

QUOTA INTERVENTION IN CIVIL SERVICE: A CRITICAL REVIEW AND RECOMMENDATIONS

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INTRODUCTION

The history of the Bangladesh Civil Service (BCS) is as old as British rule in India. After its long journey since its inception, BCS is now at the threshold of global competitiveness. It has to face the challenges of the 21st century. That requires a paradigm shift from transactional leadership to transformational leadership. To meet the challenges of globalization, the Civil Service of Bangladesh must have speed, adaptability, flexibility and responsiveness in order to discharge the responsibilities bestowed upon it. Civil Servants, are supposed to be Change Agents who welcome, anticipate and cause change. All these issues have been linked up with HRM and HRD implication in Civil Service.

Recruitment at the entry level and promotion at the senior management level are crucial for the Bangladesh Civil service. The Recruitment Policy should be designed to attract the most talented people in the Civil service. The Promotion Policy at the Senior Management level should be based on merit and performance. Unfortunately, in both cases, no significant reforms have been made so far. As a result, the Bangladesh Civil service is not yet prepared to undertake the challenges of the 21st century and can not compete with any world class Civil service. As a Government report puts it admits "... the Civil Service currently operates in all most in the same manner as it did in the days of strong authoritarian... rule, often even using the same techniques and management practices that were introduced a few decades ago. The accent still remains more on process than on outputs, and on rule responsiveness". These are major concerns for the Civil Service of Bangladesh. Considering the more bound nature of the civil service, we have taken Quota System for examination.

As per recruitment policy of the Government, 55 percent of the positions in the Civil Service have been reserved for Quota while 45 percent positions of come under the purview. The Quota intervention in Civil Service in fact extends to senior positions. Here again merit has had to yield to Quota intervention.

Objectives

This paper will first attempt to suggest a recruitment policy for Bangladesh Civil Service based on merit. Secondly, it will explore the way, for making

1. Ministry of Establishment, Developing Civil Service Capacity for 21st Century Administration, (TPP), Dhaka, 2005

Quota Characteristics, Allocation and Reservation in Countries and Five Developing Countries

Country	Vertical Quota Characteristics	Basis	%	Horizontal Quota characteristics	Basis	%
India	Total No - 4 1.Scheduled caste 2.Scheduled tribes 3.Other Backward classes 4.General	Caste	15% 7.5% 27% 50.5%	1.Disability 2.Eo-service personnel 3.Legal heirs	Disability Reward past service	3% 10% of lowest jobs
Malaysia	1.Bumiputera 2.Non-Malayan	Ethnic	80% 20%	Handicapped persons	Disability	1%
Nigeria	1. 36 states 2.Federal Territory	Regional	2.6 % each 1 %			
South Africa	1.Blacks 2.Whites	Race	Minimum 50 % (to be raised gradually)	1.Women 2.Disabled	Sex Disability	30% new recruits 2%
Pakistan	1.Merit 2.Punjab 3.Rural Sindh 4.Urban Sindh 5.Northern Areas & FATA 6.Azad Kashmir	Regional	10% 50% 11.4% 7.6% 4% 1%	1. Disabled	Disability	1 %
Bangladesh	1. Merit 2.64 districts	Regional	45% 55%	1.Freedom fighter 2.Women 3. Tribes	Recognition Sex Ethnicity	30% 5% 2%

Source: Khan Akbar Ali & Kazi Rakibuddin Ahmed, Quota System for Civil Service Recruitment in Bangladesh: An Exploratory Analysis, World Bank & PSC, 2007

In the comparative quota depicted in table 3 the following important points come out as determining issues for discussion:

- Regional Quota and Nature of the Government:** Regional quota exists in three of the six developing countries. Out of these three countries, two namely Pakistan and Nigeria, are Federal states. It is recognised that regional quota may better fit a federal structure rather than a unitary form of Government. Since Bangladesh is constitutionally⁵ a unitary form of Government, regional / district Quota system do not effectively address the issues at hand.

5. Ministry of Law, Justice and Parliamentary Affairs, The Constitution of the People's Republic of Bangladesh, Dhaka, 1999.

promotions at the senior level on the basis of competency and merit.

Scope and Limitation

This paper has been divided into seven chapters. The first chapter deals with the background, aims, objectives, methodology followed and scope and limitations. The second chapter covers the historical perspectives of the evolution of the quota system. The third chapter compares Quota intervention at the entry level in Bangladesh with some other countries of the world. The fourth chapter critically analyzes some dilemmas faced in addressing the Quota system during Recruitment. The fifth chapter deals with Quota intervention in senior level promotions. The sixth chapter compiles the opinion survey and transforms data into information as findings. The seventh chapter relates to formulation of conclusions and recommendations. The present study, it should be emphasized includes only the two aforementioned dimensions of the Bangladesh Civil for consideration and excludes all other public services

Methodology

The information collected for this paper, is essentially based on secondary data. Reports of Administrative Reform Commissions, papers prepared by donor agencies and experts and some selected Annual Reports of The Public Service Commission have been utilized. We had to resort to primary data, developed through questionnaires submitted to potential resource persons. Interviews of some resource persons in connection with quota intervention were recorded. The primary data have been processed, analyzed and reflected as findings of the opinion survey.

HISTORICAL OVERVIEW OF QUOTA SYSTEM

The Quota system followed in the BCS is not a new phenomenon. Quota for minorities was formally introduced on July 14, 1934 on the basis of an executive order. Under this order, 16.5 percent seats in Indian Civil Service (ICS), other class I and class II and subordinate services were reserved for Muslims and 8.5 percent seats were earmarked for other communities. The reservation for scheduled caste was introduced in 1943.² With the emergence of Pakistan in 1947, a new dimension of Quota policy came into being considering the regional disparity and

2. Khan Akbar Ali & Kazi Rakibuddin Ahmed, Quota System for Civil Service Recruitment in Bangladesh: An Exploratory Analysis, World Bank & PSC, 2007.

SOME DILEMMAS IN ADDRESSING QUOTA IN RECRUITMENT

The constitutional support to the Quota system in recruitment, as well as the implicit spirit directives of the constitution in regard to extending the time limit for the continuity of Quota, need to be analysed. In Quota intervention Bangladesh experiences 64 vertical and 4 horizontal dimensions. The vertical dimension as we have already mentioned, refers to regional /district quota while the horizontal dimension refers to the quota set aside for freedom fighters, women, tribals and merit. As directed in our Constitution, the main thrust for affirmative actions should be given to backward sections of citizens and women. So here, we will attempt to examine the appropriateness of Quota provided to other stakeholders.

Constitutional Directives of the Quota

Let us take a look at the spirit and directives of the Constitution.

- Equality of Opportunity:** Article 29 (1) of the Constitution declares⁶ "There shall be equality of opportunity for all citizens in respect of employment of offices in the service of the Republic."
- Principles of Non discrimination:** Article 29(2) proclaims that "No citizen shall on grounds only of religion, race, caste sex, or place of birth be ineligible for or discriminated against in respect of any employment or office in the service of the Republic."
- Making Special Provisions :** Article 29 (3) (a) of the Constitution clearly

6. Ministry of Law, Justice and Parliamentary Affairs, The Constitution of the People's Republic of Bangladesh, Dhaka, 1999.

Regional Quota System in Pakistan, 1948	Regional Quota System Adopted in Central	
Recruitment was as follows (%)	Percentage of total population	
East Bengal	42	56.75
Punjab	24	28
Karachi	2	1.5
All other provinces and princely states of West Pakistan	17	13.75
Potential migrants from India	15	0

Source: Waseem Muhammad, "Affirmative Action Policies in Pakistan", Ethnic Studies Report Vol. XV, 1997

The drawbacks of the 1948 quota system were reviewed by the appropriate authority and a more moderate quota system was introduced in 1949. Under the revised system only 20 percent posts were reserved for national merit and the remaining 80 percent posts were distributed on a regional basis..

The introduction of the quota system in post war Bangladesh is nothing but a legacy of the past. Quota intervention in public service was introduced on 05 September 1972. Under the first quota order, distribution of posts was as follows - for national positions 20 percent merit, affected women 10 percent, Freedom Fighters 30 percent and for district/ division merit 10 percent. It was pointed out that quotas were introduced for more equitable representation of the people of all districts of Bangladesh in the various services and posts under the Government.³

Changes in the Quota System in Bangladesh, 1972-2006 has been transformed over time. Now we shall discuss the changes made so far with the help of the following table:

Date	Merit	FF	W	AW	TB	GM	Total
5 th September, 1972	20	30	0	10	0	40	100
6 th April, 1976	40	30	10	10	0	10	100
28 th April, 1985-2007	45	30	10	0	5	10	100

Source: Government of Bangladesh, Establishment Manual, Vol.1

3. Ministry of Establishment, Establishment Manual Vol. 1, 1995 p. 320

stipulates- that "Nothing in this article shall prevent the state from- (a) making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic".⁷ This is the root of making quota reservation in public service, more specifically the quota system in the Civil Service.

d. **Violation of the spirit of the Constitution:** Now if we integrate the different instructions stipulated in the relevant articles of the Constitution regarding quota reservation and analyze them, we may be able to throw light on some controversies and conflicts regarding over the whole issue. One important instruction is that the quota provision must not exceed the explicit spirit of the constitution. Now vested provision of 55 percent quota for preferred groups may easily be questioned in the presence of equality of opportunity in article 29(1) & 29(2) of the Constitution. Mahamudul Islam, an eminent jurist and ex- attorney general of GOB in his book titled Constitutional Law of Bangladesh has opined that clause 3 of article 29 is an exception to the guarantee of equal opportunity as mentioned in Article 29(1) and 29(2). He is of the view that any interpretation that nullifies these guarantees can not be acceptable in the eyes of the law.

Question of Time limit for quota and other issues

If we look at the matter from a global perspective, in the federal Constitution of Pakistan, the time limit for continuity of quota reservation has been mentioned. In the Bangladesh Constitution, however there is no mention of any time limit. But if we look at some other sections of the Constitution, we find quota reservation for women parliament members are limited by time limits. On the same analogy the quota manifestation allowed by article 29(3) (a) of the Constitution, as far as women and backward section of citizens concerned, a definite timetable should be given. Moreover, the quota has the specific goal of attaining adequate representation in the service of the Republic and achieving advancement for these - citizens. If the required purpose is achieved, obviously there remain no positive grounds for further continuity of quota. Quotas therefore must be time bound and there should be sufficient research on the impacts of quotas. But unfortunately, the quota system in the civil service is still operative without any potential research regarding its impacts having been carried out. But for all practical purposes, there should be a definite time limit for further continuity of Quota.

The dilemma of District or Regional quota

Article 29 (3) (a) of the Constitution, has empowered the state to make special

7. Ibid

It may be noted that the Interim Recruitment Policy was first amended in 1976. In that amendment the Merit provision was raised from 20 percent to 40 percent. A Further amendment was made in 1985. The quota for affected women was abolished there after, the merit quota was raised to 45 percent. The remaining 55 percent quota in case of class one posts was given under the purview of the district quota. For 10 percent of the posts within the Districts, there is a provision for intra district merit. The 1985 amendment also provided for 5 percent quota for tribes. Later some more amendments were made in connection with Freedom fighters and children of Freedom fighters.

Quota System in Bangladesh-A Comparative Study

In studying the Quota system followed in Bangladesh with those of some other countries, we need to stress certain conceptual aspects. The relevant conceptual dimensions are described below.

Quota is affirmative action adopted in order to uplift some groups or sections of people who are backward and disadvantaged for definite reasons. Fryer Jr. and Lowry describes affirmative actions as "what regulates the allocation of scarce positions in education, employment or business contracting so as to increase the representation in those positions of persons belonging to certain population sub groups"⁴. Affirmative actions can be of two types, one in Development a policy and the other in the preferential policy. Development policy tries to improve the performance of members of disadvantaged groups by giving them incentives in various supportive forms. The World Bank Report 2001, describes preferential policies as "attempts to reduce cumulative disadvantages by giving members of disadvantaged groups opportunities even when they may be less qualified than others" (WB-2001).

Quotas may be divided into vertical and horizontal dimensions. Vertical categories divide the entire population into preferred groups and non-preferred groups. On the other hand horizontal categories prescribe groups within the vertical categories.

To compare the quota system in some other countries and with the one prevailing in Bangladesh, we have tried to look at the quota systems in place in five other developing countries and compare them to the one followed in our country in

4. Fryer Jr, Ronald G and Glen C Lowry, "Affirmative Action and its Mythology", The Journal of Economic Perspectives, Volume 19, Number 3, Summer 2005.

provisions for "any backward sections of citizens". Now the question is whether a district may be recognized as a backward section. By and large, the typical district contains both backward and affluent citizens and, so it can not be defined as a backward section. So the district Quota clearly goes against the spirit of the Constitution.

Analysis of Freedom fighters Quota

There is no justification shown any where for 30 percent quota reservation for freedom fighters. By no definition or by any study made so far, Freedom fighters are backward section of citizens. No available data testifying socio- economic backwardness of freedom fighters. In Zainul Abedin VS Bangladesh (34 DLR - 77), the High Court Division of the Supreme Court nullified providing quota facilities in public employment for freedom fighters, in line with the spirit of articles 27 and 29 of the Constitution. So there is no reasonable ground for retaining this quota.

A Review of the Quota for women

The Quota Provision for women had been guaranteed under article 29 (3) (a) of the Constitution. As per the 2001 census, women constitute 48.1 percent of our population. According to the data provided by the Ministry of Establishment, the percentage share of women employees in the service of the Republic as of 2006 is only 15 percent. The total number of class one female officers in the service of the Republic is 10511 this figure as a percentage of the total number of officers is 11.20 percent.⁵

The number of women officers in the Bangladesh Secretariat, is very limited. At present, women officers, ranging from Assistant Secretary to Secretary, number 670, compared to their male counterparts who number 3725.

There is only one Secretary, one Additional Secretary, 25 Joint Secretaries and 169 Deputy Secretaries are women at present. So there is plenty of scope for affirmative action for women with to enhance their position in the Civil Service.

A Review of the Tribal Quota

Article 29(3) (a) is the basis for the tribal quota as they fall within the purview of the backward section of citizens. There are about 13 tribal ethnic groups living in Chittagong Hill Tracts. At present the three major tribal groups i.e. the Chakma, the Marma and the Tripuras usually take advantage of the quota system. So measures to safeguard the right of the other tribal groups should be taken into

5. Statistics and Research Cell, O&M, MOE, 2006.

Promotion at Senior Level in Civil Service

"With regard to promotion, we recommend the following formula: first, in filling the higher posts in the Service, merit should be the only consideration; second, in filling posts in the middle level of the Service, merit should be the determining factor, i.e., merit-cum-seniority basis; and third, in the lower ranges of the Service, seniority, i.e., length of service will carry appropriate weight, i.e., seniority - cum -merit basis." Report of The Administrative and Services Reorganisation Committee, Part-one, 1973, under the Chairmanship of Prof. Muzaffar Ahmed Choudhury.

Promotion to the senior secretariat posts, ranging from deputy and above, is very vital to the Civil Service. So selection of appropriate and competent personnel at this level is essential. Senior level promotion are taken care of by a Superior Selection Board (SSB), headed by the cabinet secretary with some other members. The final approving authority, however, is the head of the Government, i.e. the Prime Minister.

As per Promotion Rules 2002, at present the following quota system is being followed in determining shares of different cadres at the senior level.

Percentage share of quota at higher position

Table - 4

Name of the post	Quota for BCS(Admin)	Other cadres
Deputy secretary	75%	25%
Joint secretary	70%	30%
Additional secretary	70%	30%

Source: Ministry of Establishment, notification of 11 June, 2002, (SRO. 146/low/2002)

Promotion Rules 2002 make no provision for judging merit and performance in the case of senior promotions. The evaluation criterion to be followed in case of promotion as given in the second schedule of the rule is as follows:

Evaluation criterion for promotion

Table - 5

Criterion for evaluation	% of marks
Educational qualification	25
Average marks obtained in last five years' ACR	30
Average of ACR marks of the whole service length excepting last five years	25

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RECOMMENDATIONS

In view of the foregoing discussion, the following recommendations are made.

a. **Restructuring Quota for Recruitment.** Quotas at the entry level of the Civil Service for freedom fighters /for issues of freedom fighters along with the district quota should be abolished and redistributed amongst women and for national merit. Accordingly, the proposed revised quota system could be as follows:

Table-7.1: Proposed Revised Quota Table

Beneficiaries of Quota	% of Quota
National Merit	75
Women Merit	20
Tribal	5
Total	100

b. **Reintroduction of SSP.** For Promotion to the senior level, the Senior Services Pool (SSP) should be revived after necessary changes. The SSP may consist of the post of Deputy Secretaries at the bottom and secretaries at the top. Induction to the SSP at the Deputy Secretary level will be on the basis of examination to be conducted by the Public Service Commission. Moreover promotion to the next higher levels should be given on the basis of competitive examinations and performance appraisals.

c. **Abolition of President's Quota.** Quota reservation for promotion at the disposal of the President, should be dropped on grounds that it may create discrimination.

d. **Commission to be Set Up.** In exercise of power conferred in article133 of the Constitution, the President should promulgate a Civil Service Act, in which a Civil Service Commissions should be created. The Civil Service Commission can act as the Ombudsman in matters relating to civil servants. The Ministry of Establishment / BPSC can also act as the Monitor of the impacts of quota.

CONCLUSION

Redistribution of the District Quota for Merit: In case of regional quota, a district being only an administrative unit, it can by no way represent and can not be

Bonus marks for no adverse comment in any ACR	10
Bonus marks for no disciplinary punishment through out the service life	10
Total marks -100	

Source: Ministry of Establishment, notification of 11 June, 2002,

Again, the marks for educational qualification are to be evaluated in the following way:

Marks for educational qualification

Table 6

Name of the exam.	First class / division	Second class / division	Third class / division
SSC	6	4	2
HSC	6	4	2
Graduation	9	6	3
Masters	4	3	2

Source: Ibid

There has been much dissatisfaction over the issue of promotion at the senior level among different cadres, resulting in Inter-Cadre Rivalry. In this regard, we can show the inter cadre share in the posts of the government starting from deputy secretary and above through the following Table:

Cadre and rank wise statistics of officers

Table-7

Cadre name	Secretary	Additional Secretary	Joint Secretary	Deputy secretary
BCS (Admin)	43	57	284	1232
All other cadres	16	18	74	200
Total	59	75	358	

Source: Public Administration Computer Centre (PACC) Moe, 2008

In its report, "Government that Works" the World Bank proposed establishing a Specialized Senior Staffing Pattern (SSSP) for enhancing professional standards and skill in the Civil Service. Promotion it stressed, needs to be integrated with

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seen as a backward section as seen in article 129(3)(a) of the Constitution. Quota system basically introduced as an interim measure for removing disparity in public employment among regions. The Study reveals that by implementing development policies disparity in cases of employment and education among regions of Bangladesh, have been significantly reduced¹⁰. So the very grounds for district quota exist no more. The 10 percent quota provision for districts may be merged with the national merit.

Abolition of Freedom Fighters' Quota. The freedom fighters quota, conflicts with the spirit of the Constitution. By no definition it falls within the purview of article 29(3) (a), as backward section of citizens. Rather it acts as hindrances to quality recruitment. So this quota should be abolished.

Enhancing Women Quota. Women constitute about 48.1 percent of the total population. In context of Bangladesh, women as a community are in a backward position. For example, at different level posts in the Secretariat, starting from Assistant Secretary to Secretary to the top, the percentage share of women officers is only 15.24 percent. So if we are resume to preferential action, the existing quota for women which is 10 percent, does not seems to be enough. It should be enhanced to the level of 20 percent.

Rethinking the Tribal Quota. One inherent problem of this quota system is to ensure equitable distribution for all the indigenous groups living in the country. There are about 13 ethnic groups living in the Chittagong Hill Tracts.¹¹ According to the information available, the Chakma community may be termed as the privileged group and of always benefits from the quota benefit. So in the future, when providing reservation benefits, the affluent and advanced group among the tribal communities should be debarrred and preferential treatment should be given to the least advantageous communities.

Enhancing Merit. Article 28(1) of the Constitution instructs us to follow the principle of non discrimination and article 29(1) (2) strongly advocates equality of opportunity in public employment. So there is a strong constitutional plea for enhancing the merit quota at entry level. Again different Committees/Commissions setup on different occasion, emphatically recommend enhancing merit based recruitments. So merit quota at the entry level of recruitment must be enhanced.

Gradual Abolition of Quota. The report fitted "Towards Better Government in Bangladesh"¹² recommended rationalization of various forms of quota and

Performance. The UNDP Report on public administration sector study in Bangladesh revealed that the existing promotion system adds much to inter-cadre rivalries and tensions. Basically, these tensions can arise because of the tensions between the Bangladesh Civil Service (BCS) Administration cadre and the other 27 cadres and tensions between different qualifiable batches of the civil service intra-cadres & extra cadres. PARC has observed that inter - cadre discrimination is a deep-rooted problem in the civil service. Report of the ASRC, 1973 also noted the civil service was divided into too many distinct entities with artificial walls built around them, varying career prospects, lack of professionalism and one cadre pitted against another. So, all these issues need to be addressed.

In line with the recommendations of the Pay and Services Commission's Report (1977)⁹, an apex cadre named Senior Services Pool (SSP) was created in 1979. The establishment of SSP in 1979 allowing entry of all cadres to a unified cadre at the senior level was meant to enhance efficiency and remove discriminations among various cadre services. SSP also aimed at broadening the recruitment base for the highest executive and policy making positions. Unfortunately, the SSP was abandoned on the basis of the recommendation of a cabinet committee in 1989. The revival of SSP opens to be a requirement.

PARC has recommended that the Senior Management Pool SMP/ SSP should be restored. It has suggested that the post of deputy secretary should be the induction post as an entry-level post to be filled up from all cadre -officers through competitive examinations to be conducted by the BPSC. In restoring the SSP issues like the minimum level of officers at which SSP be restored, categories of officers to be taken in SSP, and the selection criterion of the issues to be addressed. Moreover, promotion at all other senior levels should also be made on the basis of examination and logical performance appraisal by the appropriate authority.

FINDINGS OF OPINION SURVEY

A questionnaire was developed to survey opinion of certain groups of people keeping in mind their gender identity, race, age, and involvement with freedom fighters on the quota system (Appendix-1). The questions asked were of the following nature:

- If the prevailing quota system at entry level should be reviewed and restructured.
- Whether quota system is a barrier to quality civil service.

9. Report of the Pay and Services Commission, Bangladesh, 1997, part 1, Vol. I, Cabinet Division.

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ultimately abolishment of quotas gradually. PARC¹³ also recommends gradual abolition of the Quota. BPSC has always urged gradual abolition of Quota. Accordingly in the long run, the Quota system should be replaced by merit.

Impact Assessment of Quota. At present there is no mechanism to monitor the impact of quotas. There must be some sort of mechanism to assess the impacts of quota intervention and it should be made public. The monitoring mechanism can lie with BPSC and MOE and they monitors report to the Parliamentary Standing Committee and to the Council of Ministers periodically.

Senior Level Promotion. The Quota at the senior level of promotion works against the principle of meritocracy, rather it creates room for inter cadre rivalry. For a merit and performance-based civil service, incumbents should be judged through rigorous examination conducted by the BPSC. With this in view and, at this juncture of time, SSP should be reintroduced. In this regard there is a need for revising the Civil Service Act and forming a Civil Service Commission to look after the issues of Civil Service.

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c. Whether in line with the spirit of Article 29(3) (a) of the Constitution of the People's Republic of Bangladesh, quota benefit should be withdrawn from freedom fighters / Issues of freedom fighters, as they are not Backward Section of Citizens.

d. In considering the need of the time freedom fighters quota should be merged with: (a) National Merit & Women quota/ (b) only with National Merit / (c) none.

e. If district quota being not consistent with article 29(3) (a) of the constitution -meaning to Backward Section of Citizens, should be abolished and merged with national merit.

f. Whether for an efficient and effective Civil Service, promotion at the senior level from Deputy Secretary and above, a Senior Service Pool (SSP) should be reintroduced as it was done in 1979 if necessary with some changes.

g. Whether the percentage share of Tribal Quota should be enhanced.

h. If women are not properly represented at different levels of Public Service for many reasons, so that Quota share in favour of women should be enhanced reasonably.

In analyzing the data it was found that the respondents belonged to different walks of life. They comprised civil servants - senior, junior and mid level; university teachers, doctors, engineers and other professional groups. Interestingly some students were also interviewed for the survey. Their responses were very encouraging. Besides opinion survey by questionnaire, Secretary, Ministry of Law, Justice and Parliamentary affairs was interviewed to note the legal points involved. He responded judiciously and agreed with the two propositions regarding radical restructuring of quota at entry level and reviving SSP for senior level promotion (Appendix-2). Besides, five other officers at the joint secretary level were interviewed. They all agreed to the need for proper restructuring of quota intervention at entry level and reintroduction of SSP for promotion at the senior level starting from the position of the deputy secretary.

From the findings of the opinion survey it is becomes obvious that all respondents agree that it is necessary to restructure and reshape the present quota intervention at the entry level of Civil Service & reintroduce SSP at senior level promotions. They also agreed by overwhelming majority on the issue of withdrawing quota coverage from Freedom fighters/ issues of freedom fighters and also redistributing it on the basis of national merit and for women. They also supported abolishment of the district quota and for national merit.

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Stakeholders' Role

Background. Until 2003 and 2004 people did not know anything much about the activities of AEC. Indeed people of the surroundings area felt that mining would bring good to them as well as the country¹⁴. While the company started exploration drilling many villagers heard violent sound and saw cracks developing in their traditional houses. Phulbari Protection Committee (PPC) and National Committee for the Protection of Oil, Gas, Mineral resources and Power and Port (NC) then developed an awareness program¹⁵. Locals now came to know about the mining method. They learned that more than 100 villages in some 59 square kilometers would have to be evicted and the inhabitants relocated¹⁶. The locals look fright and were motivate to join movement against the AEC. On 26 August 06 security forces opened fire on the crowd to contain protests in which three people died. The major stakeholders of coalmine are the GOB, the company, the protection committees and the villagers. Besides media, experts, civil society, NGOs and financing institutes can also be called as the stakeholders. The role of few stakeholders will be discussed. In the following pages.

Standing of the Government. The objectives of any government should be people centric. But when the GOB signed the deal with BHP, it did not consult other stakeholders. Till today people don't know much regarding the deal. The GOB wanted to suppress public opinion forcefully. During field survey locals were asked, "Once Phulbari coalmine will be developed then local people would have a stronger economy- was that correct?" In there responses almost 50% interviewees answered negatively-Government needs to gain confidence.

Yes, I think locals will better off economically	No, locals will not be benefited
51.72% (15)	48.28% (14)
Note: One man said that local people would be paid less.	

Activities of AEC. The company started taking appropriate measures to extract coal without considering the welfare of the locals. The company took into account the view of the community and interested stakeholders without explaining the effect of mining. It conducted two consultations with Phulbari Municipality Chairman (22 March 2005) and with Deputy Commissioner (7 September 2005) at

¹⁴ 'Open Pit Mining for Coal: Horror Felling Shroods Northern Bangladesh', available online <http://www.scdl.org/phulbari/index.html>, dated accessed 04 April 08.

¹⁵ Dr. Tapun Bagchi, Op.cit., p.69

¹⁶ 'Open Pit Mining for Coal: Horror Felling Shroods Northern Bangladesh', Op. cit.

Dinajpur¹⁷. But the Chairman withdrew his 'no objection' certificate in July-August 2005¹⁸. That meant that local people were not able to express their opinion about open pit mining. Therefore, the company must think up and undertake welfare projects for the locals before developing the coalmine to win their hearts and mind.

Involve ment of Civil Society. Civil society activists did not know the details of the agreement between the GOB & BHP. The Unitil Phulbari incident took place raised on the issue of the transparency of the contract deal. They differed with the deal and company geologists didn't say clearly why the open-pit method had to be adopted for Phulbari coalmine. They only said that the country needed to extract coal to produce electricity for the development of the country. Therefore, they needed to sit down with locals and experts to find out appropriate methods of compensation, and payments.

Role of Protection Committees. Both protection committees wanted to preserve the rights of the locals as well as the interest of the country. PPC could develop public opinion through weekly processions¹⁹. But local political leaders didn't allow the movement to get momentum. Later activists contacted NC for leadership and continued activities under the banner of PPC²⁰. However, the four-day long protest of Phulbari population ceased after signing of a deal with Government representative, the Mayor of Rajshahi Division and the Member Secretary of NC on behalf of the people. The Committee didn't want to allow open pit mining and was bent on eliminating AEC to protect the national interest. This became further clear once the General Secretary of NC said, "We will not allow GCM to turn a land of food for the people into a black hole for corporate profit"²¹. But the committee wanted to extract coal for the use of the country only after the consent of the locals had been taken. But they didn't specify the method of extraction, which they should have done by mentioning the modus operandi of compensation.

Legal Aspect of the Agreement. The GOB has already fulfilled two points of the deal²². Branch offices of AEC were withdrawn from Phulbari and the families of the victims were paid compensation as fulfillment of the deal. Meanwhile the Law Ministry termed the Phulbari agreement 'illegal', and critiqued it. Legal experts

¹⁷ 'Bhan, Phulbari Coal Project', <http://www.adb.org/Projects/project.asp?id=39933>, Op. cit.

¹⁸ 'Phulbari Communities Write to ADB President and Executive Director', 15.12.07, available online <http://www.phulbaristestance.blogspot.com/2007/12/phulbari-communities-writes-to-adb.html> dated accessed 29 January 2008.

¹⁹ 'Taim Ahmed, In Phulbari Lives the spirit of liberty', New Age Independence Day Special, 26.03.07, available online <http://www.newagebd.com/2007/mar/26/independence0707.html> dated accessed 11 March 2008.

²⁰ 'Taim Ahmed, this', <http://www.newagebd.com/2007/mar/26/independence0707.html>

²¹ 'The South Asian, Protected Struggle Forces ADB to Pull Out of Phulbari', 10 May 2008, available online http://www.theasian.org/archives/2008/05/adb_pull_out_of_phulbari.html, dated accessed 11 March 2008.

²² Justice M Golam Rabbani, 'Court is legally bound to cancel deal with Asia Energy', New Age, 31 August 2007.

EVALUATION OF PHULBARI DEAL: SEARCH FOR POLICY OPTIONS

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INTRODUCTION

Bangladesh has significant amount of quality coal as a natural resource in number of coal fields. This coal fields are found in the north-west region of the country. It could be a possible alternative energy source. Presently the country has five coal fields and Phulbari is one of them. It was discovered in 1997 by the Australian company, Broken Hill Proprietary Minerals International Exploration Inc (BHP)¹. The total reserve of coal found here is approximately 3000 million tons (MT)². Bangladesh has been mining one MT of coal per year from Barapukuria Coalmine since 2003. This mine has been fueling the 250-Mega Watt (MW) power plant in Parbotpur since January 2006³. Its present power generation capacity is 3816 MW⁴ against 5500 MW. The present gas reserve of 11.6 trillion cubic feet (TCF) can generate electricity till 2015⁵ with the present commitments. Adequate and reliable supply of electricity attracts both domestic and foreign investment. The Government of Bangladesh (GOB) is committed to provide electricity to all by 2020 when the generation capacity will be raised from 3816 MW to 17,765 MW⁶. Therefore, huge investment is needed in this sector, which could be met largely by using the coal mined in the country.

To attract investment by International Mining Companies in the coal sector, GOB advertised in International journals in the early 1990. BHP showed some interest and on 20 August 1994 GOB signed a contract (11/C-94) with BHP based on the 'Minerals and Minerals Rules' (MMR) 1968 (amended). The contract had an 'Investment Agreement' in accordance with the Board of Investment (BOI) Handbook⁷. Following a few years of exploration effort, BHP discovered coal deposit in 1997 at Phulbari. It then left the country in 1998 assigning the contract for further exploration to Asia Energy Corporation (Bangladesh) Private Ltd (AEC)

¹ Dr. Tapun Bagchi, Phulbari Coal Mine: Environment and Reaction, BARCIC, June 06, p.13

² Md. Mostafar Hossain, 'A second look at the Energy sector in Bangladesh', Power & Energy, Vol-5, 1st Issue, June 2007, p.20

³ Langdon D. Clough, Energy Profile of Bangladesh, 30 January 07, available online, http://www.econorth.org/article/energy_profile_of_bangladesh, date accessed 04 July 08.

⁴ Mr. Shawkat Ali, Chairman Power Development Board, Supplied paper during Interview on 30 July 08.

⁵ Md. Mostafar Hossain, Op.cit., p.19

⁶ Md. Mostafar Hossain, Op.cit., p.19; Mr. Shawkat Ali, Op.cit., during Interview.

⁷ Gary Lye, Correcting Misconceptions Regarding Phulbari Coal Project, AEC, 30.11.07, p.2

have opined, however, that the Phulbari agreement had become effective as the government had already fulfilled a number of the agreement's conditions²³. The Democratic government on the other hand, has to accept the people's verdict.

Perception of Local Population. Although the local populations were affected directly they had been ignored. Neither the GOB nor AEC had consulted them²⁴. A 75-year-old man wondered, "What will happen to us if we are forced to move from here? What will happen to our livelihoods? I don't want us to live like this. Our mosques and holy places and the places we were born will be destroyed. What will happen to the graveyards of our ancestors?"²⁵ The Fear of the locals appears genuine but they were away of making any suggestions.

Media's Contribution. The Media constitute the watchdog of society. People didn't know Phulbari until media focused on the problems of the deal. It was the relentless coverage of the media. That informed the people about the problems with the deal. The Internet edition of newspapers and the satellite net work of the media informed many Bangladeshis about the situation. The Media stood beside the people during the general strike and forced the GOB to resolve the issue amicably. But it also divided people's opinion instead of trying to work for unity.

Comments with Field Survey Report

During the field survey none of the locals agreed to open pit mining and a few did not even want any coalmine in Phulbari. The following table answers the following question, "In your opinion which method should be followed to extract coal from Phulbari?"

Underground Method	Open pit Method	Any Other Opinion
98.36% (28)	-	Both methods are bad, therefore, not in favour of any one 3.44% (1)

In other words, locals need to be motivated as well as paid compensation. Event they can be made shareholder of the projects.

If government gives appropriate compensation then we will be in favour of the coalmine	Yes, we would give in favour of the land for the nation	No, I will not give my opinion	Compensation wouldn't be sufficient, therefore, I will not give my opinion
24.14% (7)	37.93% (11)	33.33% (10)	3.44% (1)

²³ Staff Correspondent, Committee terms ministry's opinion on Phulbari deal disrespectful of people', New Age 06 September 2007.

²⁴ Dr. Tapun Bagchi, Op. cit., p.69

²⁵ Kristian Deconick, 'BBC News, Bangladesh coal dividers region', 12 July 2006, available online <http://news.bbc.co.uk/1/healthnews/5080386.stm>, date accessed 11 March 2008.

on 11 February 1998 with the approval of GOB. AEC's 100% share is owned by Asia Energy Public Ltd Corp, London. Later, the company changed its name to Global Coal Management (GCM). However, AEC initially wanted to invest over US\$1 billion and develop a mine mouth coal fired power plant with a generating capacity of 1000 MW electricity totaling cost of US\$ 3 billions⁸. This project would generate approximately 1% of gross domestic product (GDP) each year of the total project life⁹. But this project has drawn heavy criticism as AEC wanted to extract the coal following the open pit mining method. Consequently, there is a dilemma about which method to be followed in extracting the coal.

AEC carried out drilling in 2003 at Phulbari and got 'Environment Clearance Certificate' on 11 September 2004¹⁰. The company established its office at Phulbari in May 2004¹¹ and conducted Environment Impact Assessment (EIA) and Social Impact Assessment (SIA) for the project. It submitted its report to the GOB on 30 July 2005¹². AEC submitted 'Feasibility Study and Scheme of Development' on 02 October 2005¹³ to Director, Bureau of Mineral Development (BMD). The GOB was supposed to respond within three months but has not yet done so. Though the deal between the GOB and BHP looks impressive yet there are some questions still being asked: "Why did the local population demonstrate against AEC? Why did security forces open the fire? Is there any problem with the stakeholders? Is there any problem with the agreement, which needs detail study? Is there any problem with the method of extracting coal, which is intimidating locals?" In answering these questions, the paper attempts to focus on three objectives. These are: Suggest measures to stop recurrence of violence, which will prevent bloodshed, provide inputs for the GOB to decide regarding the assigned deal with AEC, and discuss the extraction method of coal and its use. The paper concludes that the coal to be extracted by convincing and compensating the locals appropriately primarily for the sale of power generation.

⁸ Gary Lye, Op.cit., Pp.3-6

⁹ 'Rahat Ahmed, 'Asia Energy's Phulbari Coal Project Delivering Energy Security to Bangladesh', Power & Energy, Vol-5, Issue-1, June 2007, p.67

¹⁰ 'Bhan, Phulbari Coal Project', available online <http://www.adb.org/Projects/project.asp?id=39933>, date accessed 04 April 08.

¹¹ 'Professor Nurul Islam & Committee Members, Technical Committee Report on Feasibility Study Report & Scheme of Development', 20 Sep 06, p.39

¹² 'Bhan, Phulbari Coal Project Op.cit., <http://www.adb.org/Projects/project.asp?id=39933>.

¹³ 'Bht., <http://www.adb.org/Projects/project.asp?id=39933>.

During the field survey it was found that many people didn't believe that the GOB would pay them appropriate compensation. The answer to the following question "If you are compensated for your house and farming land, would you opine in-favour of Phulbari coalmine?" Will substitute this statement.

Impact of Coalmine

A study reveals that the groundwater of the north-western region of Bangladesh is almost arsenic-contamination free²⁶. This groundwater is 80-120 meters thick in the Dupitila formation and situated at about 10-12 meters below the surface. Open pit mining requires dewatering of the mine area round-the-clock during the entire lifetime of the project²⁷. 800 million liters of water will be pumped out of the mine everyday for next 30 years²⁸, which could lead to desertification of 500 Sq/km. Farmers could lose their livelihood. Moreover, the topsoil would be displaced once the mining operation begins. It could, however, be brought back and spread on the top of the area filled in. Never the less, no one can say when the land could become cultivable again. At the final stage of the mining operation, Bangladesh would get a huge lake filled up with fresh water. Mining experts warn that the final hollow, after 30 years of digging and other activities, would contain toxic substances²⁹. In underground mining subsidence of soil would be seen. The land could, however, remain cultivable.

Open pit mine could produce Acid Mine Drainage (AMD) and if immersed with water could remain for a decade or so, destroying Sherries and crops. The cost of mitigating AMD in a mine is high but the SEIA conducted by AEC provides little detail about the management of AMD. In a country like Bangladesh, where hundreds of small rivers are linked like a huge net, polluted water can travel way beyond the mining area³⁰. In this regard mining expert Roger Moody has commented, "It is extremely costly...GCM has not provided any financial details as to who would cover the bill for such an environmental disaster"³¹. In addition, therefore, there would be and enormous amount of polluted water generated from washing coal if it is not properly treated.

Coal dust would be produced from dynamic explosion and, burning of coal. Other agents would also be produced such as nitrogen oxide, mercury, lead, etc,

²⁶ Engr. Akmal Shamsuddin, Phulbari Coal, Hydrological Environment Not Favourable for open Pit Mining', The Daily Star, 29 September 2007.

²⁷ Environment Correspondent, 'Open Pit Mining for coal', The Daily Star, 18 August 2006.

²⁸ Engr. A.K.M Shamsuddin, Op.cit., 28 September 2007.

²⁹ Environment Correspondent, Op.cit., 18 August 2006.

³⁰ Kristian Deconick, Op. cit.

³¹ 'Protected struggle forces ADB to pull out of Phulbari', 10 May 2008, available online <http://theasian.oneworld.net/article/adb-phulbari>, dated accessed 10 May 2008.