in Bangladesh. Even 39 percent of victims of violent crime took unilateral action. Unfortunately, question 9 failed to direct respondents specifically to the involvement of *mastaans* in dispute resolution, although some commentators argue that their involvement is substantial.²¹⁹ One would expect that a percentage of cases involving talking to and

²¹⁴ M. Stephens, *Forging the Middle Ground: Engaging non-state justice in Indonesia* (2009); Asia Foundation, *Survey Report of Citizens Perceptions of the Justice System* (The Asia Foundation, 2001); Stephen Carter and Kate Clark, *No shortcut to stability: Justice, Politics and Insurgency in Afghanistan*, (Chatham House, 2010); Antonio Giustozzi, *Koran, Kalishnakov and Laptop: The Neo-Taliban Insurgency*, (New York, Columbia University Press, 2008).

²¹⁵ DFID study, internal, 2008; International Crisis Group, *Bangladesh Today*, Asia Report Number 121, 23 October 2006.

²¹⁶ Bode and Howes (2002), discussed in Chapter 2 above.

²¹⁷ Devine J, *Governance, Democracy and the Politics of Wellbeing*, WeD Working Paper 36 (University of Bath, 2008); Devine, J. Camfield L and Gough I, "Autonomy or Dependence or Both? Perspectives from Bangladesh", *Journal of Happiness Studies*, 9(1), pp 105-13; Wood, G., 2003, "Staying secure, staying poor: The 'Faustian bargain'", *World Development*, 31 (3), pp. 455-471. Ian Gough and Geoff Wood, *Insecurity and Welfare Regimes in Asia, Africa and Latin America*, 2009; Geof Wood, "Using security to indicate wellbeing", in: Ian Gough and Allister J. McGregor, *Wellbeing in developing countries: from theory to research*, Cambridge University Press, 2007, pp. 109-132

²¹⁸ See also BRAC University Centre for Governance Studies, *State of Governance 2006*.

²¹⁹ For instance, Khan (2006:DFID) argues at p33 that land disputes are often managed through informal political processes involving *mastaans* who provide protection for a fee to those who can afford it and help to

threatening the other party involved the use of *mastaans*. The percentage of respondents who resorted to self help was unsurprisingly highest (in the vicinity of 40-50 percent) in less serious cases such as “*hoirani*” by state actors.

No Action

179. Roughly one-fifth of respondents did not do anything in response to the most serious incident their household suffered. This percentage was halved in relation to serious incidents such as violent crime, abuses by law enforcement or judicial authorities. Respondents were least likely to accept the situation (because they felt powerless to do anything) or decide that the matter was not worth pursuing with regards to land disputes. For instance, only 7.8 per cent of respondents chose to accept the situation with regards land disputes, in contrast to 23 per cent of respondents with regards to all other dispute types.

180. Question 12 asks respondents why they chose to do nothing. For over half of the respondents, this appears to be a considered decision that suggests a level of agency. Thirty seven percent of respondents indicated that it was not important, that the harm was not of sufficient severity. For 17 and 16 percent of respondents respectively, pursuing the matter would cost more than they could afford or would take too much time. Eight percent thought it a private matter. The power differential with the other party discouraged 5 percent of respondents, as did a fear of reputational damage or of hurting a relationship with the other party. A political party member or an educated household head was more likely to make a decision to do nothing because he or she does not think it is worth it to take action.

181. For nearly 40 percent of respondents, the decision to do nothing was not an active choice: 12 per cent indicated that they did not know where to go, and 28 percent of respondents thought that they were too powerless to be able to extract any outcome from any process. Female respondents in both urban and rural areas are more likely than men to report doing nothing, although the gap between male and female responses is smaller than in rural areas.²²⁰ Regression analysis indicates that being a female or an NGO member positively correlates with accepting the situation, whereas a number of factors are negatively correlated. Unsurprisingly, where the perpetrator is known to the respondent, the head of household’s education level is above average, the number of non-family sources of assistance is higher (greater depth of social network), and the more years that the household members have resided in the area, the more likely that some action will be taken.

Approaching Institutions

182. Table 5.2 provides a breakdown of the reasons why particular institutions were approached. There is little resort to the formal institutions involved in law enforcement and adjudication of disputes. About 16 percent of respondent households approached the courts in response to the most serious violation they faced, although only one fifth of this number approached the courts for adjudication as such. While 17 percent approached the police for assistance, only a quarter of these respondents sought to pursue the matter through a police

‘resolve’ land disputes between relatives and neighbors, often in favor of those who can pay more or who are better connected

²²⁰ In urban areas, 25 percent of female respondents said that they did nothing compared with just 18 percent of male respondents. In rural areas, 25 percent of female respondents did nothing compared with just 16 percent of male respondents.

investigation and to obtain “legal redress”. Males are more likely to avail an institutional response (informal or formal).²²¹

Table 5.2 Reasons for approaching different institutions, 2002-2009

	For Advice	For mediation	Both	Legal redress	Protection	n
Political leader/chairman/member	13	56	28	1	2	2,278
Community leader	18	44	31	1	7	432
Religious leader	20	54	23	1	2	131
MP	14	42	35	7	3	88
Local <i>shalish</i>	5	63	30	0	2	974
Police	4	45	22	26	4	999
RAB	7	46	16	29	2	45
Joint force	14	53	22	8	3	50
Village court	9	52	36	2	1	232
Court	2	50	23	22	3	886
Public legal help	10	35	34	15	5	182
NGO	9	48	38	4	0	44
UNO/administrative officer	6	62	24	4	4	153

183. The survey confirms the widely held view that the police frequently do not accept crime reports from complainants without payment or other forms of inducement.²²² When one examines the reasons for respondents not approaching particular institutions, expense is the major impediment for failing to approach both police (29.2 per cent) and the courts (29.9 per cent). While the costs for approaching the courts are presumably a mix of legal costs (of lawyers and court fees) and illegal payments to court officials, the expense of using the police entirely relates to illegal bribes (in light of the absence of any legal fees). A household survey undertaken by Transparency International Bangladesh²²³ some years ago indicated that 92% household who made a “first information report” to the police station had to pay bribes averaging 2430 taka; 91% households who registered “general diaries” had to pay 939 taka on average; 80% of households who received a police clearance certificate from police had to pay 881 taka as bribes and 71% of accused had to pay 5718 taka on average as bribes. In terms of corruption in the lower judiciary, 66% of plaintiffs had to pay 6135 taka as bribes and 64.58% accused had to pay 7728 taka as bribes.

Table 5.3 Reasons for not Approaching Particular Institutions: Major Response Categories (Q9C)

	Police	RAB	Village court	Court	NGO	Govt. official
Very expensive	29.2	11.6	7.9	29.9	4.8	9.8
Not familiar with the institution	0.9	18.5	5.0	3.5	24.0	19.5
Not applicable	8.1	11.7	11.8	10.0	12.8	11.9
It is very lengthy	4.2	3.5	8.1	4.2	2.2	3.0
Never heard of it	0.4	3.6	1.4	0.5	10.0	3.6

²²¹ In urban areas, 25 percent of male respondents sought resolution through informal institution (cf. 21 percent of female respondents); 34 percent of male respondents sought resolution through formal institutes compared with 30 percent of female respondents. In rural areas, 34 percent of male respondents sought resolution from informal institutions compared with 32 percent of female respondents; 28 percent of male respondents sought resolution from formal institutions (cf 22 percent of females).

²²² UNDP, *Human Security in Bangladesh*, 2002; World Bank 2002b.

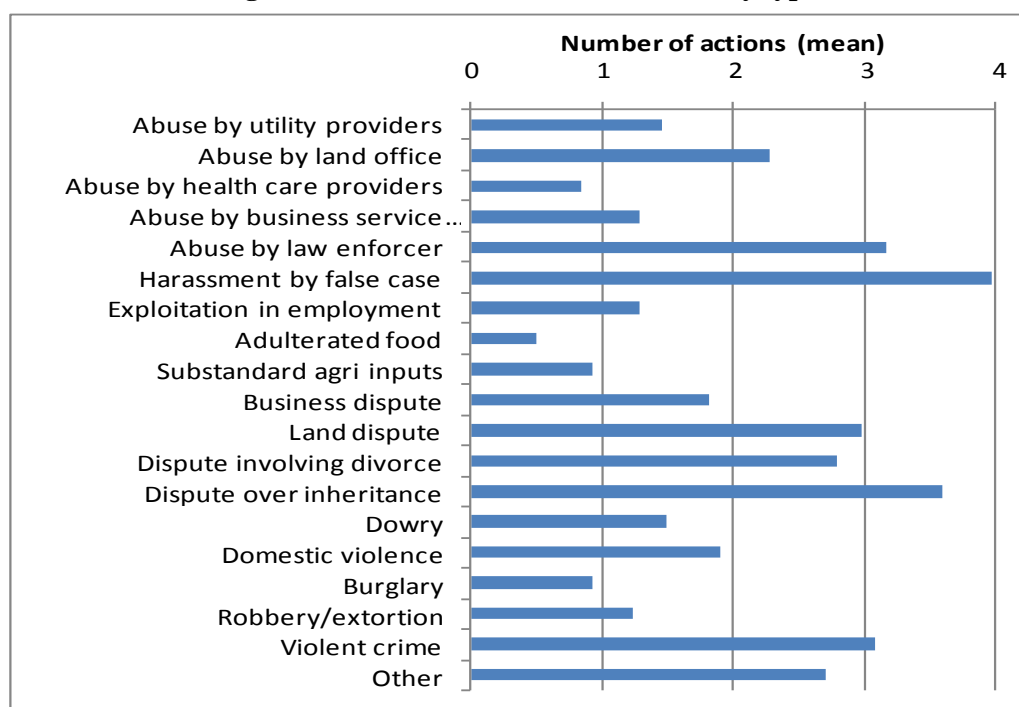
²²³ Transparency International Bangladesh, 2005, *Household Survey on Corruption*

Not confident on its effectiveness	2.1	1.0	5.7	1.3	3.7	3.8
Difficult to access (low proximity)	0.7	5.2	1.3	1.3	0.7	2.3
It is not impartial	3.1	0.8	5.6	0.7	0.4	0.7
It may not be fair	2.5	0.7	4.7	0.6	0.5	0.8
Very prompt	4.3	0.2	1.0	1.9	0.1	0.7
Impartial	2.1	0.2	0.4	4.7	0.2	0.6
Observations (n)	5458	5503	5488	5505	5506	5494

184. Quite surprisingly, in light of the Rapid Action Battalion's relatively good reputation in terms of corruption, the reason why 11.6 percent of respondents did not approach RAB was because of the expense. Lack of awareness is the major reason why NGOs were not approached. The length of the process was raised in relation to almost all formal institutions.

185. The more severe the consequences of a dispute or crime, the more actions are taken in an effort to resolve them. Abuses by law enforcement and false cases have severe reputational effects as well as involving the potential loss of liberty and livelihood, causing great anxiety. These abuses, along with violent crime, land disputes and inheritance disputes are amongst the abuses that were identified by respondents as the most serious affecting the household. In relation to land grabbing, respondents were three times as likely to consult a lawyer than with any other dispute type. By contrast, when confronted with known ingestion of an adulterated food, respondents usually did nothing (75 percent), perhaps because of the difficulty of identifying a culprit and seek reparations against him or her.

Figure 5.1. Number of actions to resolve by types



186. The probability of taking *any* action is highest with regards to violent crime, divorce, harassment through false cases, land disputes, abuse by law enforcement authorities and an abuse by the land office. The largest difference between rural and urban responses related to dowry, where 74% of rural respondents took some action, whereas only 45% of urban

respondents took action. This probably reflects the much greater pressure for dowry in rural areas.

5.2 Usage of institutions by education status and poverty levels

187. The use of formal mechanisms increased with education level – for instance, 15 percent of those with no education chose to pursue the matter in the courts, whereas 21 percent of those with tertiary education did so; 17 percent of those with no education went to the police, but 20 percent of those with tertiary education. Conversely, those with tertiary education are least likely to consult the local elected leader (35 percent compared 44 percent for those with no education) or use village shalish (14 percent compared with 19 percent for those with no education). Tertiary-educated respondents are far more likely than others to seek the advice of a lawyer.

Table 5.4: Usage of institutions by education

	No education	Primary	Secondary	Tertiary	Total
Consulted political leader/chairman	44	40	39	35	41
Religious leaders	3	3	2	2	2
Community leader(s)	8	8	7	7	8
Village shalish	19	18	16	14	18
MP	1	2	2	3	2
Went to the police	17	15	20	20	17
Sought advice from lawyer	10	8	10	16	10
Village court	4	4	4	4	4
Government legal aid	3	3	4	5	3
Court	15	14	16	21	16
NGO	1	1	1	2	1
Number of observations (n)	2,083	1,554	1,576	414	5,627

188. A similar but less pronounced trend is observed with regards poverty status. The less poor were more likely to avail police and the courts, and less likely to avail traditional shalish or consult an elected local leader or politician.

Table 5.5: Usage of institutions by poverty status

	Chronic deficit	Occasional deficit	Break-even	Surplus	Total
Consulted political leader/chairman	45	39	42	39	41
Religious leaders	3	3	2	2	2
Community leader(s)	8	9	7	7	8
Village shalish	22	17	17	16	18
MP	2	2	2	1	2
Went to the police	16	18	15	20	17
Sought advice from lawyer	9	10	10	9	10
Village court	7	4	4	3	4
Government lawyer	4	3	3	3	3
Court	14	17	15	16	16
NGO	1	1	1	1	1
Number of observations (n)	632	1,540	1,933	1,522	5,627

5.4 Variations in responses by type, severity and location of dispute or crime

189. Table 5.6 examines the results for 2007-09²²⁴, with a focus on particular crimes and land expropriation. The figures for the dispute resolution pathways availed remain very similar as for the 7 year time period.

Table 5.6: Frequency of responses to crime, by abuse (2007-2009)

Response to abuse	Overall	Burglary	Robbery	Violent crime	Land expropriation
Talked to/threatened perpetrator	0.373	0.206	0.259	0.391	0.454
Sought help from family	0.389	0.321	0.397	0.587	0.522
Went to local political leader	0.414	0.339	0.348	0.500	0.702
Went to local unelected leader, village shalish	0.228	0.161	0.156	0.261	0.439
Went to village court	0.042	0.029	0.039	0.109	0.132
Went to the police	0.185	0.141	0.230	0.522	0.410
Used formal legal channels	0.198	0.121	0.156	0.500	0.454
Other response	0.077	0.055	0.093	0.174	0.137
Did nothing	0.181	0.243	0.265	0.109	0.083

Note: "Formal legal channels" aggregates a number of responses: consulted a lawyer, went to the courts, threatened to take legal action, sought government legal aid, or went to an administrator of the upazila.²²⁵

190. As observed at paragraph 185 above, when more was at stake in a crime or dispute, the more likely were respondents to seek help from multiple sources, and the more prominent the individuals from whom they sought help. All avenues of recourse were more likely to be used in response to violent crime, judicial harassment and land expropriation compared to robbery and burglary. The police, political leaders and the formal legal system were all more likely to be used with the increasing severity of the harm involved. For instance, more than 40 percent of respondents approached both the courts and police for land grabbing and

²²⁴ Forty two percent of the sample did not report any incident occurring within this time period, and thus no action was recorded for Q9 of the questionnaire.

²²⁵ Note that the figures which relate to seeking assistance from the police or the courts are themselves somewhat inflated by the statistics for harassment perpetrated by law enforcement and the courts. In response to the filing of false charges, victims have little choice but to go to the police or courts and make whatever concessions or payments are demanded of them in exchange for the lifting of the charges. These responses were coded by enumerators as recourse to the police or courts, rather than as self-help. Thus, the highest figures for approaching police or the courts were in relation to resolving abuses by law enforcement and judicial officials.

expropriation, twice the percentage who approached these institutions in relation to land disputes overall.

Table 5.7: Types of response by land dispute types

Action	Dispute in private transaction with individual	Dispute with neighbors over boundaries	Dispute over land title	Govt. expropriation of land	Land grabbing by powerful elite	All
Did nothing	10	8	3	37	5	7
Personally contacted the other party	52	47	48	28	47	47
Sought help from family members	44	50	53	16	52	51
Personally threatened the other party	4	4	5	0	8	5
Took violent action	1	1	1	0	2	1
Took non-violent action	0	1	2	0	2	1
Consulted political leader/chairman	49	58	67	63	69	61
Consulted Community leader(s)	10	8	10	12	11	9
Went to village <i>shalish</i>	25	31	35	9	39	33
Went to village court	3	4	11	0	13	7
Consulted religious leader	2	3	4	0	4	3
Consulted MP	3	1	2	12	5	2
Went to the police	13	14	29	0	39	21
Sought advice from lawyer	9	6	26	0	28	14
Court	14	11	43	19	39	23
NGO	1	0	0	0	1	0
Observations	107	839	364	14	225	1549

191. As with the seven year time frame, in 41 percent of all “worst” abuses, respondents turned to their local political leader, more often even than they turned to their own families. This was true even for common crimes like burglary and robbery, but was more so in the case of violent crimes (50 percent of respondents) and with regards abuses by individuals who are clearly more powerful than respondents, such as harassment by law enforcement or court processes and land expropriation. Here one would expect respondents to seek assistance from the most powerful individual who might possibly help them, who could mediate interactions with the formal state actors, with the potential to ameliorate harm. In land grabbing and expropriation cases, nearly 70 percent of respondents who listed these abuses as the worst they had suffered went to the local political leader.

192. More than one-third of respondents tried to talk to (or even threaten) the suspected perpetrator and sought help from their family. The resort to unilateral action increased with the severity of the crime or the livelihood consequences.

193. The police play a small role even in the case of common crime. Overall, victims sought police assistance in 19 percent of the cases. One might expect that burglary, robbery and violent crime would be where police assistance was most used. However, in 86 percent of burglaries, 77 percent of robberies and 48 percent of violent crimes, respondents did not involve the police. In fact, a quarter of respondents who had suffered a burglary or robbery in the previous 2 years did nothing at all. The discussion above about the reasons why police are not used relate to high levels of illegal payments being demanded, and confirms the findings in the qualitative literature:

... for poor people who lack the necessary resources, it is almost impossible to initiate or pursue a case. As a result, a large amount of criminal activity goes unreported, with certain powerful interests in rural society able to act with impunity in pursuing their interests at the direct expense of the weak and poor, or through protected illegal activities including smuggling and fraud.²²⁶

194. Fewer than 0.5 percent of respondents who suffered an abuse sought the assistance of an NGO in the period 2007-9; the figure for the 7 year period is 1 per cent. This compares to the figure of 3 percent of respondents in the BRAC survey who indicated that they had contacted an NGO to help resolve problems.

195. Bureaucratic actors are also not heavily involved in dispute resolution, nor are national level political actors. Fewer than 2.5 percent of respondents went to the administrator in the sub-district (the centrally deployed civil servant for the sub-district known as the Upazila Nirhabhi Officer) and 0.6 percent went to the local MP. One would imagine that the MP is too “high” in status in a deeply hierarchical society to approach for everyday harms. The UNO was utilized more often in relation to political violence, than for any other of the main harm types.

196. The table at Annex 9 records the frequency of responses to the same abuses across each of the six divisions. The pattern of responses is roughly similar across divisions. The low rates at which formal institutions to resolve disputes are used, the heavy reliance on local political figures, and the reliance on individual action and family support are evident in every division of the country. Unilateral action was more likely in Rajshahi, Dhaka and Chittagong. Respondents in Barisal and Chittagong were more likely to seek the assistance of local political leaders, while those in Barisal were also much more likely to use formal legal channels to seek redress.²²⁷ Respondents in Chittagong were more likely to utilize traditional village authorities, perhaps reflecting the tribal population whose form of social organization differs substantially from that of Bengalis or the strength of traditional social elites more generally within the Chittagong Hill Tracts.

5.5 Effectiveness of Dispute Resolution Mechanisms Availed

197. The questionnaire attempted to ask respondents about the effectiveness of the dispute resolution mechanisms that they availed. Unfortunately, because respondents often use multiple channels, it is very difficult to determine causation or attribute resolution to the efficacy of particular mechanisms for dispute resolution. Respondents report that almost all pathways for dispute resolution appear to have a similar resolution rate in the narrow 19-25 percent range. Ironically, abuses by law enforcement and court authorities are the dispute type that the highest resolution rates of around 49 percent -- because of the impact on liberty, livelihood and reputation, respondents are more likely to keep fighting for the resolution of the issue and pay the required payments when compared to other major dispute types. Only 10 percent of personal property thefts are resolved, 18 percent of land title disputes and 13 percent of loan recovery cases.

198. Question 13 asks whether, if the respondent went to more than one institution, which played the most important role in dispute resolution. Responses varied with dispute types, with land disputes showing the courts as the preferred means of dispute resolution. Sixty three per cent of those who sought the assistance of multiple institutions for land title disputes

²²⁶ Bode and Howes (2002), xiii.

²²⁷ This latter result cannot be attributed to higher rates of police harassment (resolved by going to formal authorities to pay bribes), since those rates are no higher in Barisal than elsewhere.

saw the courts as the most useful institution, as did 45 percent of respondents dealing with boundary disputes. This is likely due to both the complexity of the cases and quite possibly the awareness that local authorities have ultimately no control over the cadastre.

199. If the respondents reported pursuing any institutional mechanism to resolve a dispute, they were asked about the processes, outcome of the actions and their satisfaction with the outcomes. Both formal and illegal payments associated with the process of actions are high.

Table 5.8 Process and outcome of actions pursued by type of incidence

	Abuse by service provider	Abuse by law enforcer	Disputes at work/business	Land dispute	Dowry/marriage	Theft	Violent crime	Other	F-Statistic
Legal expenses (mean in Tk.)	1,727	20,868	879	15,178	4,528	643	3,103	486	3.17***
Illegal expenses (mean in Tk.)	2,987	29,028	823	10,554	4,487	97	3,994	3,102	15.13***
Other expenses (mean in Tk.)	1,496	14,786	1,104	7,354	4,275	293	3,133	1,181	15.14***
Money recovered (mean in Tk.)	69	927	3,228	8,320	3,251	188	1190	1911	1.05
Case has been resolved (percent)	26	54	21	20	36	9	19	19	57.60***
If the cases were resolved:									
Duration to resolve (mean months) ^a	9	12	16	15	12	2	7	15	3.05***
Satisfied with the outcome (percent) ^a	96	97	90	96	99	89	89	98	3.22***
Disputing party accepted the verdict (percent) ^a	94	94	91	92	99	82	93	93	1.61
N	492	602	591	1756	204	361	225	145	

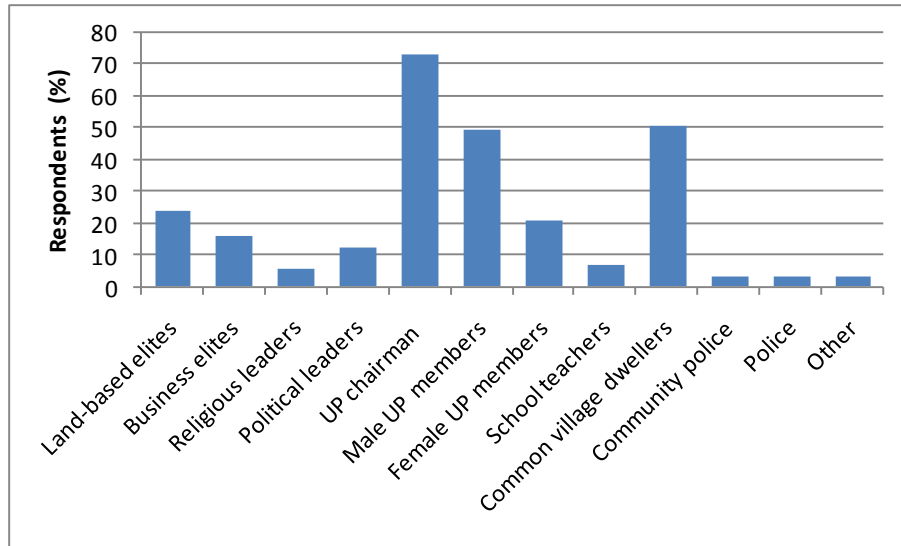
*** Significant at less than 1 percent level.

200. False cases and other abuses by law enforcers involve the highest legal, illegal and other expenses, followed by land disputes, which provides one more explanation of why these two dispute types were cited by respondents as having the most serious impact on them. The expenses incurred for illegal bribes are higher than the legal expenses for cases of abuse by law enforcers, service providers, and violent crimes (presumably payments for police to accept the complaint). The time taken for the cases to be resolved, between initiating action and resolution, is on average over a year for the majority of the cases. Interestingly, for all the cases that have been resolved, the level of satisfaction with the resolution is very high. This is entirely explicable in cases where the disputing party was a state actor to whom the respondent household paid a bribe to either end harassment or to procure a service. It is less explicable in other dispute resolution means unless one takes into account the low expectations that citizens must have about the prospect of resolving, and receiving reparation for, any harm that they suffer.

5.6 The Changing Nature of Shalish: The Rise of Elected Local Leaders Over Traditional Elites

201. The survey set out to examine the identity of those identified by respondents as *shalishkari* or mediators in the respondents' locality, in order to explore whether traditional social authority at local level is diminishing. Respondents identified elected local government officials (UP chairs, male and female members) as *shalishkari*, followed significantly behind by common villagers and land-based elites. This finding again appears to support the idea that local legal, political and social authority is increasingly consolidated in elected local government officials, at the expense of traditional land-based elites, unless the latter have reproduced themselves in the formal local government structures.

Figure 5.2 Categories of people engaged as *shalishkari* (mediators) in the respondent's locality



202. There appears to be considerable spatial variation amongst divisions (as is evident in Table 5.4 below). Only 12 percent of respondents from Barisal report that land-based elites are engaged in traditional *shalish*, whereas 86 percent of respondents indicated that the UP chair was involved, with 49 percent and 38 percent respectively indicating that male and female UP members or ward commissioners were involved. School teachers functioned as *shalishkari* at almost twice the national rate in Barisal. The results for Chittagong indicate that more traditional forms of social authority still prevail, with 30 percent of respondents indicating the involvement of land-based elites in dispute resolution and 11 percent indicating the involvement of religious leaders. Notable also is that 25% of respondents identified business elites, compared to 16 percent nationally. Sylhet has the highest levels of involvement of local political leaders at 19 percent (this is taken to mean the leaders of the main parties at *upazila* or sub-district level, in light of the fact that MPs constitute a separate category).

Table 5.9 Divisional breakdown: profile of people engaged as *shalishkari* in respondent's locality

This table includes multiple responses (and hence the sum of the percentages is more than 100).

Type of experience	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	Total
Land-based elites	12	30	22	22	25	21	24
Business elites	14	25	15	13	12	19	16
Religious leader/Imams	6	11	5	3	3	3	5
Political leaders	8	14	14	12	7	19	12
UP chairman or city mayor	86	73	75	74	67	78	73
Male UP members/commissioners	49	48	51	40	50	64	49
female UP members/commissioner	38	22	19	12	23	24	21
Local MP	1	1	1	1	0	0	1
Regular job holder (govt.)	1	0	1	0	1	0	1
Regular job holder (non-govt.)	0	0	0	0	0	0	0
School teacher	11	5	7	6	6	5	6
Lawyers	0	0	0	1	1	1	0
Other court officials	0	1	0	0	0	1	1
Police	1	3	3	6	3	4	3
Judge	0	0	1	0	0	0	0
Community police	2	3	1	4	4	6	3
Common village dwellers	42	49	47	46	62	39	50
NGO	0	1	0	0	0	0	0
Observations (n)	786	1,747	2,699	1,458	2,511	552	9,753

203. There is not significant urban/rural variation, with land-based elites slightly more utilized in rural areas and UP *members* and business elites being used more frequently in urban areas.

Table 5.10: Profile of people engaged as *shalishkari* in respondent's locality: rural/urban breakdown

Dispute resolution mechanism	Urban	Rural	Total
Land-based elites	22	24	24
Business elites	18	15	16
Religious leader/Imams	5	5	5
Political leaders	13	12	12
UP chairman or city mayor	72	74	73
Male UP members/commissioners	54	48	49
female UP members/commissioner	23	20	21
Local MP	1	0	1
Regular job holder (govt.)	1	1	1
Regular job holder (non-govt.)	0	0	0
School teacher	6	7	6
Lawyers	1	0	0
Other court officials	1	0	1
Police	5	3	3
Judge	0	0	0
Community police	3	3	3

Common village dwellers	47	51	50
NGO	0	0	0
Observations (n)	2,895	6,858	9,753

5.7 Sources of Information about Dispute Resolution

204. Question 19 asked respondents about their sources of information about how to resolve abuses, disputes or crimes. Family and friends were named as the most frequent information source (77 per cent of respondents), followed by 43 per cent for locally elected leaders at union level, 41 per cent for radio and television, 17 per cent for newspapers and 15 per cent for co-workers. A rural/urban breakdown suggests that local politicians are a more frequent source of information (45 per cent compared to 34 per cent) in rural areas, and that media sources are more frequently availed in urban settings (54 per cent cite radio and television and 26 per cent cite newspapers in urban areas, when compared to 38 and 14 per cent respectively in rural areas).

5.8 Citizens' Perceptions of Institutions and their Roles in Dispute Resolution

205. When respondents were asked about who *should* be responsible for preventing and solving disputes and crimes in their area, 91 percent of respondents answered in favour of elected local representatives, across dispute types, but even more so with crimes than civil disputes. Almost 84 per cent indicated that community leaders should be responsible, followed by the police at 19 per cent and families at 16 per cent. Political leaders such as the head of the ruling party at *upazila* level rate 11 per cent, courts 12 per cent, religious leaders less than 3 per cent and MPs 1 per cent.

Table 5.9 Who should be responsible for preventing and resolving disputes? (Q18)

Types of institutions	Abuse of authority	Civil dispute	Crimes
Community groups	6	5	8
Community leaders	85	75	84
Religious leaders	3	3	3
UP/Ward chairman/members	92	87	90
Courts	12	40	8
Parents, guardians and families	16	12	18
Police	18	15	25
Community police	2	2	3
Upazila or District officials	5	9	3
RAB	2	1	3
Army/BDR	1	0	0
MPs	1	0	1
Local political leader	9	7	10

Multiple responses were counted.

206. In relation to seeking redress for crimes, 90 percent of respondents indicated that local elected officials should be responsible. There is little variation in these results with the wealth or education of respondents or spatially (rural/urban breakdown or amongst divisions). A rural/urban breakdown indicates that support for the involvement UP chairs and community

leaders are higher in rural areas, and that more urban respondents nominate a role for the police (23.6 percent rather than 16.8 percent).

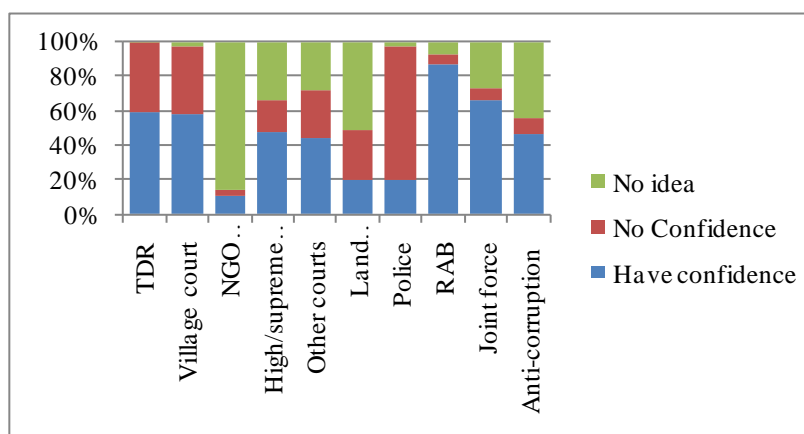
207. Only 25 per cent felt that the police had a role in the resolution of crime. Interestingly, only 8 per cent believed that the courts had a role in criminal justice, when in theory the courts should be the predominant, if not exclusive, forum that adjudicates crimes (ie wrongs against the state as well as individuals). Courts were seen as having a more appropriate role in civil dispute resolution, as was evident in the discussion above about the mechanisms actually availed by citizens.

208. We have already discussed at length the extent of bribe-taking by police. Other studies show that most of the public do not believe the police are effective; would not call the police if a crime was committed in their homes; and rank the police low compared to other professions.²²⁸ The low levels of trust in the police is particularly striking when one notes that the 2007-2009 period was also a period where perceptions of police improved substantially due to the Caretaker Government's law and order agenda,²²⁹ and a cessation of the day-to-day partisan political influence on policing that tends to occur during an elected Government.²³⁰

5.9 Confidence in, and Legitimacy of, Major Institutions in Dispute Resolution

209. The survey attempted to examine confidence in, and legitimacy of, various dispute resolution mechanisms. Question 13 of the questionnaire analyzes citizens' perceptions regarding the legitimacy of formal and informal dispute resolution institutions they used in response to the most serious incident they suffered through the indicia of procedural fairness, substantive fairness and enforcement capacity. Question 20 looked to more general perceptions about the major institutions involved in law enforcement and dispute resolution, and about how respondents would rate them in terms of their honesty or corruption. Do they treat everyone - rich and poor, Muslim and non-Muslim, Bengali and non-Bengali, women and men, equally? Is it equally easy for everyone to access these institutions and services? Which of these institutions would be the fairest and most accessible for poor people, women, and minority groups?

Figure 5.3 Confidence in different institutions (Q20)



²²⁸ (Kashem 2001; 2002; 2003; TIB 2004).

²²⁹ Asia Foundation, Monthly Public Perceptions Surveys, 2007 and 2008.

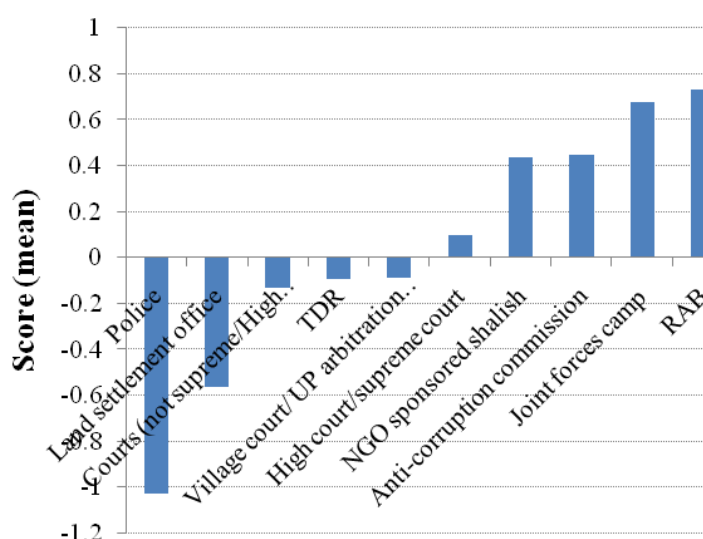
²³⁰ The BRAC survey found that police was “the most improved institution”, and “if not popular, then at least less unpopular than in the past”. The Asia Foundation monthly surveys indicated that police performance improved during the Caretaker Government period.

Table 5.10 Perception of institutions: reliability, integrity, equal treatment, equal access

Types of institutions	Can be relied upon	Has integrity	Treats everyone equally	Provides equal access
TDR	59	79	65	65
Village court	58	77	63	64
NGO sponsored <i>shalish</i>	11	13	12	12
High/supreme court	48	57	46	41
Other courts	44	57	43	40
Land settlement office	20	31	22	21
Police	20	40	25	25
RAB	86	91	87	84
Joint forces (military)	66	72	67	63
Anti-corruption	46	52	45	42
Number of observations (n)	9,753	9,753	9,753	9,753

210. Because of the difficulties of comparing confidence and legitimacy levels when the awareness of certain institutions (such as NGO *shalish*) is very low, an index²³¹ was formed using the criteria we examined, viz. confidence in the institution, honesty, equality of treatment, equality in access; and usefulness for the poor, women and minorities. The index values are not interpretable other than for the purposes of comparison. It reveals that there is a very strong positive correlation among the various attributes -- if the respondent assigned high values for any of the attributes in relation to any particular institution, (s)he is very likely to assign high values for all the other attributes. Figure 5.4 shows the mean values of the index for the 10 different institutions.

Figure 5.4: Overall Ratings for Different Institutions Using Seven Criteria of Legitimacy



²³¹ All the responses were re-coded in an order so that higher values reflect preference for the institution. The index was formed using principal component analysis and the value of the index is normalized.

211. The Rapid Action Battalion (RAB) and the joint force camps (the military) are the two institutions rated most positively, at 84 percent and 64 percent respectively, reinforcing the findings of numerous previous and subsequent surveys.²³² They are generally thought to be better trained, more competent, more worthy of public confidence, and the least corrupt. Prior to the Caretaker Government period, the military usually rated more highly than RAB, although a reversal of the confidence ratings is explicable in light of the levels of disillusionment with the military during the latter days of the Caretaker regime in 2008 and the loss of confidence that may have ensued in the immediate aftermath of the February 2009 massacre at the headquarters of Bangladesh Rifles.²³³ The high rating of the Anti-Corruption Commission is very much a reflection of the Caretaker Government period, during which the Commission was very active and given a strong mandate by the Government, and one would expect a very different result today. The most negatively rated institutions are the police and land settlement offices. The police's low ratings reinforce survey findings throughout the last decade which consistently show them as the least trusted public institution. Interestingly, the small number of respondents who were actually aware of NGO-sponsored *shalish*, rated the institution relatively highly.

Box 1: RAB's popularity: a symptom of system failure?

In this survey, 86 per cent of respondents indicated that they believe that RAB can be relied upon, 91 per cent believe RAB officers have integrity and 87 percent believe they treat everyone equally. This is consistent with other survey results over the last half decade which show high levels of confidence in the institution.²³⁴

The Rapid Action Battalion (RAB) was created in June 2004 by the then BNP government. It is an elite composite force drawing personnel from the police, the paramilitary and the armed forces. RAB's mandate includes crime control, confiscation of illegal arms, arrest of wanted criminals, controlling women and child trafficking and money laundering. While initially opposed to its formation, the Awami League changed its stance in 2006 and has been broadly supportive of RAB since taking office in January 2009. RAB is considered to have been particularly effective in recent years in combating religious extremist groups, maintaining law and order, especially in urban slums, and strengthening control over weapons and explosives. Since its inception, RAB has been most readily identified with the modus operandi of "cross-fire killings", a form of extra-judicial execution, that has attracted widespread criticism from human rights advocates, locally and internationally.²³⁵

Yet those executions may, to some extent, be the reason for RAB's popularity. RAB and successive governments have consistently claimed that the targets of so-called "cross-fire killings" are *mastaans* or organized criminals, a milieu that otherwise operates in a climate of impunity.²³⁶ Citizens' vulnerability and feelings of impotence in the face of *mastaans* may explain the popularity of a force that is said to often target them. RAB's popularity is also a reflection of the utter lack of faith in the

²³² Insert references for PPRC, IRI, TAF surveys. A household survey was also conducted by Saferworld with Mitra and Associates in April/May 2009, which reflect similar results.

²³³ There were numerous military casualties, and this led to a substantial loss of power and prestige for the military.

²³⁴ Asia Foundation surveys, IRI surveys

²³⁵ Human Rights Watch, *Judge Jury Executioner*, 2007; United States Department of State, Human Rights Reports 2005-2010; Asian Human Rights Commission; Ain O Shalish Kendra, Human Rights Reports,

²³⁶ Human Rights Watch suggests that this is not the case much of the time and that the idea that RAB only kills "known criminal figures" is part of its propaganda – www.rab.org.bd

police. Further, RAB officers are better trained, equipped and paid than police, and appear to show greater levels of competence and professionalism with the general public. RAB has quite a sophisticated communications and outreach program, including a phone “hotline”, regularly updated website, and even a page on the social networking site, Facebook. Their interactions with the general public are also far less predatory in terms of bribe-taking than the police, as is reflected in these survey results.

212. There is no clear trend in terms of confidence levels in institutions changing with recent personal experience of the institution. Recent experience of shalish appears to reduce the level of confidence in it, whereas confidence increases through recent use of the court system. For instance, among those who utilized *shalish*, 55 percent expressed confidence in it. Those who have not experienced any disputes in the last 7 years, express a higher level of confidence (65 percent). By way of contrast number of court confidence in non-users. By a greater users expressed the courts than

Figure 5.5: Confidence in *shalish*/traditional dispute resolution by experience

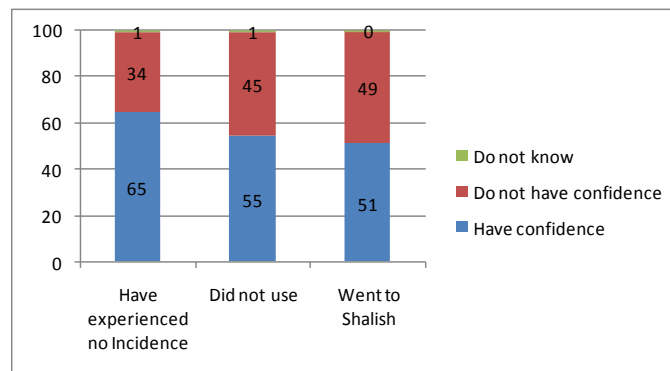


Figure 5.6: Confidence in high/supreme court by experience

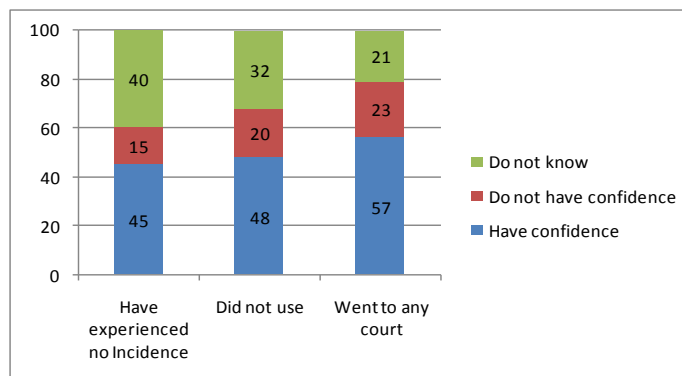
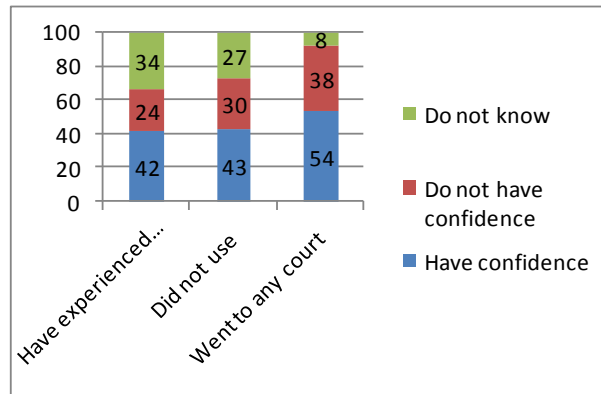
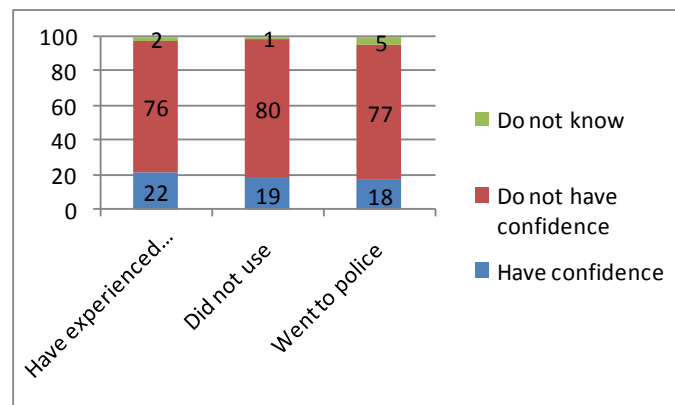


Figure 5.7: Confidence in other courts by experience



213. The low figures for confidence in the police change little regardless of whether respondents used the police or had not in fact suffered any harm in the previous 7 years. The fact that 80 percent of respondents agreed with the statement that police performance has recently improved highlights the extent of the low regard for police, and that the result before the Caretaker period would have likely been in the single digits.

Figure 5.8. Confidence in police by experience



214. While it could be imagined that better educated or wealthier respondents would be better informed about formal institutions such as the courts (through the media or personal experience) and would thus rate them more critically, it appears that the greater the wealth and education of respondents, the more positive their view of formal institutions.

5.11 Perception of honesty of institutions by poverty status

	Chronic deficit	Occasional deficit	Break-even	Surplus	Total
TDR	74	79	81	79	79
Village court	71	78	79	77	77
NGO sponsored <i>shalish</i>	14	14	12	14	13
High/supreme court	46	55	58	62	57
Other courts	49	56	58	60	57
Land settlement office	27	29	32	35	31
Police	37	40	41	39	40
RAB	86	90	92	93	91
Joint force	65	70	72	76	72
Anti-corruption	44	51	53	57	52
Observations	1,165	2,653	3,394	2,541	9,753

5.12 Perception of honesty of institutions by education status

	No education	Primary	Secondary	Tertiary	Total
TDR	80	80	79	67	79
Village court	78	80	76	65	77
NGO sponsored <i>shalish</i>	11	14	14	24	13
High/supreme court	51	57	62	71	57
Other courts	54	56	61	64	57
Land settlement office	29	29	35	40	31
Police	41	41	40	29	40
RAB	87	92	94	94	91
Joint force	65	70	80	90	72
Anti-corruption	42	51	64	78	52
Observations	3,888	2,630	2,571	664	9,753

Box 2: The case of NGOs

Bangladesh has attracted international attention for its prolific and highly successful development NGOs, “the result of a unique set of historical circumstances, centered on the constructive interaction between local ideas for development innovation and the high level flows of international resources which followed the liberation war of 1971”.²³⁷ Alongside local government structures and informal local institutions, they often form the strongest institutional presence in most rural areas,²³⁸ engaging in a wide variety of services from micro-credit, relief provision, education, agricultural services and health sectors. A smaller sub-group of more radical NGOs such as *Nijera Kori* and *Samata* have focused their efforts on community organizing and social mobilization work.²³⁹

During the last two decades, there has been a proliferation of community legal service providers, essentially NGOs which provide dispute resolution services (either working with traditional structures or operationalizing village courts, or actually conducting *shalish* themselves) and in some cases legal representation. There are

²³⁷ Lewis, 2004.

²³⁸ Some estimates suggest that there are more than 22,000 ngos, active in 80 percent of villages and in contact with as much as 35 percent of Bangladesh’s population (dfid 2000).

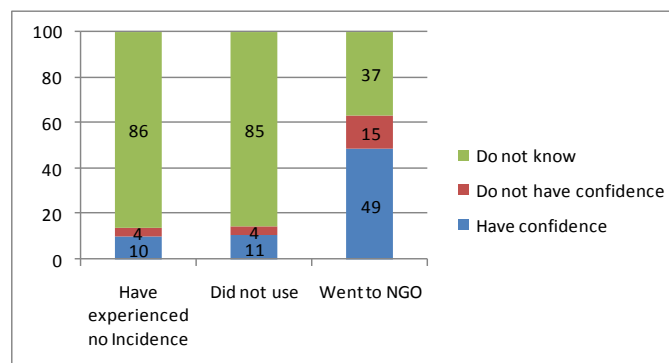
²³⁹ This has for example taken the form of seeking to enforce the rights of access to poor people to *khas* land and water-bodies, scrutinizing local authorities’ allocations of welfare goods such as *Vulnerable Group Feeding* (vgf) cards, and supporting gender rights.

specialized legal NGOs, such as the Bangladesh Legal Assistance and Services Trust (BLAST, which provides services from legal representation to working with traditional shalish), Madharipur Legal Aid Association (which focuses its work on activating village courts and arbitration councils with local government), *Ain o Salish Kendra* (broader legal aid and human rights advocacy and NGO-facilitated *shalish*) or Bachte Shekha (working with a focus on violence against women). There are also specialized legal services programs established by development NGOs, the largest being that of BRAC (indeed, BRAC has the largest NGO legal aid program in the world).

Yet, the survey results suggest that the coverage of NGOs that provide community legal services is very low. Less than 1 percent of citizens reported to have sought the assistance of NGOs in relation to the most serious incident they faced. This is despite the myriad of donor-funded NGOs are working with traditional dispute resolution processes in an effort to ameliorate some of their exclusionary biases. In one third of these cases, the issue was gender-related (divorce/domestic violence/dowry).

The awareness of the community legal services provided by NGOs is very low. Over 80 per cent of respondents had no opinions on NGO-sponsored shalish, and indicated that they did not think it to be useful. The story is likely to be more nuanced, as the work of NGOs might be disguised at times: they often work with other institutions such as local shalish or the village court, and their presence may not be obvious to many respondents. Yet this does not take away from the point that NGOs are not perceived by citizens to be significant actors, and there are low levels of confidence in them (13 percent), even when compared to the police (20 percent). These low levels of confidence are likely to reflect the association of the term “NGO” with micro-credit provision – surveys have consistently indicated over many years that micro-finance organizations are very unpopular with the general public, due to perceived high rates of interest charged on their loans.

Yet, while NGOs were availed by a very small percentage of respondents, and knowledge about NGO legal services was low, those who used these services indicated relatively strong levels of confidence in them (49 percent) and low rates of disapproval (15 percent).



5.9 Perceptions of Institutions Over Time

215. The survey also attempted to chart respondents’ perceptions of changes in institutions over the last 30 years – during the military Ershad regime (1982-1990), during the period of competitive politics (1991-2006) and the military-backed Caretaker period (2007-8). Due to the youth of the population and thus the sample, as well as problems with the recall method, the results are not robust. The only interesting trend is that citizens perceive a constant improvement in their institutions, despite expert commentary suggesting otherwise in relation

to some institutions, perhaps reflective of the optimism Bangladeshis have shown about their future in many surveys over the years.²⁴⁰

5.10 Perceptions of the Law and the Legal System more Generally

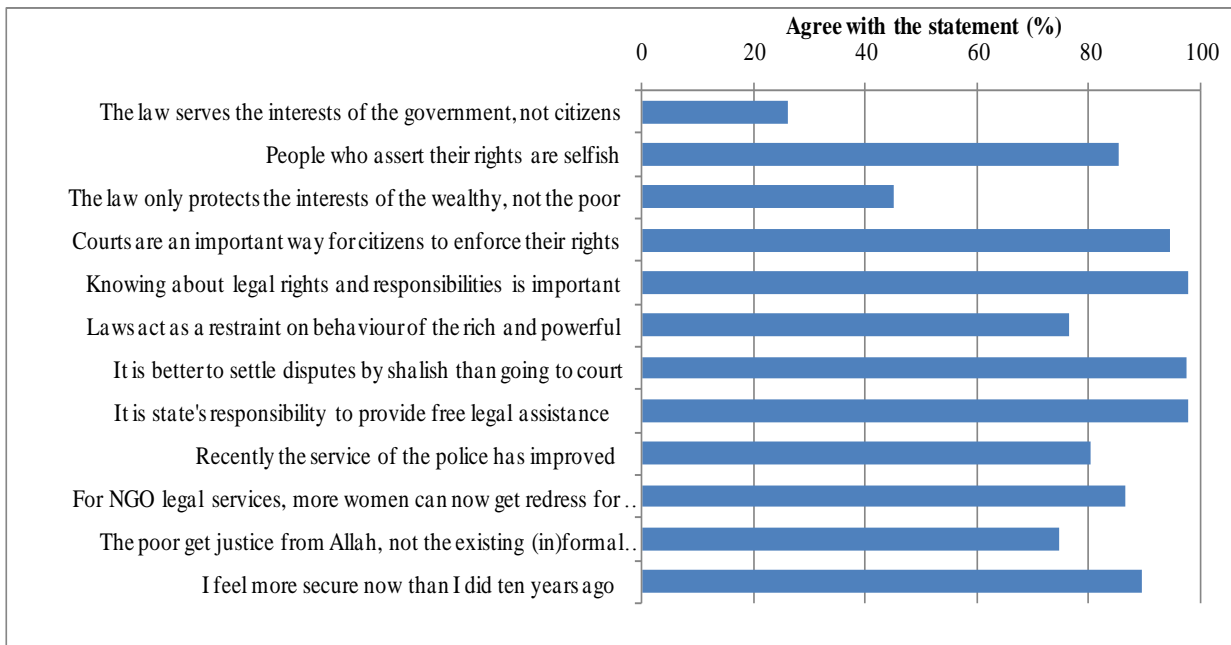
216. The final part of the questionnaire asks respondents about a number of issues relating to the legal system, institutions and citizen expectations and interface with the state more generally. The survey was taken just a few months after the new Government came to office. The responses were somewhat optimistic about the legacy of the CTG's law and order drive. Over 75 percent thought that the memory of the Caretaker period would act as a constraint on the future behavior of national politicians, businessmen and government officials. A slightly lower percentage though it would restrain local politicians and a lower percentage still thought that organized criminal networks at the local level would be restrained.

217. Question 24 asks respondents when they would support taking the law into their own hands to resolve disputes, crimes or abuses of authority. The numbers in support are very low: in response to a serious crime (2.48 per cent); if the perpetrator is well known to be involved in serious criminal activity (2.57 per cent); when the whole community is affected by crime (2.73 per cent); to protect one's belongings from theft (6.38 per cent). Almost 8 percent of respondents support vigilantism when the formal processes fail citizens: police fail to respond appropriately (4.81 per cent) and if one does not resolve the dispute through formal or informal institutional processes (3.11 percent). Urban respondents are slightly more likely than rural respondents to support taking the law into their own hands, probably because of the more atomistic form of social organization in the cities when compared to rural Bangladesh. Unsurprisingly, those who have experienced an incident are slightly more likely to support vigilantism, as are the extreme poor.

218. Bangladeshis express reasonable levels of trust in their institutions, despite low levels of confidence in the two institutions that are meant to be the frontline of the formal justice system. Question 25 asked respondents whether they agreed with a number of statements about the justice system.

²⁴⁰ PPRC, *Unbundling Governance* (2006); London School of Economics; *World Happiness Survey*; recent Asia Foundation surveys; IRI surveys 2006-2010.

Figure 5.9: Do you agree with the following statements?



219. The state itself appears to have a level of legitimacy in the eyes of its citizens, and 75 percent of respondents believe that law acts as a constraint on the behavior of the rich and powerful, despite significant evidence of impunity throughout Bangladesh's history. Over 90% of respondents believe that courts are an important mechanism for citizens to enforce their rights. Furthermore, citizens tended to disagree with statements that suggested that the legal system was a mechanism through which powerful and wealthy social actors are able to perpetrate injustice in service of their own interests. Thus, only 26% of respondents agreed with the statement that the law serves the interests of government rather than citizens. Only 46% of respondents agreed with the statement that the law only protects the interests of the wealthy, not the poor, despite seemingly much evidence to the contrary. Contrast the results in Bangladesh with a recent survey in Liberia. What emerges clearly is that many Liberians not only view the formal system as failing to deliver justice, but they regard the formal justice system as one of the most effective mechanisms through which powerful and wealthy social actors are able to perpetrate injustice (retaliation, gaining leverage) in pursuit of their own interests.²⁴¹

5.11 Role of Elected Officials in Dispute Resolution

220. The survey results confirm the reality that local government representatives at the lowest tier have been increasingly involved in dispute resolution. It would appear that they are deeply entrenched in local shalish courts, and have displaced traditional elites at local

²⁴¹ United States Institute for Peace, "Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options" (November 2009, Peaceworks), *The Role of non-state justice systems in Liberia*, 2008.

level. There is little variation in usage of UP shalish with wealth or education of respondents, or a rural/urban breakdown. Moreover, 91 percent of respondents believe that the UP/ward commissioners *should* be involved in resolving local disputes. Quite interestingly, and in contrast to many developing countries at a similar level of development (where trust in customary norms and institutions totally trumps that in the state), citizens both make the more rational decision to pursue informal dispute resolution mechanisms over the court system and police, whilst at the same time increasingly going to a mediator who has some state power.

221. While the extensive involvement of locally elected officials in dispute resolution may be evidence of the increasing politicization of collective public and social life in Bangladesh, the movement from village *shalish* to mediation at the lowest tier of local government is not necessarily a negative trend. The research that exists would appear to suggest that union level politicians are more likely to apply their interpretation or understanding of secular law, however poorly informed, rather than a notion of justice emanating from both sharia and localized norms. It could also be an opportunity to bring some consistency to the quality of local "justice" meted out. There is a level of institutional authority that the UP chair and to a lesser extent UP members and ward councillors acquire by virtue of holding office, and which may contribute to enforcement of outcomes. The resort to UP shalish appears to be practiced broadly across socio-economic groups and education levels.

222. The village court has yet to be really operationalized through much of the country and appears problematic as an institutional form. Absence of role clarity is often raised as one of the central problems about the lowest tier of elected local government. If the UP chair is performing all of his or her disparate responsibilities well, he should have no time for conducting dispute resolution. Further, when there has been advocacy for many years to separate the executive from the judiciary, it seems odd to support an institutional structure which combines the judicial and executive power of the state in the one institution. Yet, there would seem to be enormous demand from citizens for a dispute resolution service at the UP level, and perhaps options for mediation rather than adjudication should be considered. These are discussed further paragraphs 248-250.

223. Further qualitative research is necessary to better understand the nature of dispute resolution at union level before informed policy prescriptions can be formulated with any confidence. For instance, we need to understand the typologies of UP dispute resolution and the nature of the norms applied. It would also be interesting to determine whether impartiality and effectiveness as a mediator in dispute resolution is one of the qualities that UP members and chairs are judged by when they face re-election, and conversely whether they are disciplined for arbitrary and capricious rulings. Policy-makers also need to engage with the local justice success stories from other developing countries such as the Barangay Justice System in the Philippines, the Mediation Boards in Sri Lanka or the village courts in Papua New Guinea, to understand the drivers behind the relative success of these institutional forms.

CHAPTER 6: Implications of Major Findings

224. There are a number of significant findings of this survey, of which policy-makers should take note, but only a few that lend themselves to feasible reforms in the current political and institutional context. For this reason, the bulk of this chapter will focus on local government involvement in dispute resolution --- not only is this area where there may be a larger and more fluid reform space, but any policy thinking and interventions would benefit the bulk of Bangladesh's population, who currently avail themselves of this form of dispute resolution. We begin the chapter with some observations about broader themes raised by the survey results, some of which are deserving of further research by scholars.

225. Bangladeshis' expectations of formal justice institutions are very limited. This survey suggests that citizens' expectations of formal institutions in responding to crime are low, reinforcing many previous opinion surveys which have indicated that citizens have little trust in the police, with only a fraction of citizens reporting crime to the authorities. More respondents did nothing in response to a crime as went to the police.²⁴² Even where crimes are reported to police by citizens, it appears that the complaints of many citizens who actually approach the police to report a crime are not formally recorded. Moreover, citizens do not see the courts as playing a legitimate role in bringing to justice those who commit crimes, one of the principal roles of the courts in developed legal systems.

226. That informal justice systems are the predominant means of dispute resolution is a relatively unsurprising finding in a low income country. What is a surprise is the extent of citizens' preference for the involvement of local government leaders in the process. What does it say about the market for legal services that citizens prefer to use local politicians rather than dedicated legal institutions, which are supposed to be neutral and whose *raison d'être* is to either resolve disputes in accordance with the law and due process or to investigate crime? The data suggest some explanations -- the predatory behavior of some of these institutions, low citizen expectations about their utility (especially in light of economic and emotional costs and the administrative burdens), and their poor performance when citizens actually decide to approach them to resolve their disputes. A recurring theme through the survey results is the extent to which central government actors -- whether police, court authorities, civil servants, health or utility providers -- are the amongst the most frequent perpetrators of legal wrongs against citizens. Abuses by law enforcement officials are the most costly type of dispute suffered by citizens, even more expensive than land disputes, indicating the scale of illegal rents extracted by those who are supposed to be responsible for enforcing the law. The rate of interaction of citizens with the criminal justice system is extremely high,²⁴³ consistent with the high figures of 'false cases' being pursued by law enforcement authorities, a practice that has long antecedents.

²⁴² The police force is the least trusted public institution (with only 20% of respondents indicating some trust). In another module of the survey, expense -- in the form of illegal bribes -- is cited by 29% of respondents as the reason for not approaching the police.

²⁴³ 7.7% percent of households have a member who has at some stage been detained, 4.3% have a member who has at some stage been charged of an offence and imprisoned pending trial, and 1% of households have a member who has been convicted of an offence.

Large Scale Regulatory and Administrative Reforms

227. The reason why there has been limited progress in policy areas where disputation affects millions of people in Bangladesh – land administration, labor disputes, adulterated products -- has been the fact that political incentives for the most part run counter to reforms that improve governance in these areas.²⁴⁴ The incentives to provide public goods to large numbers of people is undermined by the impact of such reforms on the formal and informal distributive arrangements through which successive ruling parties have stayed in power and managed conflict. For instance, while the survey results indicate that “everyday” land disputation is a far more frequently occurring problem than land grabbing by elites and affect far larger numbers of Bangladeshis, continuing uncertainty and unpredictability in land administration enables a variety of political, bureaucratic and economic actors of influence to accumulate resources. Thus, despite the issue having been acknowledged as a serious problem in various policy documents, very little progress has been made.

228. Similarly, there remain few incentives to substantially improve the performance of the police and the judiciary through making them more accountable to citizens. While capacity is certainly an issue as in all other low income countries, and the issue upon which donors have laid emphasis,²⁴⁵ the incentive structure for institutional actors, the general political environment and explicit political interference and executive control over what should be autonomous actors are far more grave issues compromising the basic quality of service delivery and the prospects for improvement.²⁴⁶ Control over the lower courts and law enforcement agencies through criminal cases have been the means through which successive governments of all hues have denied the opposition space in the political realm.²⁴⁷ This survey confirms the extent to which “false cases” are brought, the vulnerability of the politically active to law enforcement abuses and other crimes, and the absence of barriers to predatory rent-seeking. A move away from existing accountability structures within the highly centralized bureaucratic hierarchy to one where state actors feel accountability pressures from citizens in the localities where they serve is likely to be a very gradual process. It requires that there is sufficient and sustained pressure from citizens for improved service delivery, which translates into changed incentives for political and bureaucratic actors.

229. The above discussion is not a resignation to bad governance, but more a recognition that development is an incremental process, marked often by both gradualism and then large and sudden shifts in power dynamics. Incentives are not static, with changes in both the

²⁴⁴ Bangladesh’s ‘winner-takes-all’ political system has historically encouraged the ruling party to subordinate state institutions to its own short-term economic and political interests and those of its associates, rather than seeking to build effective institutions with internal checks and balances.

²⁴⁵ The largest capacity building programs have been the World Bank’s Legal and Judicial Capacity Building Project (an early foray into this area a decade ago, aimed at improving the civil justice system) and the Police Reform Program (financed by DFID and implemented by UNDP). The latter aims at improving the efficiency and effectiveness of Bangladesh Police by supporting key areas including crime prevention; investigation, police operation and prosecution; human resource management and training; strategic capacity and oversight, and communication.

²⁴⁶ This is quite apart from the fact that formal institutions are expensive to build and they are complex and interdependent.

²⁴⁷ Saku Akmeemana, Ferdous Jahan, Asif Shahan, “*The Judiciary*” in Institute for Governance Studies, *State of Governance* (BRAC University, 2008).

economic and political dynamics in Bangladesh changing the pressures on Governments to act. We have already witnessed some positive pressures in relation to an issue such as food adulteration since the Caretaker Government regime of 2007-8. Food and pharmaceutical adulteration and its often catastrophic consequences had hitherto been reported in the press for the last three decades, to little if no response from the major parties (even by way of lip service). Adulterated food and pharmaceuticals potentially affect almost everyone residing in Bangladesh, yet the interests of protecting powerful and well-connected manufacturers from prosecution, and the rent-seeking imperatives of actors within the main regulatory agencies have stymied enforcement and reform.

230. The Caretaker Government's vigorous drive against food adulteration led to significantly increased awareness amongst the general public, as well as a newfound expectation amongst citizens that it is the responsibility of Government to act against practices which seriously endanger the health and well-being of the population. The current Government's efforts to respond to the issue of adulterated food, through prosecutions and enforcement²⁴⁸ as well as prophylactic measures such as home-testing kits for formaldehyde in fish²⁴⁹ are some indication of those changed political pressures. There are calls to monitor and ban imported chemicals used in some types of adulteration such as the ripening and preservation of fruit, and to establish a dedicated court to deal with food adulteration,²⁵⁰ an indication that the bar has certainly moved in the last half decade in a positive direction.

231. Another area where the political incentives may change in coming years is land administration, which has been argued to be emerging as a binding constraint to economic growth.²⁵¹ The survey results would appear to support the contention in the qualitative literature that land is the driver of the vast majority of disputes that find themselves in the formal court system, although further research might be in order to obtain more detailed data about such disputes.²⁵² The high rate of disputation reflects both a very weak property rights regime and possibly the most intense demographic pressure on land in the world. As the price of land has increased, the failures in the antiquated and complicated property rights regime in Bangladesh have become more pronounced. This Government has acknowledged the pressing need for reform, as others before it, although the track record is extremely weak, and there is a line of failed donor-assisted reform efforts over the years.

232. Yet, if Bangladesh is to continue on its trajectory towards middle income status, the incentives to provide some public goods and certainty in terms of land title, at least for business and political elites as well as foreign investors, may outweigh the interests in continuing uncertainty to aid the accumulation strategies of the ruling coalition and aligned bureaucrats. Such reforms would be unlikely to achieve stability of property rights across the board but rather focus on creating more stable expectations for critical sectors to enable

²⁴⁸ "Cops asked to sue traders selling adulterated food", *The Daily Star*, 16 August 2010.

²⁴⁹ The New Nation, 15 July 2009; "Intensity of Formalin Use for Consumable Fish Preservation in Dhaka City, Bangladesh", *Journal of Fisheries International*, Volume 4 (2009) Issue 3, pp52-4.

²⁵⁰ "Taking in food or poison?", *Daily Star*, 24 May 2010.

²⁵¹ Mushtaq H. Khan, "Growth and Governance", (2006), paper presented to a seminar on Governance and Development, Dhaka, November 2006.

²⁵² For instance, the proportion of landholders in different income and asset classes involved in conflicts, litigation and disputes over land and assets; the proportion of owners subject to or involved in violence related to property disputes; the time for completion of land cases in court; the proportion of cases that lead to a resolution of the dispute and the impact of land and asset conflicts on incomes and assets of different income classes.

accelerated investment and growth. A more thorough reform process which addresses “everyday disputation” for citizens may be much further away, yet it should be noted that land disputes are the one area where a large percentage of citizens see a legitimate role for the formal court system and there is certainly a strong demand for reform.

Prospects for Collective Action

233. The survey results suggest that there are significant barriers to effective collective action in Bangladesh. For instance, the results indicate that NGO members are more vulnerable to abuse than non-members, casting some doubts on the contention in the literature that membership of micro-finance organizations promotes collective action among members that may have positive impacts beyond, at least as far as this relates to vulnerability to harm.²⁵³ This issue is discussed in detail at paragraphs 159 and 160 above. Thirty nine percent of respondents identified as belonging to an NGO of some description -- in the Bangladesh context, this number would to a large extent reflect membership of the large micro-finance providers, BRAC and Grameen, mixed with far lower numbers of a range of smaller, specialized NGOs. Previous surveys that reflected higher rates of gender violence amongst micro-finance members were attributed to the intra-household shift in power dynamics consequent upon the increasing economic empowerment of women,²⁵⁴ whereas these results suggest greater vulnerability of NGO members to abuses from outside the home as well. What we can surmise is that if NGOs were a significant force in mobilizing citizens vis-à-vis the state or powerful elites, this result would be unlikely.

234. There is little doubt that NGOs have been involved in a vast array of development activities²⁵⁵ in Bangladesh and have played a pivotal role in social transformation, especially in advancing human development outcomes and in improving “bonding capital” at the local level.²⁵⁶ However, the sociological literature indicates that they have been less successful in creating “bridging capital”, in improving public accountability for poor citizens, promoting direct civic engagement with the state, and in broad-based mobilization of citizens vis-à-vis powerful institutions and actors. The survey results would appear to support this contention. In the context of discussing human development outcomes, Bangladesh’s most influential economist Dr Wahiduddin Mahmud argues that while NGOs have been effective in promoting self-interested behavior for promoting individual welfare²⁵⁷:

²⁵³ Benjamin Feigenberg, Erica M. Field, and Rohini Pande. *Building Social Capital Through Microfinance*, HKS Faculty Research Working Paper Series RWP10-019, June 2010.

²⁵⁴ The argument is that changes in economic empowerment may lead to violence in the near term, and only become protective after a critical threshold of empowerment and a substantial shift in gender roles. See further Bates, L, Schuler S, Islam F, and Islam M, “Socioeconomic Factors and Processes Associated with Domestic Violence in Rural Bangladesh”, *International Family Planning Perspectives*, 30 (2004) 4, pp 190-199; see also Imran Matin, “The very poor who participate in microfinance institutions and those who never did”, *Small enterprise development*, 2005; I. Matin and S. Sinha, “Informal Credit Transactions of Micro-Credit Borrowers in Rural Bangladesh”, *IDS Bulletin*, 1998; Naila Kabeer, “Conflicts over credit: re-evaluating the empowerment potential of loans to women in rural Bangladesh”, *World Development Report*, 2001, 29(1):63-84; Simeen Mahmud, “The gender dimensions of programme participation: who joins a microcredit programme and why?”, *Bangladesh Development Studies*, 2000, 26 (2-3): 79-101.

²⁵⁵ Including relief and rehabilitation, poverty alleviation, health, education, social and environmental protection: Wahiduddin Mahmud, “Social Development in Bangladesh: Pathways, Surprises and Challenges”, *Indian Journal of Human Development*, Vol. 2, No. 1, 2008, p88.

²⁵⁶ David Lewis and Abul Hossain, *Rural Power Structure in Bangladesh*, (2008, SIDA); Wahiduddin Mahmud, “Social Development in Bangladesh: Pathways, Surprises and Challenges”, *Indian Journal of Human Development*, Vol. 2, No. 1, 2008.

²⁵⁷ Even if the benefits accruing to the targeted households have elements of ‘public good’.

“they have been far less effective in promoting civic activism, such as for demanding better service delivery by government agencies. While many NGOs are indeed engaged in promoting human rights and good governance, the scaling up of their programmes have proved difficult. The beneficiaries of NGOs are on the receiving side, often not conscious of what they ought to have as a matter of right. In the absence of effective local government, the NGOs in Bangladesh work almost at a parallel level with the highly centralized public service delivery systems. Moreover, they feel constrained to engage in campaigns with political overtones, since it may place them in a confrontational position with the government and jeopardize their foreign funding. It is not surprising, therefore, that in spite of the many achievements in social development, Bangladesh performs poorly in ensuring civic and human rights, including the prevention of violence against women.”²⁵⁸

235. With some very notable exceptions, the literature suggests that NGOs adjust to the nature of state-society relations in Bangladesh and to the extremely partisan nature of the political landscape they inhabit – they often interact with the state on behalf of citizens,²⁵⁹ acting as their benevolent patrons vis-à-vis the state or powerful actors, rather than mobilizing collective action amongst members or promoting direct civic engagement with the state.²⁶⁰ A dominant theme is maintaining social cohesion.

Individual citizens engage with the state via clientelistic networks where patrons are invariably members of the ruling party. In such a political culture where clientelistic networks are deemed to be more functional than state-society solidarity, NGOs tend to adapt to the prevailing rules of the game. Instead of attempting to break patron-client ties, they assume the roles of ‘benevolent’ patrons to the citizens. In addition, government attempts to restrict NGO activities to within the limits of non rights-based advocacy and demand-creation have produced an environment of fear and uncertainty for NGOs attempting to introduce social accountability. In Bangladesh, it is rare to find social accountability interventions that focus on evidence-based civic engagement such as monitoring the operations of local governments through social audit or citizen report cards.²⁶¹

236. The barriers to collective action are also reflected in the failure of a trade union movement to emerge in Bangladesh, at least one that caters to the needs of its millions of workers whose conditions of employment and occupational health and safety remain serious matters of concern. This survey indicates a high rate of workplace injury and dispute, coupled with a very low rate of dispute resolution. With regards to workplace disputes, this survey suggests that respondents either did nothing (37 percent) or turned to self-help (42 percent). In light of the extent to which much emphasis in the development dialogue is placed on “demand side interventions” and social accountability mechanisms, a more nuanced study of the barriers to collective action might be worthwhile, with a focus on identifying areas where the prospects for action are somewhat promising. While some of these obstacles to collective action are peculiar to Bangladesh, there is literature which argues that, outside Latin America, there are significant barriers to the emergence of class-based advocacy in the developing world.²⁶²

Local Government Involvement in Dispute Resolution

237. The survey results appear to confirm the trend noted in the qualitative literature about the shift in power from traditional land-based elites to those who are linked to political office,

²⁵⁸ Wahiduddin Mahmud, “Social Development in Bangladesh: Pathways, Surprises and Challenges”, *Indian Journal of Human Development*, Vol. 2, No. 1, 2008.

²⁵⁹ Citizens remain relatively passive in such initiatives.

²⁶⁰ David Lewis and Abul Hossain, 2008, p

²⁶¹ Mirza Hassan, internal submission on social accountability, 2010.

²⁶² For instance, Jayasuriya, K. and Rodan, G. (2007) *Beyond hybrid regimes: more participation, less contestation in Southeast Asia*. *Democratization*, 14 (5) pp 773-794.

especially elected officials at UP level. On the one hand, the trend can be interpreted as a negative one, indicating that politics has permeated dispute resolution, that respondents are availing the most powerful patrons they know, and this is being used by better-connected and more powerful individuals against the less powerful in order to obtain favorable outcomes. However, the widespread use of UP shalish across wealth, education and gender divides suggests a much more complex and positive picture, one that is supported by the existing literature and by the rest of the survey data: that this form of dispute resolution has an institutional element and it is more responsive and accountable to citizens than many other dispute resolution mechanisms.

238. We must note a shortcoming of our study in regard to assessing recent challenges to the UP chair's position in the local power structure. Some research suggests that the last decade has seen key ruling party figures at the *upazila* or sub-district level undermine or displace the union chair in some instances.²⁶³ Our survey sheds only limited light on this issue for a number of reasons. In relation to the pathways followed to resolve disputes or crimes, the survey instrument did not distinguish locally elected politicians from other political leaders, although it did this elsewhere (in relation to questions about who mediates disputes in the local area and who *should* be responsible for dispute resolution). Further, the survey was fielded just after the Caretaker Government period, during more than two years without a sitting Parliament and when the political parties and the related *mastaan* networks were very much lying low. The union parishad chairman would probably have been playing a predominant role during this period.

239. Much of the existing literature indicates that, despite a lack of role clarity at the lowest tier of local government, union parishad chairmen are amongst the most accountable and responsive of state actors in Bangladesh. They are not formally elected on party lists, but are normally affiliated with one or other of the main political parties. However, the literature indicates that the UP chair is commonly not a hardline partisan who represents party interests dictated from above, but rather a local politician who tries to navigate a very partisan political landscape in order to attract resources for his or her constituency. Thus, party affiliation is a means of securing resources from the center for the local community, which explains why some union chairmen shift their political affiliations from time to time.

240. In a system where it is nearly impossible to shield formal institutions from corruption and capture, it is logical that citizens tend to depend on the local political actors for mediation, since unlike the police or courts, they have some degree of political accountability in democratic systems. While *shalish* may provide union chairmen with a means of further accumulation and social control, being a relatively fair arbiter of disputes or an impartial source of advice or assistance may also be a means of gaining prestige and votes at the next election. The widespread use of union members and chairs in dispute resolution and the overwhelming preference for their involvement across all demographic groups would provide support for the idea that they do, for the most part, attempt to be even-handed and of assistance to the parties, that they are accessible to most citizens, and provide a means of mediating relations with other state institutions. Conversely, a reputation for partisan bias or unfair outcomes may have adverse effects on a local leader's social and political standing and have consequences at the ballot box. The picture painted of UP shalish today in the

²⁶³ Devine J, (2008), Governance, Democracy and the Politics of Wellbeing, WeD Working Paper 36 (University of Bath, 2008); Devine, J. Camfield L and Gough I, "Autonomy or Dependence or Both? Perspectives from Bangladesh", *Journal of Happiness Studies*, 9(1), pp105-137. See also BRAC University Centre for Governance Studies, *State of Governance 2006*.

qualitative literature involves a rural elite whose control of informal courts is dependent upon commanding respect and securing sustained political support; with their actions partially constrained by a set of moral values obliging them to engage in redistributive acts and provide minimal social safety nets.

241. By way of contrast, it would appear that the incentive structure for police, judges, court officials and civil servants accounts for their poor performance, at times predatory behavior and the lack of accountability to the citizens in the local communities where they work. All of these officials are centrally recruited, poorly paid and constantly transferred throughout the country during their public service careers. Any accountability systems to which they are subjected tend to be vertical and process (rather than outcome) oriented, with a virtual absence of any accountability to the citizens in the localities they are meant to serve.

Policy Engagement with Informal Dispute Resolution

242. This survey indicates not only that elected local government officials are engaging in the bulk of dispute resolution in Bangladesh, but that they have a level of legitimacy in that role and that citizens indeed have the expectation that they be involved in resolving disputes. It is difficult to escape the conclusion that Government needs to acknowledge the reality of local government involvement in dispute resolution in any discussion on access to justice if it is to engage with the systems that are used by the overwhelming bulk of Bangladesh's citizens and that any meaningful policy response should be predicated on an appreciation of this state of play. Yet it has been an area that is largely overlooked by policy makers. A very ambitious justice sector strategy in the most recent *National Strategy for Accelerated Poverty Reduction* largely overlooks this area, as have previous policy documents. The focus is on improving the formal court system and access to it; the single sentence that refers to alternative dispute resolution mechanisms appears to be devoid of any real meaning.²⁶⁴ The NSAPR attributes slow, costly and time consuming case management processes in the civil courts as the major factor which restricts access to justice for the poor and disadvantaged groups of society.²⁶⁵

243. There is resistance from very disparate groups to the greater institutionalization of alternate dispute resolution mechanisms. The reluctance of governments in Bangladesh and other developing countries to engage with informal systems of dispute resolution maybe based on a belief that developing countries need to “graduate” from reliance on informal dispute resolution as they mature, become more prosperous and modernize. A resistance to the idea that the state should acknowledge or support informal dispute resolution mechanisms is often shared by advocates engaged in protecting the legal rights of the most marginalized, who believe that this could perpetuate systemic biases and inequities, especially against women and socially excluded groups. They argue that while UP *shalish* does not generally impose the fatwas and harsh punishments that the extreme forms of the traditional practice entail, it often differs little from the traditional process in terms of exclusionary bias, its tendency to reproduce social inequality by advantaging men, elders, and the more powerful and enforcing repressive norms. This has been highlighted in recent years, where cases of cruel and humiliating punishments imposed by UP chairs have gained some media attention after they were ruled upon by the High Court.

²⁶⁴ “Alternative dispute settlement mechanisms will be strengthened by regulating them by formal and traditional laws”: Government of Bangladesh, *National Strategy for Accelerated Poverty Reduction*, 2010, p 74.

²⁶⁵ p73. While the present government has admirably attempted to reform the National Legal Aid Organization, the NLAO touches only a very small percentage of disputes.

244. Thus, for many human rights advocates, a greater acknowledgement by the state of local government authorities in the process of dispute resolution, let alone a more formalized involvement, is anathema for a number of reasons. Despite the decline in the formal court system in recent times, both in terms of judicial competence and integrity,²⁶⁶ it is still seen as the “best bet” or the “least worst” option in terms of its exclusionary biases. Courts must apply the secular law, which is less exclusionary than religious and customary law, and are at least formally obliged to provide equality before the law even if the practice often falls short. Further, despite evidence of increased politicization of the courts and corresponding judicial timidity in the last decade, there continue to be some victories in the appellate courts which do further the human rights of the most vulnerable. This explains to some extent the dual track that has been followed by legal aid NGOs in Bangladesh. Some specialized NGOs such as the Bangladesh Legal Aid Services Trust (BLAST) have pursued public interest litigation and assist citizens who are either availing the formal system or caught in it, which at least at the higher levels is seen as having a greater deal of impartiality and less exclusionary than shalish. Yet, acknowledging the extent of citizens’ reliance upon informal dispute resolution mechanisms, the bulk of human rights, legal rights and development NGOs who work on access to justice work primarily with traditional and UP dispute resolution forms, in an effort to ameliorate exclusionary biases.²⁶⁷

245. There are both practical and logical arguments against the resistance to engagement with informal dispute resolution. This survey’s results confirm those of the BRAC survey, which indicate that the coverage of such legal aid NGOs is poor in terms of the percentage of citizens that they are able to reach (despite providing services which are rated highly by those who receive them). If only 1% of citizens avail these services, the overwhelming bulk of the population does not see such services as a viable dispute resolution option. More fundamentally, working with non-adversarial dispute resolution systems outside the courts is a necessary element of a functioning justice system, regardless of the level of development. Engagement with justice systems outside the state is not merely an interim strategy for developing countries until such time as customary systems can be “modernized” and fully integrated into the state or until the formal legal system somehow expands to adequately meet all the dispute resolution needs of a society. Indeed:

“the evolution of justice in the developed world is unequivocally in the direction of compulsory mediation, diversionary justice, alternative sentencing and community-led processes”.²⁶⁸

246. While crimes are certainly largely seen as the preserve of the courts, in the bulk of civil disputes, court-based adjudication is seen as an unwanted and expensive last resort that lawyers do their best to avoid in more advanced legal systems. Since the 1970s, there has been an explosion of non-adversarial administrative mechanisms for dispute resolution in the developed world, especially around civil disputes -- from arbitration bodies and mediation devoted to particular types of dispute such as labor or consumer or tenancy disputes, to investigative tribunals that are of an administrative rather than judicial nature, very informal mediation provided by community legal centers and neighborhood dispute centers, and a myriad administrative mechanisms dealing with disputes with government. These bodies

²⁶⁶ Centre for Governance Studies, BRAC University, *State of Governance 2006*; Institute of Governance Studies, BRAC University, *State of Governance 2009*, chapter 5.

²⁶⁷ In areas such as domestic violence, such services indeed perform a vital function and provide services for women to obtain a measure of justice from a system that is weighted heavily in favour of men.

²⁶⁸ Matt Stephens, “Typologies, Risks and benefits of interaction between state and non-state justice Systems”, p2.

often employ informal procedures, beginning with conciliation and mediation, and are unbridled by process.

247. A meaningful reform strategy must address the reality of involvement of political actors in dispute resolution if it is to reach the systems that are used by the overwhelming bulk of Bangladesh's citizens. Specifically, it needs to make policy decisions about whether to intervene in existing practices in an effort to ameliorate exclusionary bias, increase compliance with secular law (including the human rights guarantees in the Constitution) and prevent abuses of power. The more conservative policy option is to do nothing and to allow UP *shalish* to evolve according to the demand for these services and local peculiarities, and to rely upon advocacy groups to bring to attention the more egregious outcomes from a human rights perspective. The more interventionist approach would be to rely upon the evidence that shalish practices are far from fixed and attempt to harness the potential for UP shalish to change for the good,²⁶⁹ in an effort to improve outcomes for people living in poverty and to ameliorate exclusionary practices. Not only does this provide scope to bring a level of consistency to practices (or atleast to provide some minimum standards that comply with constitutional standards and criteria for inclusiveness), but also for very serious disputes to be referred to more appropriate fora where indicated.

Risks of Formalizing the Informal

248. Admittedly, state engagement with informal systems is fraught with the risk of potentially formalizing and delegitimizing the informal, in the process undermining its main advantages. Yet there are lessons from other developing countries and from Bangladesh's own experience with the village court system from which it could learn, which Stephens has synthesized. The approach in much of Latin America has been for government to provide over-arching legal frameworks to recognize non-state justice systems so long as processes and norms are not inconsistent with state law. This form of recognition has the advantage of not introducing new institutions, but building on what already exists. By way of contrast, other countries have attempted to introduce hybrid institutions that carve out a defined jurisdiction for village-based dispute resolution processes, which are in turn acknowledged by state courts. This approach has been employed in the Philippines, Papua New Guinea and Sri Lanka to far greater success than Bangladesh's effort to introduce village courts. The failure of Bangladesh's effort can be attributed to a number of reasons: the village court was imposed on top of existing institutions, attempted to be prescriptive in terms of the form of the institution, and its processes were still far more time-consuming and bureaucratic than its informal alternatives. It also placed both executive and judicial power in the union parishad chair and members, inconsistent with the separation of powers doctrine in the Constitution, and undermining its legitimacy amongst many. As Stephens has argued, successful efforts to integrate the virtues of state and non-state justice are generally those that take a light touch, often build incrementally on existing systems and are defined by local stakeholders. Central to their success seems to be the absence of prescriptive regulations on process and substance - - this effectively creates "delegalized" environments that seemingly helped the institutions to effectively adapt to the range of social, ethnic, religious and cultural contexts. Locally legitimate processes fill the space.

²⁶⁹ While the literature is divided on the prospects, several commentators argue that shalish has significant potential to change for the better. They found a diverse range of practices and outcomes which suggest that openings or spaces for improving the outcomes for people who are living in poverty and the historically marginalized.

249. It should be noted that the process of increasing urbanization will only increase the demand for more institutionalized but informal dispute resolution processes. Many inhabitants of major cities are removed from the usual forms of traditional dispute resolution available to them in their home village. There are no long-established dispute resolution fora, nor the same (often feudal) social hierarchy from which authority of the *shalishkar* and compliance with decisions derives. There is some evidence that slum welfare committees are playing an increasing role in dispute resolution in urban slums, but in much of urban and peri-urban Bangladesh, dispute resolution in the lowest tier of local government could form potentially the only accessible forum available to the average citizen for relatively minor disputes.

250. Any further reform efforts by donors need to respond to the evidence base being built by this survey and other empirical studies, rather than more theoretical notions of what interventions might work and what may not. If local government in Bangladesh is given serious priority in the coming years, including credible and predictable fiscal allocations, there is considerable potential for mediation (an administrative function rather than adjudication, a judicial function) of disputes to be institutionalized amongst its functions as there appears to be enormous demand from citizens for a mediation service at UP level. Before such an effort is made, more detailed qualitative work needs to take place to understand more about the typology of dispute resolution at union parishad level. The World Bank's strong engagement at union parishad level through the Local Governance Support Project could facilitate a rich understanding of local government involvement in dispute resolution, which could in turn inform the available policy options.

ANNEX 1: Survey on Citizens' Experiences

**SURVEY ON CITIZENS' EXPERIENCES OF THE LEGAL SYSTEM
2009**

QUESTIONNAIRE



World Bank

Sher-e-Bangla Nagar, Agargaon

Dhaka 1207, Bangladesh

and

Ma MITRA AND ASSOCIATES

(Centre for Research and Consultancy)
2/17 Iqbal Road, Mohammadpur, Dhaka-1207, Bangladesh
Tel: 880-2-8118065/9115503, Email: mitra@citech.net, Fax: 880-2-9126806

Interview starting time: Hour Minute

Name of Interviewer: _____

Code

Name of Supervisor: _____

Code

Name of Field Editor: _____

Code

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Date of interview: day Month Year

HH ID:

Consent statement

1. Identification:

1. IDENTIFICATION	
Name of the Household head(HHH) _____	
Respondent's Name _____	line No: <input type="text"/> <input type="text"/>
Father/husband's Name: _____	Mother's Name: _____
Cluster No: <input type="text"/> <input type="text"/> <input type="text"/>	Area: 1=village 2=city
District _____ code: <input type="text"/> <input type="text"/>	Upazila _____ code: <input type="text"/> <input type="text"/>
Union/ward: _____	Village/neighborhood: _____
Address:	
How long have you lived in this area (this village/urban ward)?	Years <input type="text"/> <input type="text"/>
	Always 95
How long have you lived in this household?	Years <input type="text"/> <input type="text"/>
	Always 95
Religion of the respondent:..... <input type="checkbox"/>	Ethnicity of the respondent:..... <input type="checkbox"/>

Code for religion: 1= Muslim 2= Hindu 3= Buddhist 4= Christian 5=Others (specify)

Code for ethnicity: 1=Bengali 2= Bihari origin 3=Tribal 4=Other (specify)

Interview result code:
1=completed 2=Incomplete (If incomplete) Reasons (specify).....

2. Household Roster:

Who are the Household members living in this address? [Please check all that apply and list the numbers]

Line No	Name	2a. Age (in whole Years)	2b. Sex M=1, F=2	2c. Relationship with HHH	2d. Highest level of education (in cases of individuals who are more than 5 years old)	2e. Marital Status (in cases of individuals who are more than 10 years old)	2f. Primary occupation (in cases of individuals who are more than 8 years old)	2g. Does s/he earn income? 1=yes, 2=no	
1		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
2		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
3		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
4		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
5		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
6		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
7		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
8		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
9		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
10		<input type="checkbox"/> <input type="checkbox"/>	1 2	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	1 2	
Relationship with the HH head: 01 = HH head 02 = Spouse 03 = Son/daughter 04 = Son/daughter in law~ 05 = Parents 06 = Parents-in-law 07 = Brother/Sister 08 = Brother/sister-in-law 09 = Other relatives 10 = grandchildren 11 = non-relative 12 = others		Education: 00 = No education 01 = education up to class 1 02 = education up to class 2 03 = education up to class 3 04 = education up to class 4 05 = education up to class 5 06 = education up to class 6 07 = education up to class 7 08 = education up to		09 = education up to class 9 10 = SSC or equivalent 11 = HSC or equivalent 12 = university/college graduate (BA/Bcom/BSc) 13 = MA/Mcom/MSc/ 14 = Phd 77 = diploma/vocational 55 = Religious education only 88 = don't know 98 = undertaken some schooling, but don't know how much		Marital Status: 1=Never married, 2=Married (living with spouse), 3=Separated/deserted, 4=Widow/widower		Occupation: 1=Farming (on own and/or others' land); 2=Agricultural day labor or contract labor; 3=Fishing; 4=Poultry and livestock rearing; 5=Non-agricultural day labor or contract labor; 6=Regular salaried employment in Government, NGO or other institutions; 7=Regular salaried employment in some fixed business establishment (shop, factory, hotel, etc.) or in transport sector (bus, truck, etc.) 8=Self employed in business/service provision; 9 = Business owner using hired labor; 10=Rickshaw/rickshaw van puller; 11=Boatman; 12=Unpaid household work (e.g., housewife); 13=Servant/ maid; 14=Student; 15=Beggar; 16=Old/ disabled; 17=Unemployed; 18=driver (taxi cab, tempo, CNG etc) 96=Other (Specify)	

	class 8		
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Q3.17 **How often do you:** *[Read out options]*

		a) 1=everyday	b) 2=A few times a week	c) 3=A few times a month	d) 4=Less than once in a month	e) 5=Never	f) 7=Don't know (either of usage or about the gadget)
1							
1	Use a mobile phone	1	2	3	4	5	7
2	Use a computer	1	2	3	4	5	7
3	Use the internet	1	2	3	4	5	7
4	Travel 10 km or more from the place where you live now	1	2	3	4	5	

3.18 **How often, if at all, do you receive money remittances from friends or relatives outside of the country?**

[Read out options except for don't know option]

0=Never, 1=Less than once in a year, 2=At least once in a year
 3=At least once in every 6 months 4=At least once in every 3 months
 5=At least once in a month 7=don't know

code

A. Abuses/crimes/disputes: Threat and risk-avoidance

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4.1	Abuse ('hoirani') by Service Providers/local authorities, government agencies/utilities				
4.1.1	Harassment by utility service providers (water and sewage, electricity)				<input type="checkbox"/> <input type="checkbox"/>
4.1.2	Harassment by land administration officials				<input type="checkbox"/> <input type="checkbox"/>
4.1.3	Harassment by health care facilities/professionals (non availability of doctors, lack of medicine, facilities etc)				<input type="checkbox"/> <input type="checkbox"/>
4.2	Abuse of law enforcement authorities and processes				
4.2.1	Arrest or detention without any justifiable reason				<input type="checkbox"/> <input type="checkbox"/>
4.2.2	Harassment by police, RAB or joint force				<input type="checkbox"/> <input type="checkbox"/>
4.2.3	False cases lodged against you for the sake of harassment				<input type="checkbox"/> <input type="checkbox"/>
4.3	Abuse at work				

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4.3.1	Breach of employment contract by employer (eg. not being paid, not being paid in time)				<input type="checkbox"/> <input type="checkbox"/>
4.3.2	Harassment in work environment (Sexual harassment/ bullying/ ill-mouthing)				<input type="checkbox"/> <input type="checkbox"/>
4.3.3	Dangerous working conditions (e.g handling hazardous materials, construction work without proper helmet and cranes etc)				<input type="checkbox"/> <input type="checkbox"/>
4.3.4	Injury at work				<input type="checkbox"/> <input type="checkbox"/>
4.4	Environmental/consumer related abuse				
4.4.1	Misleading labelling of agricultural inputs (i.e substandard pesticides harming crops)				<input type="checkbox"/> <input type="checkbox"/>
4.4.2	Selling adulterated food (using hazardous chemicals such as formalin to keep fish fresh)				<input type="checkbox"/> <input type="checkbox"/>
4.5	Business matters				
4.5.1	Unable to recover loan,				<input type="checkbox"/> <input type="checkbox"/>

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4. 5.2	Not getting loans from banks/ FIs despite being fully eligible				<input type="checkbox"/> <input type="checkbox"/>
4. 5.3	Difficulties with contract enforcement				<input type="checkbox"/> <input type="checkbox"/>
4. 5.4	Difficulties in obtaining government permits/licenses				<input type="checkbox"/> <input type="checkbox"/>
4.6	Drug related abuses/crimes				
4. 6.1	Illegal trading of drugs in immediate environment				<input type="checkbox"/> <input type="checkbox"/>
4.7	Landlord/tenant disputes (payment of rent, repairs, eviction, safety standards, arson)				
4.8	Land/property related problems				
4.8.1	Dispute related to selling or buying property from a private individual				<input type="checkbox"/> <input type="checkbox"/>
4.8.2	disputes with neighbours over boundaries				<input type="checkbox"/> <input type="checkbox"/>

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4.8.3	disputes over land title				<input type="checkbox"/> <input type="checkbox"/>
4.8.4	Land expropriated by Government without compensation for development projects				<input type="checkbox"/> <input type="checkbox"/>
4.8.5	Land grabbing (e.g land taken by Government fiat, but at the behest of powerful elites, land taken by powerful individuals)				<input type="checkbox"/> <input type="checkbox"/>
4.9	Family and inheritance				
4.9.1	Dispute involving a divorce/separation (not getting dower, maintenance of wife and children etc),				<input type="checkbox"/> <input type="checkbox"/>
4.9.2	Dispute involving inheritance of land or property				<input type="checkbox"/> <input type="checkbox"/>
4.10	Crimes				
4.10.1	Payment of or soliciting dowry				<input type="checkbox"/> <input type="checkbox"/>
4.10.2	Domestic violence (physical violence by HH members/relatives)				<input type="checkbox"/> <input type="checkbox"/>
4.10.3	Sexual harassment in public places				<input type="checkbox"/> <input type="checkbox"/>

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4.10.4	Personal property related theft/burglary (including crop, fish, poultry and animal theft)				<input type="checkbox"/> <input type="checkbox"/>
4.10.5	Robbery				<input type="checkbox"/> <input type="checkbox"/>
4.10.6	Mugging				<input type="checkbox"/> <input type="checkbox"/>
4.10.7	Extortion				<input type="checkbox"/> <input type="checkbox"/>
4.10.8	Kidnapping and ransom				<input type="checkbox"/> <input type="checkbox"/>
4.10.9	Violence using firearms				<input type="checkbox"/> <input type="checkbox"/>
4.10.10	Murder				<input type="checkbox"/> <input type="checkbox"/>
4.10.11	Rape				<input type="checkbox"/> <input type="checkbox"/>
4.10.12	Acid Violence				<input type="checkbox"/> <input type="checkbox"/>

Q4	We might become victims of problems/abuses/crimes/disputes in our everyday life. Now we would like to know something about these.				
	Problems/Abuses/Crimes/ Disputes	4.a) I would like to know if you have been worried about these abuses/crimes/ disputes happening to you or your HH members [to the interviewer: Please read every option slowly to the respondents and write the appropriate code.]	4b1) If you are worried, then why?	4b2) If you are not worried, then why?	4c) [To those who report being 'fairly' or 'very' worried] Have you done anything to avoid these threats and worries? [Multiple answers admissible] (To the interviewer: do not prompt. once an interviewee answers, write it as it is and then fill in the appropriate code. Any answer not included in codes, write as others correctly)
4.10.13	Arson				<input type="checkbox"/> <input type="checkbox"/>
4.10.14	Assault by non-family member				<input type="checkbox"/> <input type="checkbox"/>
4.10.15	Religious/ethnic violence				<input type="checkbox"/> <input type="checkbox"/>
4.11	Violence relating to conflicts between political parties				<input type="checkbox"/> <input type="checkbox"/>
4.12	Other (specify)				<input type="checkbox"/> <input type="checkbox"/>

<p>Code 4a: Very worried 1 Fairly worried..... 2 Not very worried..... 3 Not at all worried..... 4 Not applicable 8</p>	<p>Code 4b1: Happened to me or someone living in my household 1 I have received a credible threat from a potential perpetrator 2 Personally know someone in this community to whom this happened 3 have heard about it happening in this community from news or third-person stories 4</p> <p>Code 4b2: these incidents happened long ago and do not happen any more 5 have never heard about it happening in this community 6 Did not happen to me or someone living in my household 7 Not applicable 8</p>	<p>Code 4c: Installed new locks, gate 01 Keep valuables in secured cabinets/place 02 Discussed your concerns with the person concerned 03 Gone to the authorities for help in preventing the problem 04 Kept friends / neighbors informed of potential problem 05 Went to the police 06 Went to the UP 07 Consulted a lawyer..... 08 Discussed matter with local elites / NGOs / media persons 09 † Stopped buying the adulterated product 10 Keeping contact with youth leaders / mastaans in case support is needed 11 Accepted the situation (there is no way out and I cannot do anything about it) 12 Stopped trading / interacting with the problematic person 13</p>	<p>Left the job..... 14 Left the household 15 Evicted the tenant 16 Avoided travelling to risky areas 17 Avoid leaving the house alone 18 Avoid travelling during certain time of the day (i.e at night) 19 Avoid carrying valuables while travelling 20 Made an extra-legal payment or a bribe (to secure protection / attention / bank loan / business permits or licenses / ...) 21 Participated in collective action 22 Attended a public meeting or neighbourhood forum to discuss local issues 23 Formed a new community group to address local problems 24 Attended a protest meeting or joined an action group 25 Bought insurance (on property, life etc) 26 Did not do anything (will be different from 12—could do, but did not do anything because it just was not worth the effort) 27 Other (specify) 99)</p>
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NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q5.1	Did any of these incidents happen to you or your HH members? (See Q.4.1.1 to Q.4.12, if in Q.4b1 answers are 1 or 2 means any of your household member face this problems/ abuse/ crimes/ disputes or received a credible threat from potential from perpetrator then circle 1 in this question)	Yes..... 1 No 2	
Q5.2	To the interviewer: Look at Q4c and circle the appropriate code	the interviewee has taken an action 1 the interviewee did not take an action2	If 2, go to section B
Q5.3	If you have acted in trying to reduce potential threats, did your sense of security improve?	Yes..... 1 No 2	

B Experience of abuses/crimes/disputes: severity as perceived by respondents

[Note to the interviewer: sections B and C are applicable for HH that experienced problems/abuse/disputes/crimes or received threat from perpetrator. If an experience is reported in Q4b (if the code in Q4b is 1 or 2), the following questions (up to Q14.7) will be asked. Otherwise go to section D]

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q6.	<p>Problem/dispute/crime To the interviewer: Look at Q4.1.1 to Q4.12. (write the codes from Q4 if the codes for Q4b are 1 or 2) * the HH members who do not reside in the HH now, but were HH members when a victimization took place, include those incidents also</p> <p>a) Who is the victim? (enter Line No from HH roster; In case of whole HH enter 55, if the victim does not live in the HH now, e.g, is abroad or dead then write 00)</p> <p>b) When did it happen? 1= In 2009 2=within last two years (2007-2008) 3= at least two years ago and within last 7 years (2002-2006) 4=at least 7 years ago (before 2002)</p> <p>c) If the interviewee or his/her HH members experienced more than one incident in last 7 years (from 2002 until now), then write about the most serious incident affecting the interviewer and the HH [write the code from Q6]</p>		
1			
2			
3			
4			
5			
6			
7			

Q7.	Now we would like to know about the perpetrators/law breakers [of the most serious incident]		
7.1	Number of perpetrators [if the respondent does not know, put 88, if institution is a perpetrator, then write 77] <input type="text"/> <input type="text"/>	
7.2	Did you know main perpetrator (or the person responsible for the incident) before the incident took place?	Yes..... 1 No 2 Not applicable 8	→ Q8

7.3	If the main perpetrator is known, then what is his/her relationship to you (the victim)?	Own HH member or members 1 close relatives (immediate extended family members) 2 distant relatives/other household member or members 3 unknown but a familiar person seen in your area 4 known person from your area 5 member of a gang 6 government 7 Others (specify) 99
7.4	Sex	Male 1 Female 2 Not applicable 8
7.5	Age (approximate)	Age <input type="text"/> <input type="text"/> Not applicable 98
7.6	Social category of perpetrator	a. Wealth status Higher than respondent 1 Same as respondent 2 Lower than respondent 3 Don't know 7
	b. Political affiliation (two codes apply)	b. Political affiliation Active supporter/cadre of ruling party... 1 Active supporter/cadre of opposition.. 2 Not known to be affiliated 3 Don't know 7

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q8.	What were the consequences of this incident for you/your HH? [most serious one as identified by the respondent] (Code all that apply)		
8.1	During the incident, did any damage to your HH's property take place?	Yes 1 No 2 (If answered No, then go to section C)	
8.2	Who did the damaged property belong to? CODE ALL THAT APPLY (enter Line No from HH roster; In case of whole HH enter 55, if the victim does not live in the HH now, e.g. is abroad or dead then write 00)	Line # <input type="text"/> <input type="text"/> Line # <input type="text"/> <input type="text"/> Line # <input type="text"/> <input type="text"/> Line # <input type="text"/> <input type="text"/>	
8.3	What property was damaged? CODE ALL THAT APPLY	Car/van; 1 Motorcycle/scooter/moped/bicycle/rickshaw 2 Property inside the home or flat 3 Outside of home or flat (e.g. doors, windows, walls) 4 Fences, walls, gates or items in the garden 5 Harvest 6 Domestic animals 7 Fishing pond 8 Electronics (mobile, watch) 9 cash 10 agricultural machinery (e.g. power tiller) 11 agricultural inputs (e.g seeds, fertilizer) 12 *others (specify) 99	
8.4	a) What was the total value of the damage (in equivalent taka) b) what was your/ your HH's monthly income when your property damaged.	Taka <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> %	
8.5	Did this incident have any economic/livelihood impact on your HH [CODE ALL THAT APPLY]?	no economic/livelihood impact 00 stopped business 01 stopped new investment 02 moved the business to another location 03 hired/paid private organizations/individuals to protect/secure business 04 changed business 05 changed/quit jobs 06 reduced current or lifetime income for HH due to member being killed / disabled /injured / arrested or detained by police / suffering prolonged sickness due to inattention by public health care facilities or consumption of adulterated foods 07 reduced household income due to crop damage from environmental factors or use of substandard pesticides 08 time, cost or relocation costs associated with landlord/tenant disputes 09 costs of settling land/property disputes 10 compensation not given on land expropriated by government or by private individuals 11 money/land lost due to divorce/separation	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
		disputes or inheritance-related disputes. 12 *others (specify) _____ 99	
8.6	What were the other consequences of this incident for you/your HH? [Code all that apply]	physical harm to family member 1 distress and worry 2 loss of social respect or family name 3 restricted mobility of the HH members 4 stopped sending children to school 5 Other (specify) _____ 9	

C. Responses to civil disputes and crime

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP			
Q9.	What did you do in response to the [most serious] incident?					
Actions taken		Did you go to these persons/institutions 1=Yes 2=No	Why did you go?			
			The reasons for going/not going to an institution /advantages/disadvantages/behavior *			
9.1	Acted alone or with help of family members	9.1.1	Talked to the perpetrator/other side			
		9.1.2	Sought help from own family members			
		9.1.3	Threatened the perpetrator			
		9.1.4	Took direct action against perpetrator by damaging his/her property			
		9.1.5	Took direct physical action against perpetrator by using violence			
		9.1.6	Took direct action against perpetrator by using non-violent methods like social boycotting			
9.2	Local Leaders	9.2.1	Went to a local political leader (UP chairman/member, other) [go to the next question if answered 2]			
		9.2.2	Went to a religious leader [go to the next question if answered 2]			
		9.2.3	Went to local unelected community leader [go to the next question if answered 2]			
		9.2.4	Went to employer or landlord [go to the next question if answered 2]			
		9.2.5	Requested a village shalish[go to the next question if answered 2]			
		9.2.6	Went to the local MP [go to the next question if answered 2]			
9.3	Law enforcement agencies	9.3.1	Threatened the other side with legal action [go to the next question if answered 2]			
		9.3.2	Went to the police (If answered 2 then skip b and go to c)			
		9.3.3	Went to RAB (If answered 2 then skip b and go to c)			
		9.3.4	Went to army/joint force camp (If answered 2 then skip b and go to c)			
		9.3.5	Sought legal advice from a private lawyer [go to the next question if answered 2]			

NO.	QUESTIONS AND FILTERS		CODING CATEGORIES			SKIP		
		9.3.6	Went to a Village Court (If answered 2 then skip b and go to c)					
		9.3.7	Sought advice of government legal aid (If answered 2 then skip b and go to c)					
		9.3.8	Went to court (If answered 2 then skip b and go to c)					
9.4	NGO	9.4.1	Went to an NGO legal aid service for assistance (If answered 2 then skip b and go to c)					
9.5	Government Officials	9.5.1	Went to the Upazila Nirhabhi Officer or other administrative official (If answered 2 then skip b and go to c)					
9.6	Did nothing							
	Other (specify).....							
9b. Why did you go? 1 = for advice only 2 = for mediation only 3 = both for advice and mediation 4=to seek legal redress in the courts? 5= for personal security in future			9c. The reasons for going to an institution [code all that apply] 01= Grievances were heard appropriately 02= The dispute resolution mechanism has been very prompt 03= The dispute resolution mechanism has access to technical/legal knowledge and lawyers 04= The dispute resolution mechanism is impartial 05= The judges/mediators are competent to understand the law 06= The judges/mediators are competent to understand the community norms 07= The judges/mediators are competent in applying the law fairly/correctly 08= Enforcement of the decision takes place through a combination of community dynamics 09= The system is financially affordable 10=Physical access to system is easy (close by) 11=The system is familiar to me 12=I have confidence in the fairness of the process 13=I have confidence in outcomes			9c The reasons for not going to an institution: 14= I never heard of about this institution 15=Grievances were not heard appropriately 16=The dispute resolution mechanism has been very lengthy 17=The dispute resolution mechanism has no access to technical/legal knowledge and lawyers 18=The dispute resolution mechanism is not impartial 19=The judges/mediators are incompetent to understand the law 20=The judges/mediators are incompetent to understand the community norms 21=The judges/mediators are incompetent in applying the law fairly/correctly 22= Community does not get involved in enforcement (no community participation) 23= The system is financially too costly 24=Physical access to system is difficult (involving travel) 25=The system is unfamiliar to me 26=I have no confidence in the fairness of the process 27=I have no confidence in outcomes 88=Don't know 98=Not applicable 99=Other (specify).....		

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q10.	In section C, if answered yes to 9.4.1, which NGO did you go to?	Name of the NGO 1 Did not go to an NGO.....8	Go to 12.1
11.	Why did you choose this NGO over others? [Record up to 3 reasons]	1..... 2..... 3.....	
12.1	To the interviewer: See Q9a. (if the respondent did not go to any institution, then ask Q12.2 and go to Section D. otherwise go to Q13)		
12.2	If you did not do anything despite experiencing the incident, why was that? [Code all that apply]	It would cost more than I can afford1 It would take too much time2 I did not know where to go.....3 It was not very important.....4 Thought the other person was right5 Thought the other person was more influential6 Fear of reprisal by offenders7 Would damage the relationship with the other party8 Would damage my family's reputation.....9 It was a private or family matter 10 No material loss/damage took place..... 11 Previous bad experience with traditional shalish 12 Previous bad experience with courts and police 13 Previous bad experience with NGO legal services 14 It would be useless anyway ("I am just a little man"/poor person – hopelessness, internalized sense of powerlessness) 15 Others (specify) 99	
13.	[To interviewer: if the respondent went to multiple institutions, if answered yes to 9.3, 9.4 and 9.5, then record the answers for the most important institution as identified by the respondent for his/her dispute resolution]If you did decide to seek resolution through one of these institutions, we would like to know about your experience in detail.		
13.1	If the respondent went to more than one institution, which played the most important role in dispute resolution? [See section C, 9.3, 9.4 and 9.5 and write the line number from Q9] (Write from section C Q9)	<input type="checkbox"/> 9 <input type="checkbox"/> <input type="checkbox"/>	
13.2	What did/do you hope to achieve from this institution? [record all that apply]	a fair application of the law to my dispute/grievance 1 revenge2 right to property/asset 3 apology from the disputant..... 4 monetary compensation 5 Other (specify) 9	
13.3	Source of information about these institutions [record all that apply]	respondent knew about it 1 close relatives.....2 distant relative/friends/neighbors..... 3 local land-based elites 4 local business elites 5 local professional elites (i.e teacher) .6 local political elites 7 elected local representatives 8 NGO 9 government officials 10 newspaper 11 Electronic media 12 religious leader 13 Other (specify) 99	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
13.4	Who were the main actors participating in these institutions? [record all that apply]	Relatives and neighbors 1 common village dwellers2 local MP3 local land-based elites4 local business elites5 local professional elites (i.e teacher) .6 local political elites7 elected local representatives8 NGO.....9 government officials 10 religious leaders 11 lawyers 12 other court officials 13 police 14 judge15 community police16 Other (specify) 99	
13.5	Did you understand the procedure that the institutions followed?	Yes 1 No.....2	
13.6	Were the procedures easy/difficult to understand?	Easy 1 Difficult.....2	
13.7	Did someone explain them to you/answer your questions about the procedure?	Yes 1 No.....2	
13.8	Did both the parties get a chance to tell their side?	both parties got a chance 1 only I got a chance2 only the other party got a chance3 Not applicable.....8	
13.9	Did you think that the <i>procedure</i> that the institution followed fair?	Yes 1 No.....2 Don't know7	
13.10	Do you think that the police/shalishkars/lawyers/judges consider/understand a) the relevant laws and	Yes 1 No.....2 Don't know7	
	b) community norms [related to your case]?	Yes 1 No.....2 Don't know7	
13.11	Do you think the <i>outcome</i> was fair?	Yes 1 No.....2 Not resolved yet.....3	
13.12	Did the community think that the <i>outcome</i> was fair?	Yes 1 No.....2 Not resolved yet.....3 Don't know7	
13.13	Would you go to the same institution for any future problem?	Yes 1 No.....2 Don't know7	
Q14.	[For those who sought resolution through an institution] we would like to know more details about the dispute?		
14.1	Has the dispute been settled?	Yes 1 No.....2	
14.2	If answered yes in Q14.1, time taken between reporting the incident and the settlement (in months)	Months..... <input type="text"/> <input type="text"/> the case is still going on.....98	
14.3	a) How much money (approx) did you spend to resolve this dispute for court fees and other legal expenses?	taka <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> no expenses.....999998	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
	b) How much money (approx) did you spend to resolve this dispute as bribe or speed money?	taka <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> no expenses.....999998	
	c) How much money (approx) did you spend to resolve this dispute as other expenses (e.g conveyance, food etc) (d) How much money did you recover through the dispute settlement, if any?	taka <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> No money was recovered.....999998	
14.4	Did you comply with the decision (if answered yes to Q14.1)?	Yes 1 No.....2 Not resolved yet.....3	
14.5	What are the reasons for compliance or non-compliance? [record up to 3 reasons]	a. Reasons for compliance..... b. Reasons for non-compliance.....	
14.6	Did the other party comply with the decision?	Yes 1 No.....2	
14.7	What are the reasons for the other party's compliance or non-compliance? [record up to 3 reasons]	a. Reasons for compliance..... b. Reasons for non-compliance.....	

D. Applicable for all respondents

SI		Q15a. Have any family members ever...	Q15b. how long ago
15.1	Been detained by the police/RAB?	1 = yes 2 = no	year.... <input type="checkbox"/> <input type="checkbox"/>
15.2	Been charged of an offence, and imprisoned awaiting a trial (without being convicted)	1 = yes 2 = no	year.... <input type="checkbox"/> <input type="checkbox"/>
15.3	Appeared before the courts after being summoned	1 = yes 2 = no	year.... <input type="checkbox"/> <input type="checkbox"/>
15.4	Been convicted	1 = yes 2 = no	year.... <input type="checkbox"/> <input type="checkbox"/>

To the interviewer: See Q15b and if the incident took place within last 7 years, then ask Q16 and Q17 (In cases of multiple incidents record the most recent incident; If no incident took place, then go to Section E)

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q16.	(If answered yes to any of Q15, then how were they treated by the a) police?	very well 1 fairly well 2 badly 3 very badly..... 4	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
		inhumanely 5 brutally 6 other (specify) 9	
	b) prison guards?	very well 1 fairly well 2 badly 3 very badly 4 inhumanely 5 brutally 6 other (specify) 9	
	c) courts?	very well 1 fairly well 2 badly 3 very badly 4 inhumanely 5 brutally 6 other (specify) 9	
Q17.	a)) Did this encounter with police/prison/courts change your view about these institutions?	Yes 1 No 2	
	b) If yes, then how?	view them with more respect 1 remained the same 2 view them with less respect 3 don't respect them at all 4	

[Note: Section E will be asked to ALL respondents irrespective of their experience/non-experience]

E. General Perception about Justice Systems/Rule of Law

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
Q18.	Who do you think should be responsible for preventing and solving the following in your area? a) abuse [record all that apply]	Community groups 1 Community leaders 2 Religious leaders 3 UP/Ward chairman/members 4 Courts 5 Parents, guardians and families 6 Police 7 Community police 8 Upazila or District officials 9 RAB 10 Army/BDR 11 MPs 12 Local political leaders 13 Other (specify) 99	
	b) civil disputes? [record all that apply]	Community groups 1 Community leaders 2 Religious leaders 3 UP/Ward chairman/members 4 Courts 5 Parents, guardians and families 6 Police 7 Community police 8 Upazila or District officials 9 RAB 10 Army/BDR 11 MPs 12 Local political leaders 13 Other (specify) 99	
	c) crimes? [record all that apply]	Community groups 1 Community leaders 2 Religious leaders 3	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
		UP/Ward chairman/members4 Courts5 Parents, guardians and families6 Police7 Community police8 Upazila or District officials9 RAB 10 Army/BDR 11 MPs 12 Local political leaders 13 Other (specify) 99	
Q19.	Where do you get information about how to resolve abuses, disputes or crimes? [code all that apply]	Newspaper1 Radio or television2 Posters, leaflets3 School or college4 Co-workers5 Family, friends and neighbors6 Community meeting7 NGOs8 UP chairmen/member9 Upazila officials 10 Police station 11 Mosque/Church/Religious organization12 Other (specify) 99	

Q20. How much confidence do you have in the following institutions? How would you rate them in terms of their honesty or corruption? Do they treat everyone - rich and poor, Muslim and non-Muslim, Bengali or non-Bengali, women and men equally? Is it equally easy for everyone – rich and poor, Muslim and non-Muslim, Bengali or non-Bengali, women and men – to access these institutions and services? Which of these institutions would be the fairest and most accessible for poor people, women, and minority groups?

SI	Justice Institution	Confidence 1=very confident 2=confident 3=fairly confident 4=not at all confident 8=DK	Honesty and corruption 1 = very honest 2 =honest 3=somewhat honest 4 = somewhat corrupt 5 = very corrupt 8=DK	Equal treatment 1=Yes 2=No 8=DK	Equal access 1=Yes 2=No 8=DK	If beneficial to these groups		
						Poor 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK	women 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK	Minority groups 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK
1	TDR	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
2	Village court/ UP arbitration Council	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
3	NGO sponsored shalish	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
4	High court/supreme court	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
5	courts (other than supreme/High court)	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
6	Land settlement office	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
7	Police	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
8	RAB	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8

SI	Justice Institution	Confidence 1=very confident 2=confident 3=fairly confident 4=not at all confident 8=DK	Honesty and corruption 1 = very honest 2 =honest 3=somewhat honest 4 = somewhat corrupt 5 = very corrupt 8=DK	Equal treatment 1=Yes 2=No 8=DK	Equal access 1=Yes 2=No 8=DK	If beneficial to these groups		
						Poor 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK	women 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK	Minority groups 1=bene ficial 2=some how benefici al 3=not benefici al 8=DK
9	Joint forces camp	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8
10	Anti-corruption commission	1 2 3 4 8	1 2 3 4 5 8	1 2 8	1 2 8	1 2 3 8	1 2 3 8	1 2 3 8

Q21. Please think about past years. Tell me if you perceive any changes in these organizations since 1982. [Please read every option slowly to the respondents and check the appropriate box. To receive data about 25 years ago, help the respondent by reminding specific national incidents that happened around that time e.g. death of Ziaur Rahman, beginning of Ershad's regime, introducing upazila system]

	Institutions	(____) did any change in performance of the institution take place within last two years (2007-2008) compared to 1991-2006 (during political regimes of Khaleda/hasina)	Principal reason for perceived improvement or decline	(____) did any change in performance of the institution take place during 1991-2006 compared to 1982-1991	Principal reason for perceived improvement or decline	(____) did any change in performance of the institution take place during 1982-1990 compared to years before this time	Principal reason for perceived improvement or decline
1	TDR						
2	Village court/ UP arbitration Council						
3	NGO sponsored shalish						
4	High court/supreme court						
5	courts (other than supreme/High court)						
6	Land settlement office						
7	Police						
8	RAB						
9	Joint forces camp						
10	Anti-corruption commission						

<u>Codes for changes:</u>	<u>Reasons codes for improvement</u>	<u>Reasons codes for decline</u>
excellent 1	citizens are more aware about their rights in general	citizens are not aware about their rights in general
very good..... 2 1 9
good 3	the system has become more responsive to citizens	the system has become less responsive to citizens
fair 4 2 10
poor 5	because of government's new better policies.....	because of no new government's policies
No change took place..... 6 3 11
don't know 7	because of democracy 4	because of absence of democracy 12
	because of positive NGO activities 5	because of negative NGO activities ... 13
	because of free media..... 6	because of absence of free media 14
	because of positive social/normative change	because of negative social change 15
 7	Others (specify _____) 99
	don't know the reasons..... 8	

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES					SKIP
Q22	In the case of traditional/informal shalish, who are the shalishkars in your local area at present? [please record the identity following the code below; not their name]	Land-based elites 1 business elites..... 2 religious leader/Imams 3 Political leaders; 4 UP chairman/city or Municipality mayor .. 5 Male UP members/ward commissioners . 6 female UP members/ward commissioner 7 Local MP 8 regular job holder (govt.) 9 regular job holder (non-govt.) 10 school teacher 11 lawyers 12 other court officials 13 police 14 judge 15 community police..... 16 common village dwellers 17 NGO..... .18 Other (specify _____) 99					
Q23	Do you think that law enforcement during the Caretaker Government period is likely to act as a constraint on the future behaviour of politicians, businessmen and government officials?	a. Businessmen will make the situation better/they will act more responsibly. ...1 will make no difference... .2 will make the situation worse..... 3	b. Government officials will make the situation better/they will act more responsibly. ...1 will make no difference... .2 will make the situation worse..... 3	c. National politicians will make the situation better/they will act more responsibly.. .1 will make no difference.... 2 will make the situation worse.....3	d. Local politicians will make the situation better/they will act more responsibly....1 will make no difference....2 will make the situation worse.....3	e. Organized criminal networks at the local level will make the situation better/they will act more responsibly.. .1 will make no difference.... 2 will make the situation worse.....3	
Q24	When would you support taking the law into your own hands to resolve problems/abuse of power /crimes/civil disputes? [Please read every option slowly to the respondents and check the appropriate answer]						
24.1	Only in response to very serious crimes involving violence	I support it 1 I do not support it..... 2					
24.2	To protect one's belongings from theft	I support it 1 I do not support it..... 2					
24.3	If the perpetrator is well-known to be involved in serious criminal activity	I support it 1 I do not support it..... 2					
24.4	When the whole community is affected by a crime	I support it 1 I do not support it..... 2					
24.5	When police fail to respond appropriately	I support it 1 I do not support it..... 2					
24.6	If one doesn't get resolution through formal/informal institutional processes	I support it 1 I do not support it..... 2					
24.7	Others (specify)	I support it 1 I do not support it..... 2					
Q25	Do you strongly agree/agree/disagree/strongly disagree with the following statements?						

NO.	QUESTIONS AND FILTERS	CODING CATEGORIES	SKIP
25.1	The law serves the interests of the government, not citizens. :	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.2	People who assert their rights are selfish, rather than simply asserting their entitlements.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.3	The law only protects the interests of the wealthy, not the poor.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.4	Courts are an important way for citizens to enforce their rights, even if they access them only on rare occasions.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.5	It is important for citizens to know about their legal rights and responsibilities.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.6	Laws act as a restraint on behaviour of the rich and powerful.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.7	It is better to settle disputes by negotiating than going to court.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.8	It should be the responsibility of the state to provide free legal assistance to citizens in need, regardless of how few people access it.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.9	Recently the service of the police has improved	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.10	Instead of the existing secular laws, Shariah laws should be followed.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.11	Because of NGO legal services, many more women can access redress for domestic violence now than 25 years ago.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.12	The poor get justice from Allah, not from the existing formal or informal systems.	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	
25.13	I feel more secure now than I did ten years ago	strongly agree..... 1 agree 2 disagree 3 strongly disagree 4	

Interview ending time hour minute

ANNEX 2: Cluster Locations: Primary Sampling Units

ANNEX 3: Socio-economic Characteristics of Respondents and Households

All respondents were above 18 years of age, and 50 percent were female across all divisions, which is representative of the population generally.²⁷⁰ Respondents tended to fall between the 31 to 50 years of age, with 46 percent of respondents belonging to that category, again representative of the population as a whole. In total, 68 percent of respondents had no education or primary education only. Sylhet division had the highest percentage of respondents in this category, with 76 percent. Those with tertiary education formed only six percent of the sample.

The percentage of respondents participating in regular, salaried positions was low at seven percent. Chittagong division had the highest rate of salaried employment, with 10 percent. Forty three percent of respondents, all of whom were women, performed household chores as their main occupation. Thirteen percent of respondents, mostly men, relied on farming for their income. This percentage was slightly higher in Rajshahi division (15 percent). In total, 11 percent of respondents were day laborers²⁷¹ and 15 percent engaged in non-farm self-employment.

Sylhet division had only 552 observations, the lowest number among all divisions. This smaller number perhaps accounts for its deviation from the average in many instances (its small number of observations means that it can vary widely from other divisions with minimal impact on the overall average).

Table 2. Characteristics of respondents, national, by division and by urban-rural

	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	Urban	Rural	Total	National
Female (%)	50	50	50	51	50	50	50	51	50	50
Age (%)										
<30 years old	28	34	32	31	34	37	34	33	33	33
31-50 years old	44	45	46	48	47	43	47	46	46	46
50+ years old	28	21	21	20	19	20	19	21	21	21
Education (%)										
No education	30	36	42	41	46	45	30	44	41	41
Primary education	34	28	26	28	24	31	24	28	27	27
Secondary level education	29	28	26	26	24	18	33	24	26	26
Tertiary level education	7	8	6	6	6	6	13	4	6	6
Main Occupation (%)										
Household chores	43	43	43	44	43	42	41	44	43	43
Farming	13	12	13	13	15	12	4	16	13	13
Day laborer	9	10	10	11	14	18	8	13	11	11
Non-farm self-employment	15	14	16	16	15	9	21	13	15	15
Salaried employment	6	10	8	6	5	7	14	5	7	7
Other	14	12	10	11	8	12	13	10	10	10
Earning member (%)	44	47	50	48	51	49	50	49	49	49

²⁷⁰ Bangladesh Bureau of Statistics, *Welfare Monitoring Survey Report*, 2009.

²⁷¹ This trend was consistent across most divisions except Rajshahi and Sylhet divisions, where it was higher (14 percent and 18 percent, respectively).

Married (%)	85	86	88	89	88	80	85	88	87	87
Muslim (%)	93	86	91	87	92	86	90	90	90	90
Ethnic minority (%)	0	4	1	1	1	4	1	2	1	1
Number of observations (n)	786	1,747	2,699	1,458	2,511	552	2,895	6,858	9,753	9,753

Urban respondents have relatively better education status (46 percent of urban respondents having education at least up to secondary level or higher compared to 28 percent of rural respondents).

The vast majority of female respondents, 85 percent, were engaged in household work. Male respondents were roughly evenly divided among farmers (26 percent), day laborers (20 percent), and non-farm self-employed (28 percent). Twelve percent of male respondents participated in salaried employment. While 89% of men were the breadwinners, earning money outside the home, the figure is only 10% for women. With regard to education, females were nearly on parity with men at secondary level but lagged behind in education after secondary level (while nine percent of male respondents have tertiary education, only three percent of female respondents have the same). Male respondents were far more mobile than their female counterparts, with 70 percent traveling 10 kilometres at least a few times a month, perhaps for employment opportunities. Twenty-two percent of women reported having such mobility.

Table 3. Characteristics of respondents by sex

	Male	Female	Total
Age (%)			
<30 years old	28	38	33
31-50 years old	45	47	46
50+ years old	27	14	21
Education (%)			
No education	39	43	41
Primary education	25	29	27
Secondary level education	27	25	26
Tertiary level education	9	3	6
Main Occupation (%)			
Household chores	0	85	43
Farming	26	1	13
Day laborer	20	3	11
Non-farm self-employment	28	1	15
Salaried employment	12	3	7
Other	13	8	10
Earning member (%)	89	10	49
Married (%)	86	88	87
Muslim (%)	11	10	90
Ethnic minority (%)	2	1	1
Mobility ^a	70	22	45
Number of observations (n)	4,526	5,227	9,753

^a Travels 10 km at least a few times in a month

The average household size was 4.8 persons across divisions.²⁷² Eighty-six percent of respondents lived in their own house, a figure that was roughly consistent across

²⁷² Chittagong and Sylhet were higher than the mean, at 5.3 and 5.8 persons respectively.

divisions. Twenty-nine percent of respondents reported to be living on less than a dollar-a-day, and 40 percent of respondents reported a food deficit.²⁷³ Urban households scored better than their rural counterparts in household characteristics such as smaller household size, poverty rate and self-reported food deficit (table 4).

Table 4. Household characteristics of the respondents by Division

	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet	National
Household size (mean)	5.1	5.3	4.7	4.6	4.5	5.8	4.8
Poverty rate (dollar-a-day)	26	26	27	29	31	42	29
Self-reported food deficit (%)	41	39	36	43	41	52	40
Living in own house (%)	91	84	81	90	91	86	86
Owens land (%)	50	43	50	55	52	41	49
Receive remittance from abroad (%)	8	26	15	7	5	25	14
NGO participant (%)	42	28	42	45	44	25	39
Actively participate in politics (%)	6	7	11	7	7	4	8
Number of observations (n)	786	1,747	2,699	1,458	2,511	552	9,753

Table 5. Household Characteristics of the respondents by rural-urban

	Urban	Rural	Total
Household size (mean)	4.7	4.9	4.8
Poverty rate (dollar-a-day)	18	32	29
Self-reported food deficit (%)	30	43	40
Living in own house (%)	65	92	86
Owens land (%)	36	53	49
Receive remittance from abroad (%)	15	13	14
NGO participant (%)	35	40	39
Actively participate in politics (%)	10	7	8
Use mobile everyday (%)	60	38	43
Have ever used computer (%)	7	2	3
Number of observations (n)	2,895	6,858	9,753

The percentage of respondents who received remittances from abroad varied widely across divisions, and differs from the existing data in the Poverty Assessment. Roughly one in four respondents in Chittagong and Sylhet divisions received remittances from abroad, as did 15 percent in Dhaka division. Seven percent of respondents from Khulna division and eight percent of respondents from Barisal division received remittances. Only five percent of respondents in Rajshahi received foreign remittances, the lowest rate in Bangladesh.

The survey instrument also attempted to gather information about the social capital of households. Barisal, Dhaka, Khulna, and Rajshahi divisions had the highest percentage of NGO participants among respondents, falling within the 42-45 percent

²⁷³ The poverty rate and self-reported food deficit were significantly higher in Sylhet, where it was 42 percent (compared to the national statistic of 29%) and 52 percent, respectively (40% nationally). Compare World Bank, *Poverty Assessment: Bridging the East-West Divide*, 2008. Despite these data, foreign remittance earning has been highest in Sylhet, followed by Chittagong division.

range. In the Bangladesh context, this means primarily that the respondents belong micro-finance organizations, the two biggest being BRAC and Grameen Bank. Respondents in Chittagong and Sylhet divisions had the lowest rate of NGO participation, at 28 percent and 25 percent respectively. In total, eight percent of respondents identified themselves as actively participating in politics, with Dhaka division having the highest political participation at 11 percent, while Sylhet has the lowest at four percent.

2.3 Social network

The survey instrument also attempted to gather information about the social network of respondents, specifically the three people from whom they seek assistance most often. Analysis of the profile of such patrons reveals several trends. In terms of occupation, salaried government employees, the self-employed and farmers make up over 60% of the sources of assistance named by respondents. Half have either no education or only primary education, are related to the respondents (more than half are close relatives), and are either wealthier or of the same wealth status as the respondent. Almost 90% are not politically affiliated. Education and employment seem to be the patron characteristics with the clearest difference depending on respondent income level: respondents who rank themselves as having a "surplus" of food consumption tend to have sources of assistance with higher education and who are either employed in Government or self-employed.

ANNEX 4: Apprehension of harm by urban-rural and respondent's gender

Table 3.2: Expression of apprehension by rural-urban and sex of respondent

	Location		Respondent sex		National
	Urban	Rural	Male	Female	
Abuse by utility providers	29	25	29	23	26
Abuse by land office	18	18	23	12	18
Abuse by health care providers	38	38	41	35	38
Abuse by business service provider	10	8	10	7	8
Abuse by law enforcer	36	32	31	34	32
Harassment by false case	34	34	36	31	34
Exploitation in employment	47	43	37	50	44
Adulterated food	75	68	70	69	69
Substandard agriculture inputs	17	32	29	29	29
Business dispute	30	26	26	28	27
Drug abuse	51	35	40	37	39
Tenancy dispute	8	1	3	3	3
Land dispute	50	54	54	53	53
Dispute involving divorce	32	32	23	40	32
Dispute over inheritance	12	12	12	11	12
Dowry	52	53	48	57	52
Domestic violence	21	17	10	26	18
Burglary	62	62	62	62	62
Robbery/extortion	52	43	44	46	45
Violent crime	53	45	40	54	47
Other	35	27	31	26	28
Number of observations (n)	2,895	6,858	4,526	5,227	9,753

Table 3.3: Expression of apprehension of violent crime by urban-rural and sex of respondent

Forms of violent crime	Urban		Rural		Total
	Male	Female	Male	Female	
Kidnapping and ransom	13	15	6	10	9
Violence using firearms	13	10	7	5	7
Murder	23	32	20	30	25
Rape	26	36	18	29	25
Acid violence	21	30	16	22	20
Arson	16	15	14	15	15
Physical assault by outsider	8	8	5	8	7
Number of observations	1,340	1,555	3,186	3,672	9,753

ANNEX 5:

	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet
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Common Crime

Frequency of Disputes and Crimes Among Households, by Division (EVER)

Violence using firearms, murder, arson, assault by non-family member	0.023	0.031	0.018	0.021	0.013	0.036
Domestic violence, rape, acid violence	0.027	0.048	0.020	0.036	0.033	0.026
Robbery or mugging	0.051	0.075	0.073	0.058	0.038	0.056
Burglary	0.117	0.199	0.185	0.255	0.235	0.177
Extortion	0.011	0.010	0.008	0.016	0.006	0.009
Arson	0.010	0.016	0.010	0.008	0.006	0.020
Harassment by public officials						
Harassment by service providers	0.155	0.296	0.216	0.281	0.304	0.281
Harassment by the judicial system	0.152	0.154	0.140	0.182	0.149	0.142
Workplace and consumer abuses and disputes						
Purchased adulterated goods	0.066	0.055	0.043	0.071	0.052	.044
Purchased agricultural inputs with misleading labels	0.024	0.038	0.031	0.063	0.031	.064
Suffered workplace injury	0.047	0.071	0.056	0.119	0.057	0.055
Breach of employment contract	0.020	0.058	0.042	0.048	0.035	0.047
Commercial and land abuses and disputes						
Unable to recover loan	0.097	0.153	0.126	0.162	0.121	0.102
Expropriation of land by government	0.008	0.018	0.011	0.013	0.014	0.015
Expropriation of land by powerful people	0.071	0.058	0.055	0.051	0.044	0.073
Dispute involving inheritance of land/property	0.051	0.073	0.058	0.049	0.049	0.029
Dispute related to buying/selling land with private individual	0.034	0.052	0.040	0.056	0.027	0.036
Dispute with neighbors over land boundaries	0.215	0.270	0.185	0.193	0.243	0.197
Dispute over land title	0.123	0.106	0.084	0.095	0.091	0.109
Other abuses and disputes						
Dispute involving divorce	0.024	0.029	0.028	0.042	0.039	0.042
Violence related to political parties	0.009	0.006	0.009	0.007	0.004	0.002

ANNEX 6: CORRELATES OF ABUSE BY DIVISION (ALL DISPUTES, LAND GRABS, ABUSES BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES)

Table 1: Correlates of All Disputes and Crimes (2007-2009) by Division, District fixed effects

VARIABLES	(1)	(2)	(3)	(4)	(5)	(6)
	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet
NGO Membership	0.095 (0.02)	0.017 (0.56)	0.044 (0.01)	0.030 (0.29)	0.034 (0.17)	0.013 (0.76)
Party Membership	0.0011 (0.99)	0.034 (0.45)	0.060 (0.10)	0.051 (0.43)	0.059 (0.24)	0.23 (0.19)
In reference to the three people from who respondent seeks help most often:						
Are they politically affiliated?	0.043 (0.09)	-0.0025 (0.91)	0.012 (0.38)	-0.0034 (0.87)	0.026 (0.16)	-0.0096 (0.79)
Are they highly educated?	-0.011 (0.57)	0.0080 (0.62)	-0.0078 (0.51)	0.046 (0.01)	-0.0051 (0.76)	-0.016 (0.56)
Are they (1) more, (2) as, or (3) less wealthy than respondent?	-0.015 (0.34)	0.031 (0.01)	0.026 (0.01)	-0.0077 (0.54)	0.014 (0.13)	-0.00052 (0.99)
Are they closely related (1), distantly (2) or unrelated (3)?	- 0.0100 (0.52)	-0.014 (0.30)	0.012 (0.29)	-0.032 (0.04)	-0.030 (0.04)	0.021 (0.51)
Hindu	-0.075 (0.44)	0.013 (0.83)	-0.14 (0.00)	-0.068 (0.06)	-0.094 (0.01)	-0.11 (0.23)
Buddhist		-0.35 (0.00)				
Christian			-0.23 (0.00)		0.20 (0.00)	
Size of Household	0.0094 (0.51)	0.015 (0.15)	0.017 (0.04)	0.0096 (0.38)	0.029 (0.00)	-0.012 (0.42)
Head of Household Age	- 0.0023 (0.20)	-0.00022 (0.85)	0.00015 (0.86)	- 0.00076 (0.55)	0.0011 (0.25)	7.4e-06 (1.00)
Head of Household Education Level	0.0097 (0.06)	-0.0029 (0.40)	-0.0019 (0.51)	-0.0039 (0.30)	0.0078 (0.02)	0.00013 (0.99)
Years resided in area	0.0035 (0.00)	-0.0014 (0.06)	- 0.000098 (0.88)	-0.0012 (0.29)	-0.0022 (0.00)	0.00063 (0.69)
Rural	0.062 (0.24)	0.085 (0.03)	-0.050 (0.11)	-0.068 (0.15)	-0.0073 (0.76)	-0.13 (0.06)
Age dependency Ratio	-0.058	-0.0014	0.037	-0.090	0.020	0.10

Primary material of home: hay	(0.50) -0.030	(0.98) -0.054	(0.46) -0.068	(0.17) 0.030	(0.70) 0.015	(0.53) -0.10
Primary material of home: wood	(0.77) 0.0053	(0.16) -0.0021	(0.07) 0.0039	(0.39) -0.0016	(0.62) -0.0026	(0.17) -0.044
Household has electricity	(0.94) 0.074	(0.96) 0.021	(0.90) 0.025	(0.97) 0.0088	(0.94) 0.0014	(0.57) -0.023
Household owns cattle	(0.15) -0.060	(0.55) 0.011	(0.36) -0.0077	(0.81) -0.0035	(0.95) 0.028	(0.71) 0.071
How much land does your household own(Homestead)?	(0.16) 0.043	(0.71) 0.011	(0.70) 0.038	(0.91) 0.0018	(0.21) 0.016	(0.05) -0.093
Total nonearners in the household	(0.53) 0.0023	(0.74) -0.012	(0.29) -0.010	(0.64) 0.019	(0.49) -0.022	(0.21) 0.027
Number of Rooms in the household	(0.93) -0.011	(0.33) 0.024	(0.38) 0.020	(0.19) 0.031	(0.09) 0.0077	(0.28) 0.0051
Household Owns Home	(0.48) 0.031	(0.04) 0.0080	(0.09) 0.016	(0.07) 0.052	(0.56) 0.024	(0.81) -0.045
Christian	(0.61)	(0.88)	(0.71) -0.23 (0.00)	(0.37)	(0.71) 0.20 (0.00)	(0.66)
Observations	755	1612	2620	1360	2344	489

Note: Specifications the same as in Table 5. Insignificant coefficients not reported. Robust z-statistics in parentheses.

Table 2: Correlates of Land grabs by private individuals, by Division (2007-09)

VARIABLES	(1)	(2)	(3)	(4)	(5)	(6)
	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet
NGO Membership	0.00028 (0.97)	0.0091 (0.05)	-0.0059 (0.25)	0.000088 (0.99)	0.00087 (0.85)	0.0062 (0.64)
Party Membership	0.028 (0.42)	-0.0051 (0.49)	-0.0013 (0.86)	0.021 (0.34)	-0.012 (0.12)	0.11 (0.00)
Head of Household Education Level	0.0014 (0.39)	0.000094 (0.88)	-0.00075 (0.27)	-0.000023 (0.98)	-0.00077 (0.23)	0.000053 (0.94)
In reference to the three people from who respondent seeks help most often:						
Are they politically affiliated?	-0.016 (0.01)	-0.000067 (0.98)	0.0018 (0.59)	-0.011 (0.13)	0.0055 (0.09)	-0.0045 (0.26)
Are they highly educated?	0.0029 (0.52)	-0.0018 (0.40)	0.0036 (0.15)	0.0030 (0.53)	0.0036 (0.21)	0.0052 (0.20)
Are they (1) more, (2) as, or (3) less wealthy than respondent?	-0.0029 (0.44)	0.0037 (0.06)	-0.0020 (0.28)	0.0015 (0.66)	-0.0057 (0.00)	0.0020 (0.52)
Are they closely related (1), distantly (2) or unrelated (3)?	0.013 (0.00)	-0.0024 (0.38)	0.0032 (0.23)	0.00012 (0.98)	0.0072 (0.00)	0.0037 (0.05)
Hindu	-0.011 (0.25)	-0.0015 (0.80)	-0.015 (0.02)	0.0086 (0.47)	-6.0e-06 (1.00)	
Size of Household	0.0046 (0.13)	-0.0015 (0.33)	0.0026 (0.06)	0.0034 (0.33)	0.00010 (0.96)	0.00025 (0.81)
Head of Household Age	0.00052 (0.13)	0.00027 (0.16)	0.000059 (0.78)	-0.00044 (0.22)	-0.000014 (0.95)	0.00014 (0.34)
Years resided in area	-0.00023 (0.38)	-0.00011 (0.43)	-3.7e-07 (1.00)	-0.000020 (0.92)	0.000075 (0.58)	0.00010 (0.55)
Rural	0.0072 (0.55)	0.0096 (0.04)	-0.0035 (0.48)	-0.0025 (0.77)	0.0012 (0.83)	-0.0053 (0.60)
Age dependency Ratio	-0.028 (0.02)	0.012 (0.11)	-0.0029 (0.73)	0.0081 (0.70)	-0.032 (0.01)	-0.0040 (0.57)
Primary material of home: hay	0.0015 (0.95)	-0.00072 (0.92)	0.0090 (0.24)	-0.012 (0.19)	0.0054 (0.53)	0.020 (0.05)
Primary material of home: wood	0.011 (0.49)	0.0030 (0.71)	0.0066 (0.24)	-0.019 (0.04)	0.0032 (0.71)	0.057 (0.00)
Household has electricity	0.014 (0.37)	-0.015 (0.00)	0.0062 (0.30)	-0.0041 (0.59)	-0.00082 (0.89)	0.011 (0.02)
Household owns cattle	-0.0086 (0.42)	-0.0044 (0.28)	0.0018 (0.71)	0.0017 (0.82)	-0.0092 (0.10)	0.00089 (0.87)
How much land does your household own(Homestead)?	-0.0047 (0.66)	0.0017 (0.49)	0.0098 (0.06)	0.000081 (0.80)	0.0014 (0.48)	0.0046 (0.18)
Total nonearners in the household	-0.0030	0.00064	-0.0020	-0.0026	0.0037	-0.0013

Number of Rooms in the household	(0.33) -0.012	(0.77) 0.0020	(0.41) 0.00085	(0.52) -0.0020	(0.17) 0.0020	(0.55) 0.0029
Household Owns Home	(0.03)	(0.20) 0.0017 (0.85)	(0.67) -0.0043 (0.56)	(0.56)	(0.34) 0.0047 (0.68)	(0.29)
Observations	472	1408	2384	1114	2235	342

Table 3: Correlates of Judiciary/Police Abuses (2007-09)

VARIABLES	By Division					
	(1) Barisal	(2) Chittagong	(3) Dhaka	(4) Khulna	(5) Rajshahi	(6) Sylhet
NGO Membership	0.035 (0.04)	0.012 (0.39)	0.025 (0.00)	0.0025 (0.82)	0.026 (0.01)	-0.036 (0.01)
Party Membership	0.039 (0.21)	0.079 (0.01)	0.038 (0.01)	0.098 (0.00)	0.015 (0.46)	0.080 (0.29)
Head of Household Education Level	0.0010 (0.65)	0.0011 (0.60)	-0.0012 (0.29)	-0.0017 (0.21)	0.0011 (0.38)	-0.0018 (0.42)
In reference to the three people from who respondent seeks help most often:						
Are they politically affiliated?	0.015 (0.09)	0.0062 (0.54)	-0.0060 (0.28)	-0.0028 (0.73)	0.0023 (0.74)	-0.016 (0.36)
Are they highly educated?	-0.0096 (0.31)	-0.0071 (0.40)	0.00031 (0.95)	-0.00035 (0.96)	-0.0026 (0.70)	0.013 (0.15)
Are they (1) more, (2) as, or (3) less wealthy than respondent?	0.0043 (0.59)	-0.0024 (0.70)	0.0075 (0.06)	-0.0034 (0.58)	-0.0027 (0.56)	0.010 (0.34)
Are they closely related (1), distantly (2) or unrelated (3)?	-0.012 (0.17)	0.0099 (0.25)	0.0052 (0.26)	0.010 (0.05)	0.0073 (0.15)	0.017 (0.01)
Hindu	0.018 (0.63)	0.00045 (0.98)	-0.029 (0.04)	-0.021 (0.27)	-0.024 (0.05)	-0.0051 (0.88)
Size of Household	0.00082 (0.89)	0.0067 (0.14)	0.0071 (0.03)	0.012 (0.01)	0.0017 (0.61)	-0.0018 (0.74)
Head of Household Age	-0.0011 (0.10)	-0.00083 (0.17)	-0.00027 (0.43)	-0.00054 (0.35)	-0.00023 (0.63)	-0.00073 (0.30)
Years resided in area	0.0015 (0.01)	0.00054 (0.20)	0.00014 (0.59)	0.00020 (0.65)	0.00025 (0.46)	0.00046 (0.13)
Rural	-0.013 (0.52)	-0.021 (0.16)	-0.021 (0.05)	0.0045 (0.74)	-0.021 (0.10)	-0.043 (0.04)
Age dependency Ratio	-0.019 (0.54)	-0.015 (0.61)	0.0019 (0.92)	0.019 (0.45)	0.021 (0.34)	0.052 (0.06)
Primary material of home: hay	-0.027 (0.52)	-0.030 (0.09)	-0.013 (0.44)	0.0074 (0.63)	0.0059 (0.64)	0.031 (0.34)

Primary material of home: wood	0.017	-0.020	-0.000033	-0.0036	0.035	0.078
	(0.64)	(0.32)	(1.00)	(0.86)	(0.03)	(0.03)
Household has electricity	0.017	-0.022	0.0082	0.028	0.011	0.0088
	(0.30)	(0.20)	(0.46)	(0.05)	(0.31)	(0.69)
Household owns cattle	0.00048	0.016	0.0069	-0.015	0.0030	0.020
	(0.98)	(0.25)	(0.49)	(0.29)	(0.75)	(0.32)
How much land does your household own(Homestead)?	0.014	0.0073	0.011	-0.0100	0.0015	0.0086
	(0.58)	(0.62)	(0.39)	(0.69)	(0.81)	(0.57)
Total nonearners in the household	-0.0013	-0.00086	-0.011	-0.019	-0.0057	0.0058
	(0.86)	(0.91)	(0.02)	(0.00)	(0.24)	(0.56)
Number of Rooms in the household	-0.0038	0.00021	0.012	0.011	0.0062	-0.0061
	(0.53)	(0.97)	(0.01)	(0.10)	(0.21)	(0.14)
Household Owns Home	0.041	0.038	0.0093	0.024	0.0052	-0.0096
	(0.15)	(0.08)	(0.52)	(0.20)	(0.85)	(0.82)
Observations	755	1573	2609	1360	2340	489

Note: Specifications the same as in Table 5. Insignificant coefficients not reported. Robust z-statistics in parentheses.

ANNEX 7: Official Crime Statistics

Official Crime Statistics (Number of registered cases from 2005 to 2009)

SL	Name of Offence	2005	2006	2007	2008	2
1	Dacoity	796	795	1047	885	
2	Robbery	898	843	1298	1583	
3	Murder	3592	4166	3863	4099	
4	Speedy Trial Act	1814	1638	1980	1700	
5	Rioting	570	570	263	203	
6	Cruelty to Women	11426	11068	14250	14284	
7	Child Abuse	555	662	967	962	
8	Kidnapping	765	722	774	817	
9	Police Assault	240	337	278	296	
10	Burglary	3270	2991	4439	4552	
11	Theft	8101	8332	12015	12188	
12	Arms Act	1836	1552	1746	1529	
13	Explosive Act	595	308	232	239	
14	Narcotics	14195	15479	15622	19263	
15	Smuggling	4334	4734	5202	7962	
16	Others	70046	76381	93224	87417	
	Total	123033	130578	157200	157979	

Source: Bangladesh Police website, <http://www.police.gov.bd>

ANNEX 8: Experience of Crimes and Disputes by Rural-Urban and Respondent's Sex

Types of incidence	Urban			Rural		
	Male	Female	All	Male	Female	All
Abuse by utility providers	12	10	11	9	7	8
Abuse by land office	6	3	4	4	2	3
Abuse by health care providers	9	7	8	8	6	7
Abuse by business service provider	2	1	2	2	1	1
Abuse by law enforcer	4	3	4	2	2	2
Harassment by false case	6	5	5	5	4	5
Exploitation in employment	8	7	8	5	6	6
Adulterated food	4	4	4	5	3	4
Substandard agriculture inputs	2	1	1	5	4	5
Business dispute	8	7	7	5	6	6
Drug abuse	1	0	0	0	0	0
Tenancy dispute	1	1	1	0	0	0
Land dispute	18	16	17	17	19	18
Dispute involving divorce	1	2	2	1	2	1
Dispute over inheritance	3	2	3	2	3	2
Dowry	1	2	2	2	2	2
Domestic violence	1	3	2	1	2	2
Burglary	8	10	9	8	9	8
Robbery/extortion	3	4	3	2	2	2
Violent crime	1	1	1	0	1	1
Other	0	0	0	0	0	0
	1,340	1,555				6,8
Number of observations (n)			2,895	3,186	3,672	58

ANNEX 9:**Table 5.6: Responses to abuse, by Division (2007-2009)**

Response to abuse	Barisal	Chittagong	Dhaka	Khulna	Rajshahi	Sylhet
Talked to/threatened perpetrator	0.278	0.393	0.408	0.273	0.413	0.336
Sought help from family	0.498	0.428	0.431	0.281	0.375	0.293
Went to local political leader	0.551	0.482	0.450	0.317	0.343	0.454
Went to local unelected leader or village shalish	0.198	0.270	0.250	0.214	0.198	0.192
Went to the village court	0.056	0.063	0.048	0.037	0.023	0.035
Went to the police	0.244	0.193	0.193	0.164	0.167	0.192
Used formal legal channels	0.326	0.188	0.203	0.186	0.179	0.183
Other response	0.091	0.089	0.100	0.086	0.043	0.061
Did nothing	0.185	0.161	0.175	0.151	0.198	0.284

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