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Traditional Justice System of the *Harijan* Community in Rajshahi, Bangladesh

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ABSTRACT

The main objective of this research was to examine the characteristics of the traditional justice delivery system utilized by the *Harijan* community in Rajshahi, Bangladesh, and to illustrate its status along with the roles of judicial services within this community. The study focused on a *Harijan* colony in Rajshahi district namely the I.D. (Infectious Disease) Ambagan *Harijan* Palli. A mixed-method approach was employed, which included a social survey involving 110 heads of households using a semi-structured questionnaire to gather quantitative data. Additionally, qualitative data were collected through 20 in-depth interviews (IDIs), 10 key informant interviews (KIIs), and 1 focus group discussion (FGD). The findings indicated that a significant number of *Harijan* individuals had never engaged with the court or judiciary system, revealing a biased role of the Panchayat or Samaj in maintaining law and order, as they were unable to safeguard the *Harijan* community from attacks by influential individuals and outsiders. Nevertheless, the results also indicated that many *Harijan* people expressed satisfaction with their traditional justice system. Furthermore, the study identified various barriers that hinder access to the formal justice system. These findings are expected to serve as a valuable resource for government officials, NGO leaders, legal practitioners, and development professionals.

INTRODUCTION

The *Harijan* community represents a unique and diverse group that has garnered increasing attention both nationally and internationally in recent years (Naher & Hasan, 2015). As one of the 44 scheduled Hindu caste communities, *Harijans* are recognized as a more marginalized social group within the hierarchical structure of Hindu society (Daize, 2018; Dutta *et al.*, 2022). Their identity is frequently defined by the manual labour and low-status jobs they occupy (Kabir *et al.*, 2018). This social identity and status are closely linked to their traditional occupations, which have historically been viewed as unclean and impure (Kabir *et al.*, 2018). In urban areas of Bangladesh, they often engage in scavenging and are classified as 'untouchable' within the caste system prevalent in the Indian subcontinent (Asaduzzaman, 2001; Sultana & Subedi, 2016).

Access to justice for the *Harijan* community in Rajshahi, Bangladesh, remains a considerable challenge due to a history of discrimination and socio-economic disadvantage. The *Harijans*, who have been historically classified as an untouchable caste, face systemic barriers that obstruct their ability to seek legal remedies. Although the constitution guarantees equality, this community encounters biases within the legal framework, including discriminatory attitudes from law enforcement and judicial authorities. Furthermore, their limited financial resources restrict their access to legal representation and comprehension of intricate legal procedures. Social exclusion exacerbates their situation, as they frequently lack support from the broader society. The traditional

Panchayat system, employed by the *Harijan* community in Rajshahi, is crucial for resolving disputes within their Palli or Samaj.

The justice delivery system for the *Harijans*, often referred to as 'Samaj' or 'Panchayat', is predominantly male-dominated. The leader of the Panchayat, known as Sardar or Mondol, is chosen based on seniority or lineage. In Rajshahi, each *Harijan* colony has its own Panchayat or Samaj to address community disputes, with nearly all colonies establishing their systems for conflict resolution. The formation of the Panchayat Committee in these colonies lacks a standardized election process; instead, members are appointed based on seniority. Notably, there is a complete absence of female representation in any of the colonies in Rajshahi. Women are excluded from voting in the selection of the Panchayat Committee and are barred from membership. The Panchayat Committee wields significant authority in its operations, appearing to operate without accountability. Decisions made by the committee are deemed final and are not subject to appeal, leading many to view this unchecked power as a potential avenue for abuse. The entire process of dispute resolution is susceptible to political influence and may be dominated by the elite within the social hierarchy. The Dalit or *Harijan* community has established its system of arbitration and governance, referred to as the panchayat, to manage internal conflicts. In these panchayat sessions, male members predominantly take the lead, while it is customary for Dalit women to refrain from participation. Furthermore, it is important to note that there is no representation of women in either of the Rajshahi colonies,

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as they are prohibited from voting in the Panchayat Committee elections or serving on the committee. Many studies have been undertaken internationally regarding the socio-economic discrimination faced by the *Harijans* community, alongside several investigations within the context of Bangladesh (Chowdhury, 2011; Hossain, 2016; Hossain, 2017; Daize & Lima, 2021; Islam, 2022). Nevertheless, there remains a significant gap in research concerning the evaluation of the traditional justice system namely the Panchayat system utilized by the *Harijan* community in Bangladesh. This study aims to examine the present circumstances surrounding crime and the justice system within the *Harijan* community.

LITERATURE REVIEW

Asaduzzaman (2001), in his book titled “The ‘Pariah’ People: An Ethnography of the Urban Sweepers in Bangladesh,” delves into the identity, caste hierarchy, and dignity of the sweeper community, known as *Harijans*, in Bangladesh. The significance of this publication is rooted in its ethnographic methodology, which provides a thorough theoretical analysis wherein the author critically assesses the Panchayat system prevalent in South Asian culture and society. Chowdhury (2009) addressed the issue of caste-based discrimination in South Asia, with a particular focus on Bangladesh, in his scholarly article. He highlighted the presence of ‘*Harijans*’ in the country and examined their traditional justice mechanisms. Similarly, Islam and Parvez (2014) investigated the *Harijan* community in Bangladesh in their publication, presenting a distinctive perspective. Both studies were supported by non-governmental organizations and approached the topic from an activist standpoint regarding their traditional justice systems. Jodhka and Shah (2010) undertook a study entitled “Comparative Contexts of Discrimination: Caste and Untouchability in South Asia,” which aimed to provide an overview of the challenges faced by ‘*Harijans*’ or ‘*Dalits*’ across five South Asian nations: Bangladesh, India, Nepal, Pakistan, and Sri Lanka. The authors contended that the traditional justice system associated with the Hindu caste framework is largely ineffective for these communities.

Kamal *et al.* (2010), along with the Research Development Collective (RDC) and the support of the Manusher Jonno Foundation (MJF), undertook a research project entitled “*Dalits in Bangladesh: A Study on Deprivation.*” This document provides an analysis of the deprivation and marginalization faced by Dalits, or *Harijans*, in Bangladesh, emphasizing the effects of the caste system on their socio-economic conditions and access to justice. In 2011, Chowdhury conducted a study that examined the traditional occupations and livelihoods of the sweeper community in Chittagong, Bangladesh. This paper offers a detailed examination of the justice access challenges faced by the sweeper community, addressing their historical context, social exclusion, and the pressing need for immediate interventions to improve their livelihoods

and professional circumstances. Sarker (2012) wrote a book namely “*Prantobashi Harijonder Kotha*” (Bengali), which explores the extensive history, customs, lifestyle, and justice system of the *Harijans*, also referred to as untouchables, living in Bangladesh. Additionally, Sultana & Subedi conducted a research study in 2016 titled “*Caste System and Resistance: The Case of Untouchable Hindu Sweepers in Bangladesh,*” which investigated three sweeper colonies in Dhaka city. This study underscored the historical discrimination and marginalization experienced by Hindu sweepers (*Harijans*) in Bangladesh because of their untouchable status.

Ana (2016) authored the book “*Bangladesher Harijon o Dalito Janagosthi,*” published by Jatiya Sahitya Prakash. This work provides an in-depth examination of the development of casteism in India, the distinct identity of *Harijans* and other Dalit groups in Bangladesh, and detailed descriptions of eleven *Harijan* colonies and sweeper quarters located in the Rajshahi district. It also discusses the customs and rituals related to the justice system among *Harijans*, Dalits, and certain tribal communities. Naher and Hasan (2015) conducted a research study that focused on Dalit communities living in railway colonies and lands in Northern Bangladesh. Their investigation highlights the marginalization and vulnerabilities faced by the Dalit community residing on railway land in North Bengal, particularly regarding their absence of legal rights and representation in local governance. Parvez *et al.* (2020) carried out a study titled “*Identifying Livelihood Patterns of Harijan Community and their Coping Strategies of Different Vulnerabilities Situation - a Sociological Investigation.*” This paper summarizes the socioeconomic conditions of the *Harijan* community in Bangladesh, underscoring their financial difficulties and limited access to justice rights. Aktar and Halder (2023) researched the socio-economic conditions of the Rishi or *Harijan* community within the Khulna City Corporation (KCC). Their study explores the socio-economic challenges and the traditional justice system encountered by the *Harijan* and cobbler communities in Bangladesh, emphasizing the urgent need for policy interventions to improve their justice system.

MATERIALS AND METHODS

Study Design

The research employed a mixed-method approach, integrating both quantitative and qualitative research techniques, to examine the existing socio-economic circumstances of the *Harijan* community within our society. Data for this analysis was gathered through a combination of questionnaire surveys, in-depth interviews, and focus group discussions. The semi-structured interview guide allowed us to delve into the personal and social experiences, perspectives, and emotions of the interviewees. To enhance the flexibility of data collection, both pre-arranged and spontaneous questionnaires were utilized.

Study Site and Population

The research was conducted in Rama Krishna *Harijan* Palli, located in Rajshahi. This area is positioned on the southern side of Kazi Nazrul Islam Sarani (Laxmipur-Kashiadanga City Bypass) within ward number 6 of the Rajshahi City Corporation. The Palli is divided into two sections. The western section is referred to as Domepara, primarily inhabited by Domes, who are mortuary workers. Conversely, the eastern section is predominantly occupied by the Rabidas community, also known as cobblers, and is locally termed Muchipara. This *Harijan* Palli additionally recognized as I.D Ambagan *Harijan* Palli was established in Ambagan, situated behind the Infectious Disease (ID) Hospital. The majority of the residents in this area adhere to the Sanatan (Hindu) faith. The study identified five distinct clans within the community: Dome, Rabidas, Hela, Raut, and Banshfore. There is a lack of census data or demographic information regarding individuals facing discrimination based on their occupation and lineage in Bangladesh (Uddin, 2015). Through field research, we identified 182 households with a total population of 1,125.

Data Collection, Sampling, and Data Analysis

The researchers gathered data from February 2024 to April 2024 through a survey methodology. This social survey involved 110 heads of households and utilized a semi-structured questionnaire to collect quantitative data.

Additionally, qualitative data was obtained through 20 in-depth interviews (IDIs), 10 key informant interviews (KIIs), and one focus group discussion (FGD). The study area comprised 182 households with a total population of 1,125 individuals (581 males and 544 females). From this population, 110 respondents were selected, aligning with the unit of analysis. The structured FGD included 15 representatives and took place in the Palli. The collected data were processed using SPSS and Excel software to generate the required statistics and interpretations.

RESULTS AND DISCUSSION

The Prevalent Offenses within the *Harijan* Communities in Rajshahi, Bangladesh

The research revealed that the *Harijan* community in Rajshahi, Bangladesh confronts various significant offences and disputes, which consist of altercations, theft, land conflicts, domestic abuse, and violence related to dowry transactions. Table 1 provides a visual representation of these findings. Notably, the majority of survey participants (49.09%) recognized family violence as the predominant crime within the *Harijan* settlements. Furthermore, 23.63% of respondents indicated that theft is the chief crime noted in these areas, while 11.82% pointed to dowry-related violence as a substantial concern. A mere 4.55% of respondents acknowledged land ownership disputes as the most prevalent crime among the *Harijan* community.

Table 1: The most common offenses within the *Harijan* community in Rajshahi, Bangladesh

Offences	Frequency	Per cent (%)
Conflict over land ownership	5	4.55
Family violence	54	49.09
Theft	26	23.63
Fight	12	10.91
Violence related dowry	13	11.82

Moran (2015) highlighted that during the household survey, participants were prompted to identify prevalent conflicts and disputes within their communities, excluding criminal activities. This approach was taken because all listed crimes can lead to civil claims, such as for damages, injuries, or the recovery of stolen property. Consequently, individuals lacking legal expertise may struggle to differentiate between 'crimes' and 'disputes.' When asked about conflicts that particularly affect women, the most commonly cited issues included emotional violence or verbal abuse by family members (67%), domestic physical violence (30%), non-payment of maintenance (21%), and divorce (14%).

Crime Trends in the Past Five Years within the *Harijan* Communities in Rajshahi, Bangladesh

In the field of research, it was found that the predominant

crimes or offenses experienced by the *Harijan* community in Rajshahi, Bangladesh, over the last five years encompass general crimes, offenses against women and children. These results are depicted in Figure 1. A significant portion of the participants (50.91%) observed a reduction in general crimes within the *Harijan* neighbourhoods. Moreover, 54.55% of respondents indicated a decline in crimes against women, while 60.91% noted a decrease in crimes against children in their localities. Conversely, 28.18% of participants reported an increase in general crimes, and 20.91% stated that the level of general crimes remained unchanged. Additionally, 26.36% expressed that crimes against women had risen, and 19.09% claimed that these crimes had not changed. Only 20.91% of respondents mentioned that the situation regarding crimes against children remained constant in the *Harijan* neighbourhoods.

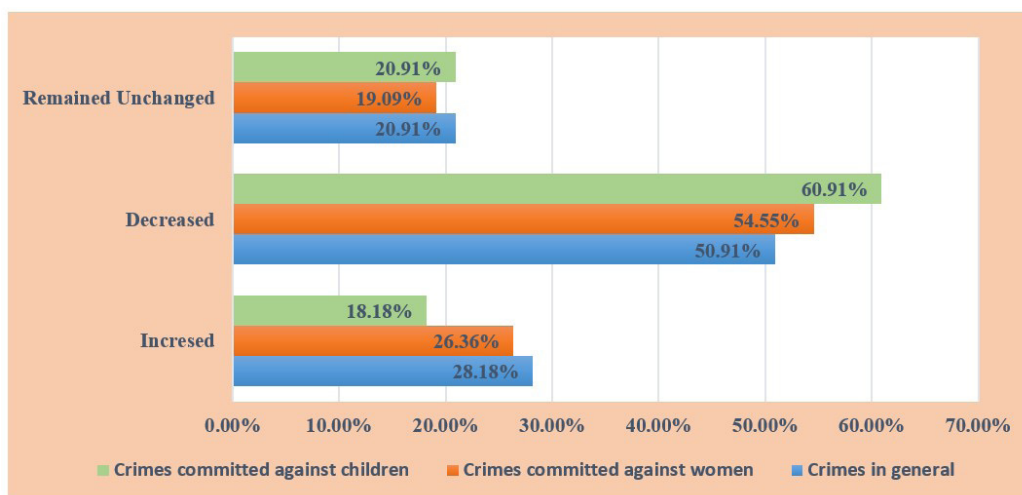


Figure 1: Crime Trends among the *Harijan* Community in Rajshahi over the Past Five Years

Types and Nature of Disputes Settled by the Panchayat Committee of the *Harijan* community in Rajshahi

The research conducted in the study area revealed that the *Panchayat* Committee plays a crucial role in resolving

internal conflicts, such as disputes arising from minor disagreements among community members and inter-caste romantic relationships. Such disputes account for almost 31% of the conflicts identified.

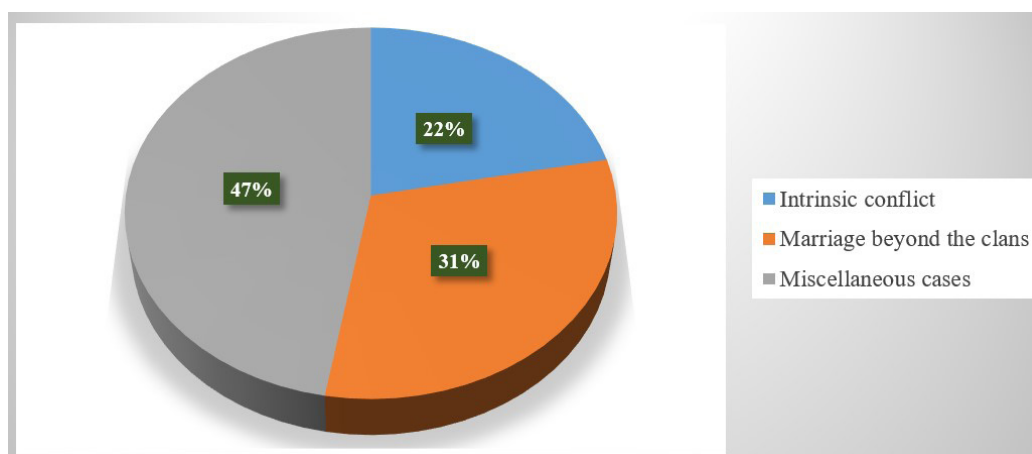


Figure 2: The Types of Disputes Resolved by the Panchayat Committee within the *Harijan* Community in Rajshahi, Bangladesh

The practice of endogamy is recognized as a matter of religious significance and is consequently strictly forbidden within their community. The Panchayat Committee addresses this issue with utmost seriousness. Approximately 47% of the cases presented to the Panchayat Committee pertain to breaches of marriage regulations. The *Harijans* are divided into various clans, and, as previously noted, inter-caste marriages are not permitted. Therefore, violations of these marriage norms result in severe repercussions. Additionally, the remaining almost 22% of disputes involve issues such as theft, eve-teasing, or sexual harassment. Due to the presence of diverse cultures and the influence of local norms and values, it is clear that the dispute resolution process in the Panchayat system does not fully comply with international human rights standards (Wojkowska, 2006).

Satisfaction Rate of the Traditional Justice System in the *Harijan* Community in Rajshahi, Bangladesh

In the research area, it was found that a significant portion of the participants (53.64%) indicated their satisfaction with the traditional and informal justice system within their communities. Furthermore, 19.10% of the participants reported dissatisfaction with the traditional informal justice system, while 27.26% maintained a neutral stance regarding this issue.

To date, regarding membership and voting rights within the Panchayat Committee, it seems that female participants, especially those who are uneducated, demonstrate a lack of interest in participation. They tend to adhere to traditional views, believing that involvement in elections or assuming leadership positions is not their duty; rather, they feel it is more appropriate for them to stay at home



Figure 3: Percentage of satisfaction with the traditional justice system of the *Harijan* community in Rajshahi

and concentrate on domestic responsibilities (Azad *et al.*, 2016). In panchayat sessions focused on addressing internal matters, male participants generally assume leadership roles. *Harijan* women often find themselves marginalized and excluded from these discussions. Typically, women are invited to attend only when they have a direct stake in the issues being deliberated. One respondent (FGD, Female and 42 years) mentioned that,

“Women frequently hesitate to pursue justice, even in the face of serious injustices, due to their fear of the repercussions associated with seeking redress. This mentality is so entrenched that society often criticizes women who attempt to address grievances or file complaints against men. Within our community, women are discouraged from expressing their views in the panchayat; rather, it is customary for their husbands, fathers, or brothers to articulate their concerns. It is widely accepted that men should serve as the representatives of women.”

The Panchayat system has encountered various criticisms and doubts regarding both its procedural and substantive elements. Nevertheless, our research indicates that approximately 70% of individuals within the *Harijan* community maintain a positive perception of this system. However, unresolved issues persist regarding the degree of their genuine satisfaction with the system overall (Azad *et al.*, 2016).

Barriers Faced by the *Harijan* Community in Accessing the Traditional Justice System in Rajshahi

In the research conducted in the study area, it was found that a significant portion of the participants (40.91%) perceived bias against affluent individuals in the community as the foremost challenge to the traditional justice system in the *Harijan* colonies. Furthermore, 6.36% of the respondents pointed to political interference as a key barrier to accessing the traditional justice system. In addition, 34.55% of the participants indicated that unfair treatment and discrimination were major obstacles to the traditional justice system. Finally, 18.18% of the respondents contended that corruption represented the

primary impediment to the traditional justice system within the *Harijan* community.

Table 2: Barriers to the Traditional Justice System of the *Harijan* Community in the Study Area

Indicators of Barriers	Per cent (%)
Discriminations	34.55%
Corruption	18.18%
Favouring the rich	40.91%
Interference in political matters	6.36%

One of the respondents (IDI, Male and 32 years) stated that,

“I came from a family with limited financial means. My father works as a sweeper. Five years ago, I entered into matrimony with a wealthy woman from my neighbourhood. However, just three months after our marriage, her father insisted that she should not remain with me, thereby disrupting our family life. In response to this situation, I approached the panchayat committee in hopes of finding a resolution. Unfortunately, they were reluctant to address my case and suggested that I pursue legal action. Regrettably, I lacked the financial resources to navigate such a challenge and felt trapped, ultimately resulting in the loss of my family.”

Moran (2015) discovered that a notable 85% of participants in the household survey expressed some level of trust in the traditional Shalish system. Furthermore, nearly half of the respondents (47%) indicated that they perceived an improvement in the quality of justice provided by traditional Shalish over the past three years. This finding was corroborated by a user survey, which revealed high satisfaction levels among those utilizing Shalish services; approximately 74% of users involved in criminal and civil cases reported being quite or very satisfied with the treatment they received from traditional Shalishkars. Additionally, perceptions of corruption appeared to be relatively low, as nearly half of the respondents (47%) noted that accessing justice through traditional Shalish had become easier in the last

three years. Similar sentiments were expressed regarding the accessibility of justice for women and marginalized groups.

Confidence Level in the Formal Justice Delivery System among the *Harijan* Community in Rajshahi

An investigation into the formal justice system revealed

that 65.48% of the participants expressed a negative opinion regarding the appropriate venues for filing cases, specifically whether they should be submitted to a police station or a court. Conversely, 18.65% of the respondents asserted that cases ought to be filed solely in police stations and courts. The remaining individuals opted to take a neutral stance on this issue.

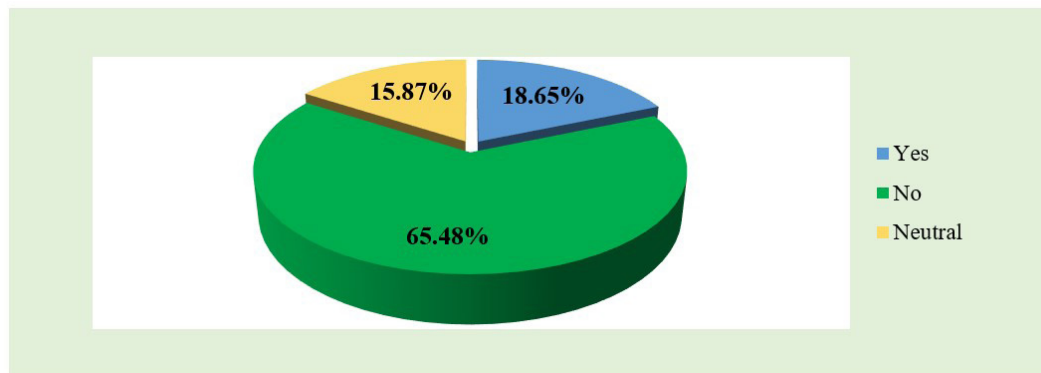


Figure 4: Confidence Level in the Formal Justice Delivery System of *Harijan* community in Rajshahi

Azad *et al.* (2016) observed that a significant number of individuals exhibit disinterest in pursuing resolutions via the formal justice system. The inclination towards informal justice mechanisms, as opposed to formal ones, may be puzzling and lead to ambiguity; however, it is clear that there exists a considerable distrust in the formal justice system. Furthermore, individuals often refrain from confronting the inherent deficiencies and biased practices present within their traditional justice delivery systems.

Barriers to Accessing the Formal Justice Delivery System for the *Harijan* Community in Rajshahi

In the research area, we have recognized multiple challenges that impede the *Harijan* community in Rajshahi, Bangladesh from engaging with the formal justice system. These challenges encompass caste-based discrimination, political meddling, protracted investigation timelines, burdensome formalities, prohibitive costs, and corruption (Table 3). Among the respondents, 68.18% indicated various forms of discrimination as the foremost obstacles to accessing

the formal justice system. Furthermore, 62.73% pointed to corruption as a significant hindrance, while 59.09% regarded the system as excessively costly. Additionally, 56.36% viewed the system as overly formalistic, and 45.45% of the respondents expressed concerns regarding the extended duration of investigations. Finally, 36.36% identified political interference as a barrier to accessing the formal justice system.

The main challenges faced by individuals accused of crimes in the District Courts, including women, the economically disadvantaged, and juvenile offenders, reflect those experienced by the broader population. These challenges include protracted case timelines, substantial financial burdens, frequent postponements (as illustrated in the accompanying table, despite the absence of direct inquiries to the accused), intricate legal processes, and the requirement for legal counsel. It is important to note that only a small percentage of respondents recognized corruption, inadequate legal support, and the lack of bail as barriers for those confronting criminal charges (Moran, 2015). Before visiting a police station or attorney's office, individuals should take into account not only transportation costs but also the opportunity cost associated with their time. This encompasses the potential income they forfeit while filing a complaint and engaging in legal proceedings. For those with minimal or no savings, even a single day of lost earnings can result in considerable financial strain (Azad *et al.*, 2016). Public perception of corruption at the District Court level is notably high, with 28% of respondents asserting that corruption among judicial officers has increased over the past three years, and 36% indicating a rise among court officials. Experts corroborate this sentiment, with 21% believing that corruption among judges and magistrates has escalated, and 40% asserting that it has grown among court officials in the same timeframe (Moran, 2015).

Table 3: Barriers to Accessing the Formal Justice Delivery System for the *Harijan* Community in Rajshahi (Multiple responses)

Indicators of Barriers	Per cent (%)
Interference in political matters	36.36%
The investigation is taking an extended period to conclude	45.45%
To formalistic	56.36%
Discriminations	68.18%
Expensive	59.09%
Corruption	62.73%

CONCLUSION

The traditional justice system serves as a community-oriented, informal institution for resolving disputes within the *Harijan* community in Rajshahi, Bangladesh. Historically recognised as a rural administrative unit, the panchayat also undertook certain judicial functions. Members of the *Harijan* community often experienced discomfort when approaching formal courts governed by the established legal system. Consequently, the panchayat emerged as a viable alternative for dispute resolution within the *Harijan* community in Rajshahi, Bangladesh. The traditional shalish is endorsed by the panchayat or samaj in the *Harijan* community in Rajshahi. The fundamental principle of this traditional justice system is to seek appropriate resolutions for disputes within the *Harijan* colony collaboratively. Although it lacks formal written laws, it relies on a system rooted in traditions that have been passed down through generations within the *Harijan* communities in Rajshahi, Bangladesh. The absence of governmental support has led to a gradual decline in the effectiveness of the panchayat system. The village court may serve as a prototype for the traditional justice system, promoting its advancement. Non-Governmental Organizations (NGOs) have stepped in to reform the traditional justice system within the *Harijan* community. They recognize the critical importance of ensuring impartiality, avoiding imposition, and achieving a mutually beneficial outcome in their mediation efforts. As a key initiative, NGOs have implemented training programs for Shalishkars (members of the panchayat committee) focused on legal matters and mediation techniques, aiming to address the shortcomings of the traditional justice system in the *Harijan* community of Rajshahi, Bangladesh.

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