

research highlights

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Institutions and Rights

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The capacity of poor rural people in north-west Bangladesh to enjoy adequate and sustainable livelihoods is affected by a range of institutions. Starting from the state, and working downwards through a series of intermediate levels to the community and the individual household, the main part of the paper discusses the institutions – what they do and how their influence is felt. The implications for CARE’s transition to a rights based approach are then reviewed.

CARE Bangladesh is transforming itself into a rights based organisation where increasing emphasis will be given to raising poor people’s awareness of their basic entitlements and improving their access to services. This paper describes the key institutions and structures that will need to be taken into account as the new approach takes shape. It focuses on the north-west region, where many of the organisation’s activities are concentrated, and is the first in a series of research highlights summarising the findings of more extensive pieces of research (see Boxes 1 and 2).

To make a complicated task more manageable, the account will focus on a single “slice” of reality, starting at national level, and then running down through a single district, one *Upazilla*, one Union, and two residential communities (*para*).

Most of the data on national and administrative institutions summarised in the first part of the paper derives from a literature review. The more local structures described in the second section have been re-constructed from a set of rapid fieldwork studies that used a variety of mainly participatory methods.

The Wider Institutional Setting

Governance and national institutions

Major Institutions

The area that is now Bangladesh was under British rule from 1757-1947 and formed part of Pakistan from 1947-1971. The early years

of independence saw a succession of civilian and military regimes, but this has now given way to an extended period of parliamentary rule.

Box 1: The series

CARE Bangladesh is transforming itself into a rights-based organisation that will identify and address the underlying causes of poverty. This is one of several studies designed to aid the transition by clarifying the nature of the context in which the organisation works and showing how this affects the activities undertaken. Further details of the series appear in Box 2.

The country has a unitary system of government - which in principle embodies a clear separation of powers between executive, legislature and judiciary - and a constitution that promises to ensure a wide range of fundamental and democratic rights. Government is conducted through 36 Ministries and 17 Divisions, which are known collectively as the Secretariat and comprise the focus of the administration. Below lie 254 departments, and a further 173 directorates, boards, corporations and other statutory bodies dealing with different aspects of implementation.

The Civil service as a whole currently employs approximately 950,000 staff, of whom some 10% are women, and has four main grades. Funding flows through two channels. The Revenue Budget is used for recurring expenditure, whilst the

Development Budget, which in recent years has tended to be slightly larger, supports expenditure to carry out specific projects, and comes in roughly equal proportions from Government and donors. The capacity to raise revenue internally is dependent mainly on import duties.

The country is divided into six Divisions, 64 *Zilas* (Districts), 464 *Upazillas* (Sub-districts), 4422 Unions and some 87,000 villages. Central government functionaries from many ministries and departments are placed at the *Upazilla*, but several ministries are also represented at Union level. Chains of command run downwards within ministries and departments, but there is also formal provision for co-ordination across sectors at each intervening level.

Parliament comprises 300 members directly elected from territorial constituencies, together with 30 women members selected by the elected MPs, and is empowered to initiate revisions to the constitution and decide on the budget. Local government is guaranteed under the Constitution, but in rural areas presently operates only at Union Level, where there is *Parishad* with a directly elected chairman, plus nine male and three female members (see below).

An Assessment of Performance

The transition since independence from authoritarian to democratic rule and from a regulatory to a more developmentally oriented system of administration has proved difficult, and the contemporary political system exhibits a number of flaws. During the periods of civilian rule, power has alternated between the Bangladesh National Party, which leads the present administration, and the rival Awami League. Relations between the two are characterised by deepening animosity, with both, when in opposition, being prepared to boycott parliament for extended periods, and to disrupt national life through calling frequent *hartal* (strikes).

Authority is heavily concentrated in the hands of Prime Ministers and their immediate associates. The dependence by political parties on major firms for funding, together with the lack of transparency and accountability, encourages corruption. At constituency level, many votes are purchased and the large sums required to secure election distort the democratic process.

Government also exhibits serious deficiencies. The roles of public agencies are not sufficiently clearly defined. Decision-making is highly centralised. The system remains "bottom heavy" with a surfeit of junior staff, and is strongly hierarchical in nature. Real salaries, especially those of more senior officials, have declined since independence, and provide a strong motive for corruption. Advancement is increasingly determined by personal contacts rather than performance. Frequent transfers at more senior levels mean that there is often insufficient understanding of problems.

Local Governance: structures, resources and roles

The Upazilla and the District

A wider range of agencies, which perform both developmental and regulatory functions, are located at the *Upazilla*, and this now forms the primary focus for local administration. The *Upazilla Nirbahi Officer* (UNO) has formal powers of coordination, but can exert little practical control over many of the activities undertaken by line departments. The District, which was formerly pre-eminent, has now receded in importance, and is confined to a largely supervisory role.

Union *Parishad* (UP) Chairmen sit on the *Upazilla* Development Coordination Committee (UDCC) and are able to use this and more informal contacts to lobby for resources, but their formal connections with the *Upazilla* administration are quite limited and their overall influence over its deliberations only slight. The relationship between local officials and elected representatives is in general characterised by a degree of mutual suspicion and hostility, but this does not preclude collusion where this is in the mutual interest of the parties concerned. Although, from the formal point of view, MPs are only expected to perform a relatively minor and advisory role at *Upazilla* and District levels, their actual influence, from the Union upwards, is much more extensive. Their views normally outweigh those of other actors, although the UNO may sometimes be able to exert a restraining influence.

The Union Parishad

At the most local level, the UP has a significant role in awarding contracts for the management of local markets (*hats*) and bazaars, in the management of local

infrastructure projects, and in the distribution of relief goods. But it only has a very limited capacity to raise revenue and is therefore highly dependent upon resources flowing down to it through various official channels.

The population at large only has a limited understanding of the functions that the UP is supposed to perform, is rarely consulted in the course of its deliberations, and has learnt not to expect it to accomplish very much on their behalf. Councillors themselves are only partially aware of their formally prescribed responsibilities, and in many cases lack the skills and resources required to discharge those functions of which they are aware. The Chairman enjoys a relatively powerful position and often takes decisions which are formally the prerogative of the UP as a whole in conjunction with a small inner circle of associates, from which women councillors, in particular, are likely to be excluded. But his freedom for manoeuvre may, in turn, be limited by local officials wishing to extend their own control, or by MPs seeking to exert influence. Government officials based at union level are primarily answerable to their own departmental line managers and tend neither to communicate very much with each other, nor to consult local representatives. Overall coordination of activities is therefore poor.

Law and Order

The Judiciary

The formal judicial system comprises a supreme court with High Court and Appellate Divisions, and District Courts sitting under magistrates and judges. There is also provision for village courts where more minor cases may be heard, but these have never proved very effective and are now largely defunct.

The Supreme Court continues to command widespread support, but District Courts exhibit major shortcomings and are generally held in low regard. An antiquated structure makes it difficult for the judiciary to plan effectively, and successive governments have exacerbated an already difficult situation by meddling in its affairs. Judges have to perform many administrative functions and, together with other factors, this has contributed to an ever-growing backlog of cases. Poor remuneration provides a fertile breeding ground for corrupt practices and these, in turn, raise the cost of

access to a level that is prohibitive for all but the relatively well-off.

The failure of village courts has left the administration of justice at the local level almost entirely in the hands of traditional *shalish* that offer informal adjudication of petty civil and criminal disputes. Most commonly these will be convened within the immediate neighbourhood, but larger issues may be taken to village or union level, where elected representatives play a central role. Like their formal counterparts, *shalish* are characterised by a range of deficiencies. Bench members exhibit widespread ignorance of the law, and may decree harsh and inhumane punishment. Typically, they are also rich, powerful and male, and normally rule in favour of their peers. Once again, there is frequent recourse to bribery. But despite these difficulties, 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.

Policing

The professional police establishment only numbers around 50,000 and the ratio per head of population is amongst the lowest in the world. Some support is provided at the most local level by Chowkidars, and the Ansars and Village Defence Party (VDP), but their role is relatively minor and insignificant.

The official police force suffers from a variety of problems. It was originally formed from disparate elements and, as a consequence, lacks an effective esprit de corps. It is headed by a small group of relatively well-trained and remunerated gazetted officers, but among the lower grades, who man the local district *thana* police stations and make up more than 90% of the total establishment, levels of education and training are much lower and remuneration is poor. Further difficulties arise from the weakness of administrative supervisory mechanisms and a growing tendency for political interference and control. As with the judiciary, corruption is endemic, starting at the higher levels and becoming especially pervasive lower down, and for poor people who lack the necessary resources, it is almost impossible to initiate or pursue a case. A large amount of criminal activity goes unreported, with powerful elements in rural society able to act

with impunity in pursuing their interests at the direct expense of the poor, or through protected illegal activities including smuggling and fraud.

New initiatives

Ordinary people regard both the judiciary and police as remote and oppressive, but retain strong beliefs, rooted in traditional notions of morality, regarding their rights. This sense of how things ought to be has provided a useful starting point for a series of recent NGO interventions aimed primarily at bolstering the *shalish* and making it more responsive to the needs of the poor and women. Coverage, however, is very limited. Various initiatives are also being undertaken to reform more formal structures and systems. These include programmes to promote legal literacy and raise public awareness (see *Paper 7 in this series*).

Local Institutions and Processes

Beneath the national structures that have been described lie a series of local institutions that rural people encounter on a more direct and regular basis. These start with the Union, which provides the central forum for local politics, and stretch down through the residential community to the individual households with their particular livelihood strategies. The notion of social capital helps to explain how these different levels are connected to each other.

The Union and the net of power relations¹

Control of land, often combined with usurious money lending and trading in agricultural commodities, has traditionally been central to the capacity to accumulate. Differential access to this fundamental resource has underscored a primarily exploitative system of patron-client relations operating at Union level and below. Moral values, rooted in religion and kin-based social institutions have, however, served, to some extent, to constrain the rich, obliging them to engage in re-distributive activities and to provide minimal safety nets if they wish to command respect and secure sustained political support.

Although access to land is still the major individual factor determining who can exercise power in contemporary local

society, its importance has diminished somewhat as the flow of resources from the state has increased in the post-colonial era. Some of these, like tubewells, have been privately appropriated by the inter-connected “net” of powerful local actors, and some have been utilized to extend their patronage. Others, like bridges and dams, whilst too “lumpy” to be captured by local elites in the first instance, may still afford them significant opportunities once established and operational. Others still, typically those supplied by NGOs, have been either too troublesome or too small to be caught by the union level net, and have been able to pass more freely to the level below.

The modern period has also seen the increasing superimposition of formal political structures on local institutions. Some, as a result, now play a less important role than hitherto, but more frequently the new arrivals have 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 re-produce 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. Shifts in the economic and political landscape have also opened up opportunities for able individuals from rather humbler backgrounds. In seeking to accumulate rapidly, those starting from lower positions have, however, often resorted to strategies that contravene moral norms, and this can make it difficult for them to convert economic wealth into social respect or political office.

Despite the growing incursion of wider structures, politics at union level has, until recently, remained at least partially insulated from its national counterpart, making it possible to construct local alliances across both party and ethnic lines. In the Union investigated, this had contributed to the maintenance of good Muslim-Hindu relations. But, following the latest election, these have been placed in jeopardy by a new MP who has removed Hindus from positions of influence and replaced them with his own supporters.

The intra-communal allocation of resources and the role of NGOS

¹ For a more detailed account of the dynamics of union-level power relations see Bode, B. 2002. “In Pursuit of Power”. Dhaka: CARE Bangladesh

Moving down from the Union the next level to be considered is the community or *para*. This section reviews the experience of two contrasting *para*: one poor, poorly connected to the local power structure and Hindu, and the other much better-off, much better connected and Muslim. The system devised by the Bangladesh Bureau of Statistics (BBS) is used to explore the influence of class, kinship and the mediation of influential people on the allocation of goods and services provided by government and NGOs. This distinguishes between large farm families (operating more than 7.5 acres), medium farms (with 2.5 – 7.5 acres), small farms (0.5 – 2.5 acres), marginal households (0.05 – 0.5), and the landless (<0.05 acres).

A Hindu Para

The Hindu *para* has a population of about 300 and comprises a majority farmer (*khatria*) caste and a minority of low caste barbers (*napit*). The *napits* all belong to a single lineage, whilst among the *khatria* there is one large cluster, made up of separate lineages linked together by marriage, and four separate smaller lineages.

The class structure is relatively undifferentiated. Almost half of the population fall into the small farmer category and at the extremes, there are only two large farmers and a handful of landless household. The community as a whole takes in more land from others to operate than it gives out, with mortgage arrangements being more common than either share-cropping or cash rent.

Neither of the big farmers, nor any of the other households, are regarded by people beyond the *para* as being influential, and nobody from the *para* has ever been elected to sit on the Union Council. As a consequence, it has attracted few official resources, and only a handful of households have been able to benefit, all of whom are from poorer part of the *khatria* caste.

Three NGOs have recently been active in the *para*. Almost all lineages have benefited to some extent, but there is a marked tendency for the *khatria* as a whole to dominate, for the largest kinship cluster to secure more its fair share and for a sub-set of predominantly small farm to seize the largest number of opportunities. There is

also a tendency for members, on average, to be marginally better off than the population as a whole.

A Muslim Para

The Muslim *para* is of comparable size, but has twice as much land, most of which is concentrated in the hands of eight big farm households. Where holdings are too large for household members to work themselves, labour is hired from among the landless and marginal, with some small farmers also working for others from time to time. The *para* is also a net supplier of land to others through mortgage and other arrangements.

Most households belong to a single patrilineage that is divided into three sub-sections. One of these, which contains most of the large farmers and is connected by marriage to the current UP member for the ward, forms the dominant power block within the *para*. Although the overall volume of official resources coming to the *para* is not very large, the presence of key influential people means that it receives substantially more than its Hindu counterpart. Within the *para*, it is the small, the marginal and especially the landless who benefit.

Among the NGOs operating locally, only Caritas and CARE have established a significant presence. As in the other *para*, it is the small farm households that tend to dominate membership, although the marginal and landless are also quite well represented. There is again a tendency for a small number of households to capture the bulk of NGO resources. Enquiries conducted in the wider union revealed little evidence of either powerful local people or government officials influencing where NGO activities took place. There was, however, a tendency to work in more accessible, densely populated locations.

Livelihoods and Social Capital

The Diversity of Livelihoods

A little more than half of the households in the *para* studied followed one of four main livelihood strategies. Moving downwards from the better off to the poorer, these were: agricultural production combined with business; exclusive dependence upon agricultural production; the combination of agriculture on land under the household's own management with day labouring for other households; and labouring as a sole occupation. When account is also taken of differences in access to land via share-

cropping, rental and mortgaging arrangements, these broader categories begin to fragment. The remaining households fell into 16 categories, none of which covered more than a small percent of the total. So even before one considers the different trajectories of households occupying similar positions at any particular time, it becomes clear that there is quite a wide diversity of individual strategies. Looking at how social capital is accumulated and deployed helps to explain in more detail how these work.

Forms of Internal Social Capital

Social capital can be either internal or external. Internal social capital may be conceived as a series of concentric circles moving outwards from the household, the boundaries of which may be narrowly or more broadly drawn. The link between brothers (and to a lesser extent between brother's wives, and between sisters) is generally the most immediate and direct, often providing a medium for on-going and periodic reciprocal labour exchange and the circulation of small cash loans. This, however, only defines one pole in the continuum of possibilities provided by siblings, who may equally - if less frequently - opt not to treat these relationships as social capital at all. Individuals may also enter into close reciprocal relations where friendship rather than kinship provides the underlying bond.

Around the immediate support group lies a wider inner circle that may be delineated either by lineage or physical community and normally entails some combination of the two. This broadly defines the area within which people collectively participate in and assist with ceremonies such as weddings and funerals, and often has its own common place of worship. It is also the lowest level at which a *shalish* may sit in judgement over disputes and has traditionally marked the outer boundary of the area in which small and short-term interest free loans of food and cash may be made. Finally, it delineates the widest space within which reciprocal labour exchanges may take place, although these are less frequent than those occurring between close kin.

Beyond lies a third circle, with outer limits that are defined broadly by the Union, within which share-cropping, mortgages and other arrangements that demand an element of mutual trust, will tend to be conducted.

From the perspective of the poorer household, much will depend on the nature of the individual relationship enjoyed with the relatively wealthy minority of people with land surplus to their own subsistence requirements. A kinship connection may help to secure access to employment or land, but other factors, such as perceived aptitude to perform a task and command of a certain minimum level of resources, are also likely to enter into the equation. Access to other forms of social capital, as expressed for example through the right to play some part in *shalish* or local committees, may, in turn, rest upon the access to land that a relationship with the locally influential people may afford.

Access to External Social Capital

The same individuals who control the dominant share of internal resources also mediate access to the external social capital represented by government agencies, and may exploit this position either for their own direct material advantage or to divert resources to their own kin or associates. This can limit, but does not preclude, access on the part of poorer households, but as a group they tend to do better from NGO activities that largely avoid such "filtering" by elites. NGOs thus become potentially important sources of external capital for the poor, who will seek to continue any relationships contracted for as long as possible. But it is perhaps in the private sector where it is easiest for the relatively poorly connected to access external capital, for example, through entering into a credit arrangement with a local trader, although such options are unlikely to be available on favourable terms.

Three key conclusions may be drawn. Firstly, social capital appears in many different forms. Secondly, whilst it may be possible to identify certain general tendencies regarding its distribution among different types of household, there is a good deal of variability in the way in which these work their way out in actual situations on the ground. Thirdly, whilst certain categories of actors (the poor, women, the minorities) find themselves more heavily constrained than others, everyone retains some freedom for manoeuvre or individual agency. (*For an extended discussion of social capital and its significance, see paper 2 in this series*).

Towards a Rights Based Approach

To understand what all this implies for a rights-based approach targeting women and the poor, it is necessary to see how each are positioned in relation to the broad sweep of institutions that have been considered.

Gender

In the first place, it is clear that there is a systematic gender bias in the operation of key institutions. Within the household, a rigid division of labour leaves women with relatively little opportunity to engage in income generating activities and hence to handle cash, whilst deeply entrenched patriarchy relegates them to a secondary role in domestic decision making. The patrilineage (*gushti*) and the patrilocal system of residence ensure that men can also mediate and dominate wider social exchanges.

Dowry re-enforces women's other disadvantages and is a frequent source of both conflict and marital breakdown, from which women suffer to a disproportionate degree. All of this is reflected in a wider society where few women enjoy positions of power, feature on key making decision bodies, or enjoy access to government employment (which, in turn, inhibits women in general from using official services).

But although women find themselves in a highly constrained position, some grounds for optimism remain. Force of economic circumstance is already re-defining many of their roles, and beginning to afford them a greater measure of independence. Official attitudes towards women are in a state of evolution and recognition of their specific requirements is growing. Major NGOs have mounted large-scale programmes addressing key practical needs and initiatives have been taken to promote women's organisations.

It appears, however, that success can only be achieved where external agencies are in a position to offer flexible support over an extended period of time, and where a critical mass of members can be created in particular localities. (*For a more detailed account of gender roles and relations, see papers 5 and 7 in this series*).

Prospects for the Poor

The poor, like women, suffer from multiple and mutually reinforcing forms of disadvantage. The majority, with little or no arable land of their own, must rely, individually or in combination, upon self-employment (with little to fall back on in the event of the loss of a key asset), agricultural labour (with long slack periods), or the taking of land in some form of tenancy (which offers poor returns and an increasing exposure to risk). Their capacity to engage in wider networks of social support is constrained by their lack of resources and it is only in rare instances that they have been in a position to form organisations in defence of their own interests.

Power has traditionally resided with the large landowners who have been able to consolidate their position by seizing most of the development resources arriving in the post-independence era. This system is not entirely self-perpetuating, but for the poor, there remain few alternatives to forming dependent bonds with the wealthy in order to secure access to employment or land, or to the official programmes offering relief or off-farm employment.

For all these difficulties, there is, however, again still some room for manoeuvre. The powerful do exploit them, but also feel some responsibility and moral obligation, and such sentiments may sometimes provide an effective building block in a wider anti-poverty strategy. The reduction of poverty is also firmly enshrined as a central objective in national plans and sector policy statements, and provides some evidence of serious intent in the higher reaches of government. Over and above this, the votes of the poor ultimately determine the outcome of elections, and they therefore cannot be entirely disregarded either at local or national level.

NGOs, whilst focussing primarily on the needs of poor women, and whilst generally more concerned with affording practical assistance than with directly challenging underlying structures, constitute powerful allies for the moderately poor at least, and some have started to go further, helping to build genuine poor people's organisations with a capacity to lobby actively in pursuit of their rights. But once again here, experience suggests that the countervailing institutional pressures of society at large mean that such bodies can only survive and flourish where external support is flexible in

nature, geographically concentrated so as to secure critical mass, and sustained over extended periods.

Strategic options

Action at various levels will be required to address the inter-locking institutions that currently deny the poor and women access to their rights. In a national context, the existing framework of laws and policies provides a generally sound foundation, and the main concern here will lie in improving implementation. Advocacy to this end will normally best be pursued in concert with other agencies. But for individual CARE programmes, efforts to strengthen the hand of the poor are probably best directed at the local level, where the effects of injustices are immediately experienced, and where the efficacy of action can be most directly perceived.

Programmes like Rural Livelihoods (RLP), which commissioned this research, must start from a point where rights-based activities (RBAs) have only recently been added to what were previously largely technology-based initiatives, where there is not a great deal of experience of working with the poorest households, and where staff have only received limited training for their new roles.

In initial RBA experiments, staff have been given latitude to explore different possibilities, and the most successful of these have involved helping members to access inputs or other goods and services. Other types of RBA are likely to be more difficult to pursue in an effective and sustainable fashion within the 18-month time-frame inherited from earlier activities.

Given the high degree of variability in conditions between locations it is, however, staff with local knowledge who will ultimately often be the best judges of what may be attempted. Under these circumstances, it is probably best to expose a wider range of staff to the type of study that has been described here, and for a limited period at least, to then continue with the present policy of letting "a thousand flowers bloom".

At the same time, a good deal of rights related work is already being undertaken elsewhere in CARE, and this creates various possibilities for collaboration. The easiest to exploit would involve links with other

activities from the former Agriculture and Natural Resources sector, which share an interest in input procurement, as well as in land and common property rights. Elsewhere in CARE others who have been working on local capacity building and planning would provide obvious allies in any attempt to improve access to services.

Beyond the organisation itself, CARE projects have already forged a number of links with other agencies that might be strengthened or extended in pursuit of a common rights agenda. Perhaps the most promising are those presented by organisations addressing tenants' rights and access to *khas* (public) land and water bodies. Prospects for collaboration in the re-orientation of *shalish* might also be explored, not least because so much of the business of this institution relates directly to land disputes.

Looking further afield, India has, in recent years proved a fertile breeding ground for a range of RBAs, and those concerned with raising citizen's "voice" to improve service delivery and access to rights appear especially relevant for Bangladesh.

There are, then, many options to consider in moving towards a more rights based approach. Few, however, are entirely straightforward. What is first required is a period of experimentation, pilot testing and refinement, before attempts can be made to move back to anything approaching the kind of scale on which CARE has typically operated in the past.

Box 2. The series

1. Institutions and Rights
2. Social Capital in a Rural Community
3. Securing Access to Water Bodies
4. Land Policy and Administration
5. The Changing Role of Women
6. How Farmers Learn
7. Gender Roles and Relations

Full versions of these papers will be posted at XXXXXXXXXXXx

Comments are welcome and should be sent to brigitte@bangla.net and mick.howes1@ntlworld.com

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