



Session 5

Conflict Resolution and Peace-Building Mechanisms for Public Administration

- ▶ Problems of Democratic Consolidation in Bangladesh:
A Cultural Explanation
TAIABUR RAHMAN
- ▶ Role of Alternative Dispute Resolution Methods in
Development of Society: *Lok Adalat* in India
ANURAG K. AGARWAL
- ▶ Using Q-methodology to Resolve Conflicts and Find
Solutions to Contentious Policy Issues
DAN DURNING



NAPSIPAG



Problems of Democratic Consolidation in Bangladesh: A Cultural Explanation

Taiabur Rahman¹

Introduction

When parliamentary democracy was restored in Bangladesh at the end of 1990, the people expected a mode of governance that was vastly different from the previous military and semi-military regimes. Instead, everything has been shamelessly politicized, and democratically elected governments have failed to perform the very basic functions of a polity—ensuring law and order, establishing justice, and collecting revenue from the citizens—leaving the people bewildered and disenchanted. Bangladesh may have achieved electoral democracy through free, fair, and participatory elections but its ambition to become a liberal democracy is still a distant dream.

Although Bangladesh has achieved remarkable socioeconomic progress, law and order continues to deteriorate and rampant corruption persists. A recent study ranked Bangladesh 17th among 60 weak and failing states that are vulnerable to violent internal conflict (*Foreign Policy* 2005, page 56). The ranking is based on research methods and findings that are deemed suspect in many quarters, but Bangladesh has undeniably underperformed as a nascent democracy. Several key factors, such as economic underdevelopment, a checkered political history, and weak political institutions, partly explain the failings. This paper, however, looks at the influence of culture on Bangladesh society and politics, a subject that has not received much scholarly attention and has yet to be examined in a systematic manner.

This paper depicts the cultural landscape of Bangladesh society in the light of cultural theory as propounded by Thompson et al. (1990) and Hofstede (1997, 2001), in a bid to comprehend how the dominant culture affects the society and body politic of Bangladesh. What is the cultural configuration of Bangladesh society? What is the dominant way of life as posited by Thompson? Where does Bangladesh stand with respect to Hofstede's four national cultural dimensions? How do the broad cultural attributes of Bangladesh society influence and shape political institutions and the behavior of politicians and other major groups? All these questions are addressed in this paper. Let us

¹ Assistant Professor and Chairperson, Department of Development Studies, University of Dhaka, Bangladesh.

begin with cultural theory, which will eventually be used to interpret the role of culture and its effects on Bangladesh society and body politic.

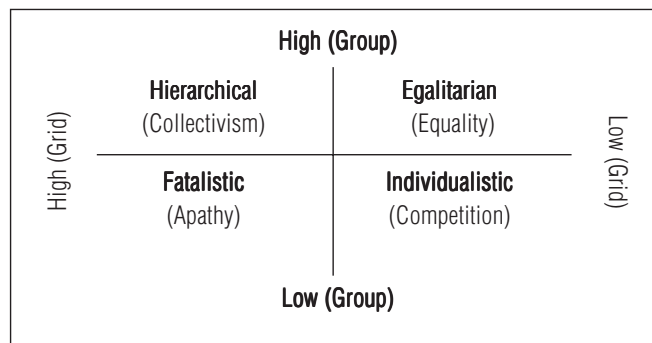
Grid-Group Cultural Theory

Grid-group cultural theory is an approach that has been developed over 30 years in the works of British anthropologists Mary Douglas and Michael Thompson, the American political scientist Aaron Wildavsky, and many others (Douglas 1982, 1992; Wildavsky 1987; Grendstad 1995; Thompson et al. 1990, 1999; Rayner and Melone 1998; Ward 1998; Hood 1996,1998).

Grid-group cultural theory is based on the belief that the most important factor in people's lives is how they want to relate to other people and how they want others to relate to them (Grenstad 1995). Culture is about how organizations work, or groups behave, not just how an individual thinks or feels. The theory explains how people in a society derive a limited range of answers to basic social questions such as: How does the world work? What are humans really like? To whom are we accountable? (Wildavsky 1987, page 6). Grid-group theorists argue that people's answers to these questions produce orientations toward two basic dimensions of sociality (Christensen and Peters 1999, page 138):

- **Group:** the extent to which people in a society believe that they belong to particular social groups.
- **Grid:** people's perception of the appropriate extent and variety of rules in a society—in other words, do people believe that social behavior should be determined largely by rules (informal or formal) or is there more leeway for them to determine which behavior is appropriate?

Figure 1: Four Ways of Life



Source: Thompson, Ellis, and Wildavsky(1990).

The answers to these two crucial questions—who we are (group) and what are we to do (grid)—have profound consequences for the major decisions that people make (Wildavsky, cited in Grendstad 1995, page 101). In any society, these two dimensions can vary from low to high, thereby resulting in four main ways of life (Figure 1):

- **Hierarchical** (high grid, high group): strong group membership with strong systematic prescriptions. For hierarchists, stratification is an inescapable part of social organization (Coughlin and Lockhart 1998, page 41). Order is the ultimate goal, and it is sustained and upheld through wide application of rules and regulations (Lockhart 1999, page 868).
- **Egalitarian** (low grid, high group): strong group membership and few systematic prescriptions. The absence of effective and enforceable societal rules, in turn, appears to require consensual decision making within the group (Christensen and Peters 1999, page 139).
- **Individualistic** (low grid, low group): weak systematic constraints and no binding group membership. Individualists view humans as self-interested and broad in capacities (Coughlin and Lockhart 1998, page 38). Individualists therefore appear to correspond to the familiar model of economic man as utility maximizers relatively unconstrained by collective rules and norms (Christensen and Peters 1999, page 138).
- **Fatalistic** (high grid, low group): strong systematic prescriptions and no group membership. Fatalists have little control over their own life (Christensen and Peters 1999, page 139). Fatalism is a passive way of life and experience of involuntary exclusion (Jensen 1998, page 123).

In any society, all ways of life may coexist in a dynamic pattern of attraction and separation, particularly at the individual level (Thompson 1996, page 9). No way of life entirely dominates an individual's everyday life and idea of himself or herself and the world. However, most individuals find themselves living one way more than others (Thompson, Ellis, and Wildavsky 1990, page 267). The same is not the case with a society or a country. The way of life of people (values, norms, and culture) in a society or country is much more stable and enduring. Switching from one way of social life to another produces not only a different way of looking at the world but also different individual and social skills (Jensen 1998, pages 137–138). People accustomed to a hierarchical way of life cannot easily do away with their social convictions and values and switch to an individualistic way of life. So

NAPSIPAG

most people in a society live one way of life, and the way of life they choose shapes the lives of other people in that particular society.

Now let us have a look at another prominent cultural theory—this time from Hofstede (1997, 2001)—which is more empirical in trying to gauge the influence of culture on institutions and institutional actors.

Hofstede's Four Dimensions of Culture

Hofstede's investigations into the work-related attitudes and values of managers working for IBM in more than 50 countries and three regions led to an impressive analysis of the cultural variations between nationalities (Tayeb 1988, pages 38–39; Handy 1993). He ended up with four cultural dimensions:

- **Power distance:** Conceptually related to the concentration of authority (centralization), it indicates the extent to which a society accepts that power in institutions and organizations is distributed unequally. In some national and regional cultures, huge inequality of power is concentrated in the hands of a small and permanent elite, organizations are centralized with tall hierarchical pyramids, and upward communication is restricted. Other cultures have much less inequality, more social mobility, less concentration of power in the hands of a few, decentralized organizations with flatter hierarchies, and relatively free upward communication.
- **Uncertainty avoidance:** Related to the structuring of activities (formalization, specialization, and standardization), it indicates the lack of tolerance in a society for uncertainty and ambiguity. This expresses itself in higher levels of anxiety and energy, greater need for formal rules and absolute truth, and less tolerance for people or groups with deviant ideas or behaviors. Activity and personal energy levels are higher in some cultures. Organizations in more active cultures tend to be more specialized, formalized, and standardized. They put more value on uniformity and are less tolerant of deviant ideas. They tend to avoid risky decisions. Less active cultures attach less importance to formal rules and specialization, are not interested in uniformity, and are able to tolerate a large variety of different ideas. They take risks more easily in personal decisions.
- **Individualism/Collectivism:** Individualism refers to a loosely knit social framework in which people take care only of themselves and their immediate families. Collectivists, on the other hand, can expect their relatives, clan, or work organization to look after them. Members of more collectivist societies have greater emotional dependence on

their organizations. In a society in equilibrium, the organizations in turn assume broad responsibility for their members.

- **Masculinity/Femininity:** The predominant pattern of socialization in almost all societies is for men to be more assertive and women to be more nurturing. Data on the importance of work goals show men generally emphasizing the importance of advancement and earnings, and women putting a higher value on quality of life and people. With respect to work goals, some societies are nearer to the masculinity end of the masculinity/femininity dimension, while others are nearer the femininity end.

If these pioneering works of Thompson and Hofstede were juxtaposed, some sort of congruence would emerge. The high group represents the collectivist end of the scale, and the high grid stands for “a system of shared classifications” and greater uncertainty avoidance (Hofstede 1997, page 325).

A society with high power distance and uncertainty avoidance, collectivity, and masculinity may resemble a hierarchic one. Where the opposite dimensions of societal configuration hold true (low power distance and uncertainty avoidance, individuality, and femininity), the society is close to individualistic. A society where masculinity and collectivity are dominant dimensions and there is high power distance and uncertainty avoidance is like Thompson’s fatalistic society. In an egalitarian society the dominant dimensions are collectivity and femininity, and power distance and uncertainty avoidance are both low.

Cultural Landscape of Bangladesh

Although religiously, ethnically, and linguistically homogeneous, Bangladesh appears to have a predominantly hierarchical society with high group and grid values (Kochanek 1993, Bertocci 1996, Hussain and Khan 1998). Individuals identify strongly with groups, which help in organizing a great deal of daily life. The following is an attempt to figure out the dominant culture of Bangladesh in the light of the theories discussed above, and the consequences for Bangladesh society and body politic.

The social dimension (grid) of Bangladesh society is heavily influenced and shaped by the Hindu religious culture with its caste system and other ceremonials, as well as the colonial heritage based principally on master-slave (unequal) relations. Social stratification and its manifestations in organizations, based on elaborate rules and hierarchy, distance the elite from the common masses. On the other hand, Islam, the major religion in the country, advocates egalitarian values, brotherhood, and fraternity (group values), and has thus

NAPSIPAG

gained wider appeal and acceptance among the masses regardless of their religious affiliation.

Bangladesh society is collective, but collective norms are confined to groups. It is also predominantly masculine. Uncertainty avoidance is high, as can be seen from the low level of trust placed in people outside the immediate family. Low trust also promotes factionalism and consolidates hierarchy and formal rules in organizations including political parties (Kochanek 1993, Jamil 1998).

In Bangladeshi organizations like the family, there is a high degree of power distance. Subordinates feel comfortable working under superiors rather than with equals. Superiors confer protection, patronage, and favor in exchange for respect, loyalty, and compliance from their subordinates. Deviant behavior and ideas are less encouraged. Opposing a superior's decisions or raising a question is often considered *beyadobi* (ill-mannered). Proper manners—obedience and deference—gain access to patronage and favor. The essence of loyalty is order (Jamil 1998, page 148).

According to Hofstede's cross-cultural study (2001), Bangladeshi society is predominantly hierarchical, as shown in the following table.

Cultural Features of Bangladesh Society according to Hofstede (2001)

Cultural Dimension	Bangladesh	Index		
		Highest	Lowest	Mean
Power distance	80	104	11	58
Individualism	20	91	6	48
Masculinity/Femininity	55	95	5	50
Uncertainty avoidance	60	112	8	60

Source: Compiled by the author from Hofstede (2001, page 502).

In short, according to Hofstede's features of national culture, Bangladesh tends to be a collective, somewhat masculine society with high power distance and uncertainty avoidance, resembling the hierarchic one posited by Thompson (Thompson, Ellis, and Wildavsky 1990).

Hierarchism in Bangladesh: Consequences for Society and Politics

Patron-Client Relations

People who control the mode of production, resource accumulation, and resource distribution are the patrons and the rest are clients. Those of higher rank have the right to extract labor, services, and deference from people

NAPSIPAG

of lower rank who, in turn, can expect material and other forms of support from their patrons. Thus, the system is hierarchically structured in a complicated maze of mutual obligations (Kochanek 1993, page 44), which tend to work at the caprice of the patron, perpetuating inequality and corruption.

Groupism/Factionalism

Although Bangladesh is not driven by major socioeconomic divisions, individual and group interests often conflict. Someone whose interests are believed to be threatened by others will immediately try to blacken their reputation and to approach a group or form one to further his or her interests.

Rivalry and vulgar infighting are common in all walks of life (Siddiqui 1996, page 20). This factionalism may be attributed to the uneven race for scarce resources among numerous contenders, who are averse to following the rules of the game, as well as the tendency of the contending parties to take advantage of their political ties.

In politics, party defections and factionalism are widespread. Of the 318 members of parliament (MPs) in the 7th Jatiya Sangsad (JS), 200 (65%) had stayed with the same party throughout their political life, while most of the rest had changed political affiliation at least once (Rashid 1997). Likewise, all political parties in Bangladesh are plagued by chronic factionalism. Apart from these explicit factions, there are also covert factions and conflicts within major parties.

Nepotism/Favoritism

Corruption in the form of nepotism, favoritism, and bribery has become institutionalized in Bangladesh. It is so rampant; in fact, the country has led Transparency International's list of corrupt countries for the last 4 years (TI 2005). Small groups share the fruits of corruption among themselves at the cost of national progress. Even the social value system, which once looked down on corrupt persons, is crumbling as honesty is increasingly deemed a liability.

*Tadbir*² is widely practiced. Officials are approached for favors directly or through relatives, on the conviction that even the simplest thing will not move by itself. *Tadbir* is seen as a useful lubricant in overcoming bureaucratic obstacles and getting things done faster. One who refuses to entertain *tadbir*

² *Tadbir* is a Bengali word that denotes the practice of achieving one's purpose by capitalizing on kinship or friendship and offering gifts, money, or other inducements to a person of power and authority. It is a form of corruption.

invites criticism from friends and relatives. Closely related to *tadbir* is political interference in the posting and transfer of civil servants (Siddqui 1996, pages 26–27, 90).

Lack of Trust

People are generally skeptical of the motives of politicians and do not believe they are in politics for the benefit of the country. They are disappointed and bewildered by the performance of MPs in lawmaking and government oversight. Parliament often suffers from lack of quorum. Forbidden to criticize the government and express grievances, the main opposition party has taken to calling for *hartal*³ and boycotting parliamentary sessions, sometimes for months.

People show relatively more trust in the nonpartisan caretaker government headed by a retired chief justice of the Supreme Court in Bangladesh, which is constitutionally mandated to hold power 3 months before each parliamentary election and to hand over power to the new government. Incumbent governments are not trusted to hold free and fair elections. They have also been sharply criticized by the main opposition for appointing people of their choice to the Supreme Court and the Election Commission with the intention of influencing the results of elections.

Although the legal system in Bangladesh (especially the lower courts) is not free from political interference, people have relatively high trust in the higher courts. Even political issues that are supposed to be resolved by the Parliament, as in the “floor crossing” of two opposition MPs in the 7th JS (1996–2001),⁴ are often referred to the Supreme Court for final decision.

Lack of Compromise and Consensus

Compromise is rare in Bangladesh politics. The ruling party looks with suspicion at the opposition party and their relationship is marked by much animosity and conflict. Their leaders have not been on speaking terms since the restoration of democratic governance in 1991. Opposition views and grievances are treated as a threat to government stability and are unwelcome

³ *Hartal* refers to shop closures and work stoppages, which bring public life to a standstill.

⁴ Two MPs in the 7th JS from the main opposition Bangladesh Nationalist Party (BNP) became junior ministers in the government cabinet against their party’s directives. Article 70 of the Constitution provides that if an MP resigns or votes against the party that nominated him or her in the election, that seat is declared vacant. In this case, the Speaker declared that the MPs had neither voted against nor resigned from their party, and refused to refer the dispute to the Election Commission. The BNP took the issue to the High Court, which declared that the two MPs had acted *ultra vires*. Later, the Election Commission declared the two seats vacant on account of floor crossing.

in the plenary sessions. It is not uncommon to have the Speaker switch off the microphone of the leader of the opposition, and therefore, neither are walkouts, boycotts, and street protests (Ahmed 1995, page 394; Ahmed 1997, page 90).

In fact, the history of opposition political parties in Bangladesh is a history of oppression and intimidation by the incumbent government, and police harassment. Laws and the judicial process have been muzzled in countless instances to humiliate political opponents, who are tempted with powerful positions and financial offers; and if those soft approaches fail, they are finally silenced with stiff measures. The forms of coercion include threats to life from *mastans*⁵ and corruption charges filed by the ruling government against the frontline opposition leaders. The opposition, as a result, opposes all proposals by the ruling party, irrespective of content or utility.

In the absence of compromise between the contending parties, *hartal* called by the main opposition parties took up 173 days in 1995–1996, and 100 days from 1996–2003, causing great distress to the economy and the daily lives of Bangladeshis. According to a press statement from a former finance minister, a single day's *hartal* costs the economy an estimated Tk3,860 million (\$67 million) (*The Daily Star*, 29 September 2003). The lack of consensus and compromise between the ruling and opposition political parties has also made rubber-stamp parliaments of the 5th, 7th, and 8th JSs, despite their having come into being in free and fair elections, and provoked the major opposition parties into boycotting and *hartal*.

Fatalistic Attitude

Most Bangladeshis perceive time as a linear dimension,⁶ reflecting their fatalistic attitude toward life. They live on relaxed time—attendance at crucial meetings is often deliberately delayed, even by those in responsible positions—and, while prompt in making commitments, are careless in keeping those commitments. Their fatalism is driven not only by religious belief in *Takdir* or *Vhagga* (unseen destiny regulated by Allah) but also by the cruelties of nature and unjust governance, which Bangladesh is—especially the less affluent—feel powerless to stop.

⁵ *Mastans* are terrorists living outside the law of the land on toll collections and with the protection of influential patrons.

⁶ They live in awe of the day of judgment and believe that the future is in the hands of an absolute God, not of mere mortals (Hayashi 1988, pages 25–29). Allah (God) is senior and human beings are junior. Hence, anyone seeking an appointment with a Bangladeshi will get the standard answer, “*Inshallah*” (If Allah permits).

Centralized Leadership

Each major political party is headed by a person who is all-powerful in its management. The party structure and the central and executive committees are filled by nomination and not by election (Ahmed 1995, page 372).

None of the major parliamentary parties distinguish between the party wing and the parliamentary chapter. The leadership of both wings is closely linked in the present ruling party (the Bangladesh Nationalist Party [BNP]). Khaleda Zia, the prime minister, holds three major positions—aside from being prime minister, she heads the BNP Parliamentary Party and is the BNP chairperson. Likewise, Sheikh Hasina, the former prime minister, is the president of the Bangladesh Awami League (BAL) and the leader of its parliamentary party, besides being the current leader of the opposition.

The top leadership of each party also nominates the members of the parliamentary board, which selects candidates for parliamentary election. The role of the constituency is marginal in this regard. In most cases, the central leadership imposes its decisions on the local branches of the party. The tendency to concentrate all powers in the center keeps the backbenchers at bay and makes them subservient to the whims of the central leadership (Ahmed 1998, pages 88–89). To be nominated for the parliamentary election, it is not enough to be loyal to the party and to have political experience and commitment. One must also have wealth, influence, and the blessings of the central leadership. After election, MPs are bound to find their autonomy seriously constrained by party directives and the party chief. Loyalty to the party leadership becomes the ticket to progress in their political career. Leaders need and demand reassurance from admiring followers. The followers, in turn, depend on the security of an understanding *guru* (preceptor) or an idealized brotherhood (Pye 1985, page 157). Intra-party dissent is well-nigh prohibited. The decision of the party chief is usually final and irreversible. The suppression of dissent among party workers is a major cause of factionalism and defection.

Relaxed Accountability for Superiors

The notion of accountability in Bangladesh is set within an ambiguous and bewildering cultural framework. Patron-client relations profoundly affect accountability mechanisms. The relationship between father and child, teacher and student, senior official and subordinate, husband and wife, housewife and maidservant, landlord and tenant, rich farmer and marginal peasant, the educated and the uneducated, the ruling party and the opposition party, the prime minister and the leader of the opposition—all these are based on the key concept of *boro-choto* (superior-inferior). There is still no viable mechanism for ensuring the accountability of the senior or stronger group or patron, and

hence no effective sanction for the group. This uneven treatment is prevalent and accepted by the whole society.

A minister holds a high rank and status in the social hierarchy as part of the elite strata, usually from a reputable and affluent family and with long experience in politics and a highly developed network. A minister is likely to have access to all persons and institutions. Government backbenchers who make up the majority membership of parliamentary committees (entrusted with oversight of the executive) may therefore find it a career risk to call a minister from the executive branch to account. The minister is viewed as a father figure and any serious attempt by government backbenchers to interrogate the minister vigorously in committee sessions may be taken as an overt act of disrespect.

Now we will have a look at the comparative competence of MPs and the bureaucracy to determine who is superior to whom and in what respect. Appendix 1 summarizes the background—education, occupation, and parliamentary experience—of MPs. In the 5th JS, 38% of the MPs had postgraduate degrees and 46% had graduate degrees. In the 7th JS, 40% of the MPs had postgraduate degrees while 45% had graduate degrees. Most MPs have a general educational background rather than specialized background in law, politics, or administration (Rashid 1997).

Businessperson MPs were the largest elite group in the 5th (59%) and 7th (48%) JSs, while somewhat smaller in the 8th. A considerable proportion of the MPs who entered the parliaments in the 1990s (68% in the 5th, 40% in the 7th, and 33% in the 8th JS) were new and inexperienced in parliamentary procedures, let alone the specialized committee assignments. They were not trained in legislative and administrative affairs. Even the committee members in the 8th JS, with their parliamentary experience from earlier JSs, had seen only the operations of committees in the 5th and 7th JSs. Now, to compare the competence of MPs with bureaucrats, let us have a look inside the bureaucracy.

Most of the permanent secretaries in charge of ministries are well educated, and some hold higher degrees from universities overseas. They have undergone intensive probationary and in-service training since their entrance into the civil service and have vast experience (32 years or more) in administration under diverse civil and military regimes. Bureaucracy is essentially domination through information. A bureaucracy becomes more autonomous to the extent that its decisions are shielded from outside influence, i.e., from politicians, academics, voluntary organizations, citizens, and the like (Olsen 1983). According to a survey by Jamil (1998, page 108), bureaucratic decisions in Bangladesh are derived mostly from internal sources, such as

NAPSIPAG

superiors, colleagues, juniors, official circulars, and gazettes, rather than from external sources. This shows the bureaucrats' stranglehold on information.

It is evident from the comparison between the bureaucracy and the Parliament that the bureaucrats have an advantage over the MPs in having a stable career; expertise and collective knowledge borne of formal education, intensive training, and professional experience; monopoly on practical information; numerical strength; and material resources accumulation (Olsen 1983, page 143; Rosen 1998, page 79). Moreover, the bureaucracy still seems to be more institutionalized than the Parliament, as explained in Rahman (2000). Hence, MPs lag behind the bureaucrats in major aspects of competence, which hinder the committee members from taking command of the bureaucracy and holding bureaucrats accountable for their decisions and actions (Weber, cited in Rosen 1998, page 79).

From the standpoint of the prevalent cultural value of bureaucrats and MPs in superior-inferior positions, MPs lag behind the bureaucrats in almost all respects. Culturally, MPs are supposed to be in a better position to hold the bureaucrats accountable. The reality is contrary to the expectation. Enforcing accountability solely on the basis of authority and legitimacy gained through election is a formidable task for the committee members. The cultural value of having no viable mechanism for ensuring the accountability of the senior or stronger group is reflected in the formal arrangement of the committee system and its real-world implications for ensuring bureaucratic accountability. The institutional rules for running parliamentary committees are devised in a way that puts the incumbent government in a convenient position to be the final arbiter of any accountability issues.

The cultural value makes the ruling party (government) always superior to the opposition parties. Even after 1990, democratically-elected governments brought about changes in the institutional rules of committees with an eye to their own convenience, and these were not enough to hold the bureaucrats accountable. Latent in the halfhearted efforts to overhaul the committee system was the cultural value of domination and nonaccountability of the ruling regime. Formulating robust rules for committees to hold the executive accountable might compel the ruling elite to account for their activities. Bureaucratic accountability and political accountability are so inexorably linked that without political accountability, it is almost impossible for the parliamentary committees, composed of elected political elite, to ensure bureaucratic accountability. Hence, the cultural values profoundly influenced the ruling regime to devise institutional rules that allowed it to be immune from accounting for its actions.

Emergence of the Elite as Cartel

A hierarchical network cannot sustain social trust and cooperation (Putnam 1993, page 174) throughout the society. Consequently, mutual trust and symbiotic relations loom in small coterie with no incentive to work for the common well-being of the society and every incentive to indulge in costly and inefficient rent seeking and the pursuit of group interests only (Olson, cited in Putnam 1993, page 176). Politicians, *mastans*, loan defaulters, businesspersons, parliamentarians, and bureaucrats in Bangladesh belong to a small elite group whose members serve one another's interests. There is no polar capitalist class in the country that can put the brakes on corruption by the executive.

A considerable percentage (about 9%) of MPs in the 7th JS belonged to the top bank-loan defaulter coterie of the country (see Appendix 2). Businessperson MPs were the largest group of elite in the 5th (59%), and 7th (48%) JSs (see Appendix 1). The politicians (MPs) depend on businesspersons and *mastans* for party funds and muscle power to establish hegemony in their constituencies. Many of the top bank-loan defaulting MPs were in 7th JS committees entrusted with ensuring financial propriety and keeping watchful eyes on the executive. For example, 29 defaulting MPs held 46 of 472 committee positions (9.4%) in the 7th JS. Among the loan-defaulting MPs holding committee positions, five were cabinet ministers and four were former ministers, while six (13%) were committee chairpersons in the 7th JS. (See Appendix 2.)

The fact that the standing committee on finance in the 7th JS intervened in favor of a defaulter and took the finance minister to task demonstrated the influence of defaulters on the political system. A survey of defaulted bank loans by the Bangladesh Institute of Bank Management (BIBM) revealed that in sanctioning the loans ministers (most of them MPs) influenced 46% of the cases; MPs, 35%; ruling party leaders, 13%; and collective bargaining agency, leaders 4% (*The Daily Star*, 30 May 2000). Committees have been used to elicit official information for private benefit or to put pressure on public officials to realize some personal agenda (Sobhan 2000). For many other reasons, the committee members have become the allies of the bureaucracy.

For instance, MPs spend a great deal of money (an average of Tk70 million in each constituency, according to the present World Bank country director in Bangladesh) to get themselves elected, and the lion's share of this money is provided by the candidates themselves relatives, well-wishers, and businesspersons. Once elected, they inevitably expect to recover the expenditure—often, many times over. Now the MP must approach the bureaucrats who run the administration and the banks and are guardians of

NAPSIPAG

state resources. A senior colleague who also happens to be the executive head of a ministry can help further the interests of the bureaucrats in the ministry through promotions, transfers, and material gains. Hence, the bureaucrat, the minister, the treasury bench committee member, the businesspersons, and the *mastans* connive in corruption by making accountability mechanisms perfunctory. Even former World Bank country director in Bangladesh Frederick T. Temple was openly wary about the commercialization and criminalization of politics and the adverse effects on Bangladesh society. As partners in the small coterie, committee members can hardly be expected to arrest corruption and ensure executive accountability until this vicious cycle of symbiotic relations declines or at least weakens.

Conclusion

Pathologies like factionalism, nepotism, centralization, fatalism, relaxed accountability mechanisms for superiors, and elitism are manifestations of the dominant hierarchical culture in Bangladesh. A hierarchical society with high group values sets great store by values like collectivity, solidarity, fraternity, and compromise or consensus, which are present—albeit in a different form (also with a strong element of fatalism)—in Bangladesh. Likewise, a hierarchical society is typified by grid values, where informal rules are stressed and formal rules are honored more in the breach than in the observance. In that respect, Bangladesh also falls short of being a true hierarchical society. Because Bangladesh has several features of the fatalistic dimension of sociality, we can call its society a hierarchic-fatalistic one.

The hierarchical culture has enormous consequences for the functioning of the country's key political institutions as well as the behavior of the major actors in the society. Culture does matter a great deal and can explain the many failings of Bangladesh's relentless and tireless endeavor to establish democratic governance in Bangladesh.

Bangladesh is a densely populated society of 140 million people on 144,000 km² of land where resources are scarce and dealings between seniors/superiors and juniors/inferiors are marked by widespread disparity and discrimination, fostering intolerance, enmity, rivalry, and vindictiveness. Juniors/inferiors are not left enough room in the social and political sphere to breathe. There is virtually no accommodation of the juniors/opposition and no sharing of power. The superior groups/parties, to make up for losing their predominant positions, resort to oppressive measures to weaken and destroy the opposition. The junior parties also use all sorts of measures, legal or illegal, to force the superiors from their positions and take them over. In Bangladesh, a low-trust society, the contending parties are skeptical of each other's

NAPSIPAG

intentions, have no respect for each other, and are not used to following the rules of the game. The “winner takes all” attitude of the superiors is reflected not only in their behavior toward the juniors but also in the rules they set for all the major institutions in the country, including the electoral system (plurality), the Parliament, the judiciary, the bureaucracy, the armed forces, local government, media, and even civil society. The rules are heavily biased in favor of the powerful/superior parties/groups. Moreover, because of lack of trust across the society, politicians, businesspersons, parliamentarians, and civil-military bureaucrats have come together in a small coterie with symbiotic relations to serve one another’s interests. No interested party in the country (barring the opposition) can hold the brakes on corruption by the executive and call the executive to account. Thus, the country’s destructive political culture, which is premised on the dominant hierarchical structure and values of the society, is a serious threat to democracy and a serious hindrance to democratic governance in Bangladesh.

References

- Ahmed, M. 1995. *Democracy and the Challenge of Development: A Study of Politics and Military Interventions in Bangladesh*. Dhaka: University Press Limited.
- Ahmed, N. 1997. Parliament-Executive Relations in Bangladesh. *The Journal of Legislative Studies* 3(4): 70–91.
- _____. 1998. Reforming the Parliament in Bangladesh: Structural Constraints and Political Dilemmas. *Commonwealth and Comparative Politics* 36(1): 68–91.
- Bertocci, P. J. 1996. *The Politics of Community and Culture in Bangladesh*. Dhaka: Center for Social Studies.
- Coughlin, R. M., and C. Lockhart. 1998. Group-Grid Theory and Political Ideology: A Consideration of Their Relative Strengths and Weaknesses for Explaining the Structure of Mass Belief Systems. *Journal of Theoretical Politics* 10(1): 33–58.
- Christensen, T., and B. G. Peters. 1999. *Structure, Culture and Governance: A Comparison of Norway and the United States*. Lanham: Rowman and Littlefield Publishers, Inc.
- Douglas, M. 1982. *In the Active Voice*. London: Routledge and Kegan Paul.
- _____. 1992. *Risk and Blame: Essays in Cultural Theory*. London: Routledge.
- Foreign Policy*. 2005. The Failed State Index. 149(July/August): 56–66.
- Grendstad, G. 1995. *Classifying Cultures*. Rapport 9502. Bergen: Los Sentret.
- Handy, C. B. 1993. *Understanding Organizations*. London: Penguin Books.
- Hayashi, F. 1988. *Culture and Management in Japan*. Tokyo: University of Tokyo Press.
- Hofstede, G. 1997. *Cultures and Organizations: Software of the Mind*. New York: McGraw Hill.
- _____. 2001. *Culture's Consequences: Comparing Values, Behaviors, Institutions, and Organizations across Nations*. Thousand Oaks, California: Sage Publications.
- Hood, C. 1996. Control over Bureaucracy: Cultural Theory and Institutional Variety. *Journal of Public Policy* 15(3): 207–230.
- _____. 1998. *The Art of the State: Culture, Rhetoric and Public Management*. New York: Clarendon Press.

- Hussain, N. A., and M. S. Khan. 1998. Culture and Politics in Bangladesh: Some Reflections. In *Bangladesh at 25: An Analytical Discourse on Development (197–215)*, edited by A. Bayes and A. Muhammad. Dhaka: The University Press Limited.
- Jamil, I. 1998. *Administrative Culture in Public Administration: Five Essays on Bangladesh*. Rapport 9801. Bergen: Los Sentret.
- Jensen, L. 1998. Cultural Theory and Democratizing Functional Domains: The Case of Danish Housing. *Public Administration* 76:117–139.
- Kochanek, S. A. 1993. *Patron-Client Politics and Business in Bangladesh*. Dhaka: University Press Limited.
- Lockhart, C. 1999. Cultural Contribution to Explaining Institutional Form, Political Change and Rational Decisions. *Comparative Political Studies* 32 (7): 862–893.
- Maniruzzaman, T. 1992. The Fall of the Military Dictator: 1991 Elections and the Prospect of Civilian Rule in Bangladesh. *Pacific Affairs* 65(2): 203–23.
- Olsen, J. P. 1983. *Organized Democracy: Political Institutions in a Welfare State—The Case of Norway*. Oslo: University Press.
- Peters, B. G. 1995. *The Politics of Bureaucracy*. New York: Longman.
- . 1999. *Institutional Theory in Political Science: The New Institutionalism*. London: Pinter.
- Putnam, R. D. 1993. *Making Democracy Work: Civil Traditions in Modern Italy*. Princeton: Princeton University Press.
- Pye, L. W. 1985. *Asian Power and Politics: The Cultural Dimension of Authority*. Cambridge, Massachusetts: Belknap Press.
- Rahman, M. T. 2000. The Role of Parliamentary Committees in Ensuring Bureaucratic Accountability in Bangladesh. Unpublished MPhil thesis. Bergen: University of Bergen.
- Rashid A., ed. 1997. *Pramanno Sangsad*. Dhaka: Tatthya Seba.
- Rayner, S., and E. L. Melone. 1998. *Human Choice and Climate Change*. Columbus, Ohio: Battele Press.
- Rosen, B. 1998. *Holding Government Bureaucracies Accountable*. Westport: Praeger Publishers.
- Siddiqui, K., ed. 1996. *Towards Good Governance in Bangladesh: Fifty Unpleasant Essays*. Dhaka: University Press Limited.

- Sobhan, R. 2000. The State of Governance in Bangladesh. *The New Nation* 1(571). <http://www.nationonline.com> (accessed on 30 May 2000).
- Tayeb, M. H. 1988. *Organizations and National Culture: A Comparative Analysis*. London: Sage.
- The Daily Star*. 2000. 30 May. www.thedailystar.net (accessed on 30 May 2000).
- _____. 2003. 29 September.
- The Financial Express*. 1996. 22 August.
- Thompson, M. 1996. *Inherent Rationality*. Report 9608. Bergen: Los Sentret.
- Thompson, M., D. Grendstad, and P. Selle, eds. 1999. *Cultural Theory as Political Science*. London: Routledge.
- Thompson, M., R. J. Ellis, and A. Wildavsky, eds. 1990. *Cultural Theory*. Boulder, Colorado: Westview Press.
- Transparency International (TI). 2003. Socioeconomic Background of the MPs in the 8th Parliament. Unpublished report. Dhaka: TIB.
- _____. 2005. *Corruption Perception Index (CPI)*. Berlin.
- Ward, V. 1998. Towards a Theory of State–Non-state Actors: A Grid-Group Cultural Approach. In *Culture in World Politics* (pages 206–244), edited by D. Jacquin-Berdal, A. Oros, and M. Verweij. London: MacMillan.
- Wildavsky, A. 1987. Choosing Preferences by Constructing Institutions: A Cultural Theory of Preferences Formation. *American Political Science Review* 81(1): 3–21.
- Wildavsky, A. B., R. J. Ellis, and M. Tompson, eds. 1997. *Culture Matters: Essays in Honor of Aaron Wildavsky*. Boulder, Colorado: Westview Press.

Appendix 1: Background of MPs (%)

Background	1st JS (1972–1975)	5th JS (1991–1996)	7th JS (1996–2001)	8th JS (2001–)
Education				
Postgraduate	28	38	40	43
Graduate	45	46	45	45
Undergraduate	27	16	15	27
Occupation				
Businesspersons	24	59	48	24
Lawyers	26	19	15	26
Other professionals	16	19	15	16
Politicians (full time)	12	2	3	12
Others	22 ^a	5 ^b	19 ^c	22 ^d
Parliamentary Experience				
Newcomers	33	68	40	33
One JS	57	17	27	57
More than one JS	10	15	33	10

JS = Jatiya Sangsad

^a Including 18% from the landholding class.

^b Including 4% from the landholding class.

^c Specific data on other occupations were not separately available. "Others" comprises a blend of various occupations, i.e., housewives, social workers, journalists, landholders, etc.

^d Including 18% from the landholding class.

Source: Calculated and compiled by the author from Maniruzzaman (1992), Rashid (1997), and TI (2003).

Appendix 2: Defaulting MPs in the 7th JS

Name of MP	Party and Official Position	Defaulted Bank Loans (million taka)
A. S. M. Abdur Rab	JSD (minister)	5.39
Anower Hossain Monju	JP (minister)	0.92
Nazmul Huda	BNP (former minister), member of 3 committees	0.60
Abdul Kader Siddique	Member of 4 committees	0.93
K. M. Obaidur Rahman	BNP (former minister)	3.64
Captain Tazul Islam (ret.)	AL	37.54
K. M. Shamim Osman	AL, member of two committees	1.35
Nurul Amin Talukder	BNP, member of 1 committee	7.37
Syed Masud Reza	AL, member of 3 committees	48.59
Abdul Mannan	AL, member of 3 committees	5.35
A. B. M. Abul Kashem	BNP	0.08
Waziuddin Khan	AL, member of 2 committees	0.44
Abul Hasanat Abdullah	AL (chief whip, JS) member of 5 committees	2.00
Md. Zillur Rahman	AL (minister) member of 4 committees	1.07
Maj. Gen. M. A. Salam (ret.)	AL, member of 2 committees	2.49
Sheikh Fazlur Karim Selim	AL (minister), member of 1 committee	10.60
Mosharraf Hossain	AL	36.79
Abdul Mannan Bhuiyan	BNP (former minister) member of 1 committee	9.91
G. M. Siraj	BNP, member of 1 committee	0.52
Barister Ziaur Rahman	BNP, member of 1 committee	10.04
Kamal Ibne Yusuff	BNP (former minister), member of 2 committees	2.91
Dr. Mizanul Hoq	AL, member of 1 committee	1.10
A. K. M. Rahmatullah	AL, member of 2 committees	39.22
Kazi Keramat Ali	AL member of 1 committee	1.42
Abdul Mannan Talukder	BNP, member of 1 committee	10.66
Abdul Latif Mirza	AL, member of 3 committees	2.73
A. S. M. Firoz	AL, chair of 1 committee and member of 1 committee	65.25
Syed Manjur Hossain	BNP	0.86
Nazimuddin Alam	BNP, member of two committees	3.07
Total		313.00

AL = Awami League (League for common people), BNP = Bangladesh Nationalist Party, JSD = *Jatiya Samajtantrik Dal* (National Socialist Party), JP = Jatiya Party (National Party)

Note: The finance minister informed the House before the 1996 election schedule was announced that 29 members of the 7th JS had defaulted on Tk312 million (\$6 million) worth of loans (*Financial Express*, 22 August 1996). Twenty-nine of those MPs held 46 out of 472 committee positions available in the 7th JS (9.4%). The committee positions were as follows: (i) 26 membership positions in ministerial committees (7% of the 350 positions available); (ii) five memberships in financial committees (10% of the 50 positions available); and (iii) 15 memberships in other committees (21% of the 72 positions available). Among those who had defaulted, five were cabinet ministers and four were former ministers, and six (13%) were committee chairpersons in the 7th JS. The defaulters belonged to the following parties: AL, 16; BNP, 11; JP, 1; and JSD, 1.

NAPSIPAG

Role of Alternative Dispute Resolution Methods in the Development of Society: *Lok Adalat* in India

Anurag K. Agarwal¹

Introduction

Mahatma Gandhi, the Father of the Nation, wrote in his autobiography (1962; reprinted 2001, page 258) about the role of the law and lawyers:

I had learnt the true practice of law. I had learnt to find out the better side of human nature, and to enter men's hearts. I realised that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that the large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby—not even money, certainly not my soul.

Any conflict is like a cancer. The sooner it is resolved, the better for all the parties concerned in particular, and; society in general. If it is not resolved at the earliest possible opportunity, it grows at a very fast pace; and with time, the effort required to resolve it increases exponentially as new issues emerge and conflicting situations proliferate. One dispute leads to another. Hence, it is essential to resolve the dispute the moment it rears its head. The method of achieving this goal must be agreeable to both parties and should achieve the goal of resolving the dispute speedily. This state of uncertainty and indecisiveness should be as brief as possible to avoid psychological, physical, and mental losses.

The Constitution of India has defined and declared the common goal for its citizens as: “to secure to all the citizens of India, justice—social, economic, and political—liberty, equality, and fraternity.” The eternal value of constitutionalism is the rule of law, which has three facets (i.e., rule by law, rule under law, and rule according to law).

How to secure to all the citizens the justice that the Constitution talks about is a big question faced by the judiciary. Court dockets are overloaded and new cases are filed every day. It is becoming humanly impossible for the

¹ Faculty, Business Policy Area, Indian Institute of Management, Ahmedabad, India.

regular courts to decide all these cases in a speedy manner. This is not true in India alone. This, unfortunately, is the situation in a large number of jurisdictions.

Need for Alternative Dispute Resolution Methods

With the evolution of modern states and sophisticated legal mechanisms, the courts run on very formal processes and are presided over by trained adjudicators entrusted with the responsibility of resolving disputes on behalf of the state. Those who seek justice approach the courts of justice with pain and anguish in their hearts, having faced legal problems and having suffered physically or psychologically. They do not take the law into their own hands because they believe that they will get justice from the courts in the end. It is the obligation of the judiciary to deliver quick and inexpensive justice shorn of the complexities of procedure. However, the reality is that it takes a very long time to get justice through the established court system. Obviously, this leads to a search for an alternative mechanism complementary and supplementary to the process of the traditional civil court, for inexpensive, expeditious, and less cumbersome—and also less stressful—resolution of disputes. But the elements of judiciousness, fairness, equality, and compassion cannot be sacrificed at the altar of expeditious disposal. It is said that justice delayed is justice denied. But justice has to be imparted: it cannot be hurried to be buried. The cases must be decided and not just disposed of. Justice that is both speedy and true must be provided. This is easier said than done.

The Indian judiciary is held in very high esteem in all the developing as well as the developed countries of the world. However, there is criticism that the Indian judiciary is unable to clear the backlog of cases. Available and relevant statistics show that though the pendency of cases is always highlighted, the number of cases filed and disposed of each year is never mentioned. In 2001–2004, on the average, the subordinate courts disposed of 13 million cases every year, and the High Courts, 1.5 million cases. The Fast Track Courts disposed of 370,000 cases during the same period. The Supreme Court of India disposes of about 50,000 cases per year.

The law courts are confronted with four main problems:

- The number of courts and judges in all grades is alarmingly inadequate.
- The flow of cases has increased in recent years because of the multifarious acts passed by the central and state governments.
- Prosecuting or defending cases in a court of law is very costly because of the heavy court fees, lawyers' fees, and incidental charges.
- The disposal of cases is often delayed, resulting in huge pendency in all the courts.

These problems do not have an instant solution. For each problem, there are a number of reasons that need to be tackled; however, tackling those reasons requires much time and willpower on the part of the leaders of the nation. In the meantime, the country has to move on. Disputes will keep emerging and, if not resolved, will keep on piling up, making life difficult for everyone.

In every kind of civilization—and India is no exception—the pursuit of justice is instinctive. It is an individual and societal instinct, which every society strives to satisfy through its legal system. The degree of perfection attained by a legal system may be measured by the extent to which the justice system is able to express itself and to find its fulfillment. Not every legal system meets this goal. Sometimes a legal system fails to achieve its purpose because of defects and deficiencies in its substantive laws, and sometimes the failure is mainly due to frailties in its procedural rules. Fortunately, the judicial system in India is well organized, with a high level of integrity, and has been able to develop a system of alternative dispute resolution (ADR).

ADR has become a global necessity. In recent times, methods of ADR have emerged as one of the most significant movements in conflict management and judicial reform. The entire legal fraternity—lawyers, students, judges, and legislators—all over the world have started viewing dispute resolution in a new perspective. Many more alternatives to litigation have emerged. ADR is now an integral part of modern legal practice and jurisprudence.

ADR Methods

Litigation does not always lead to a satisfactory result. It is expensive in terms of time and money. A case won or lost in a court of law does not change the mind-set of the litigants, who continue to be adversaries and file appeal after appeal. ADR systems enable a change in the mental approach of the parties. Those who go to court know that they will either win all or lose all. But when they opt for any method of ADR or for informal settlement, they know fully well that they may not get all that they want, but they will not lose everything.

The main methods of ADR are negotiation, mediation, conciliation, and arbitration. Conciliation is often held to be a constructive approach to justiciable disputes. Though the term “conciliator” is interchangeable with the term “mediator,” there are differences between these two positions. A mediator is usually a person accepted by the disputants themselves, whose principal task is to bring the parties together so that they can arrive at an agreed solution to the dispute. The mediator may see the parties privately, listen to their viewpoint, and impress upon each party an understanding of the viewpoint of the other party.

NAPSIPAG

Like a mediator, a conciliator also has the primary duty of helping the parties to a dispute reach an amicable settlement. On the other hand, the conciliator also draws up the terms of the agreement for settlement after having a detailed discussion with the parties to the dispute. Each party is invited to a conciliation conference to place their viewpoints before the conciliator, who clarifies complicated issues and takes notes. After the conference, the conciliator may talk to the parties separately and ascertain their “bottom line,” that is, the figure at which each party would be prepared to settle. The conciliator then proposes a solution to the parties.

Conciliation and mediation differ from arbitration, as the former two methods do not result in a binding or enforceable settlement without any statutory sanction.

The *Lok Adalat* is a fine blend of all these ADR methods.

ADR and *Lok Adalat* in India

ADR has long been practiced in India, especially at the grassroots level. The *panchayat* (village council) is widely used to resolve disputes, commercial as well as noncommercial.

The *Lok Adalat* (People’s Court), where justice is dispensed without delay and without too much emphasis on legal technicalities, is ADR method, most suited to the Indian environment, culture, and societal interests. Its salient features are participation, accommodation, fairness, expectation, voluntariness, neighborliness, transparency, efficiency, and lack of animosity. The concept lost value in the last few centuries before independence and particularly during the British regime, but has since been revived.

Lok Adalat camps were started in Gujarat in March 1982 and have now been extended throughout the country, to relieve the heavy burden on courts with pending cases. They have been very successful in the settlement of motor accident claims, matrimonial and family disputes, labor disputes, disputes relating to public services, bank recovery cases, and other cases.

Up to the middle of 2004, more than 200,000 *Lok Adalat* camps had been held and they had led to the settlement of more than 16 million cases, half of them involving motor accident claims. More than \$1 billion was distributed to compensate those who had suffered accidents, and 6.7 million people have received legal aid and advice.

Lok Adalat Benefits

Litigants derive many benefits through the *Lok Adalat*.

First, there is no court fee, and even if the case has also been filed in a regular court, the fee already paid will be refunded if the dispute is settled at the *Lok Adalat*.

Second, procedural laws and the Evidence Act are not strictly applied while the merits of the claim are assessed by the *Lok Adalat*. The parties to a dispute, though represented by their advocate, can deal directly with the *Lok Adalat* judge and explain their stand and the reasons for it. This is not possible in a regular court of law.

Third, disputes can immediately be brought before the *Lok Adalat* without having to go through a regular court first.

Fourth, the decision of the *Lok Adalat* is binding on the parties to the dispute and its order is capable of execution through the legal process. No appeal can be made against the order of the *Lok Adalat*, whereas in the regular law courts there is always scope for appeal to a higher forum, causing delay in the final settlement of the dispute.

The system has been acclaimed by the parties involved and by public and legal functionaries. Besides the advantage of fast settlement, free of cost, the *Lok Adalat* also promotes the jurisprudence of peace in the larger interest of justice and wider sections of society.

Lok Adalat Procedure

The procedure followed at a *Lok Adalat* is very simple and shorn of almost all legal formality and ritual. A sitting or retired judicial officer presides as chairperson, and there are two members, usually a lawyer and a social worker.

Any one or more of the parties to a dispute can apply to have a case that is pending or even at the pre-litigation stage taken up in the *Lok Adalat*. The *Lok Adalat* constituted for the purpose then attempts to resolve the dispute by helping the parties arrive at an amicable solution. Once it succeeds, the decision is final and has as much force as a decree of a civil court that is obtained after due contest.

Civil or criminal matters may be brought before a *Lok Adalat*, but it cannot decide on any matter relating to an offense that is not compoundable under any law, even if the parties involved were to agree to settle the case. A *Lok Adalat* can take cognizance not only of matters involving persons who are entitled to free legal services but also of all other matters. One important condition is that both parties to a dispute should agree to have the dispute settled through the *Lok Adalat* and abide by its decision.

Experience has shown that money claims are more easily settled in a *Lok Adalat* since in most such cases the amount alone may be in dispute. Thus, a multitude of motor accident compensation claims have been brought before the *Lok Adalat* and been disposed of.

Legislation Pertinent to *Lok Adalat*

The *Lok Adalat* was given statutory recognition in 1987, pursuant to the constitutional mandate in article 39A of the Constitution of India. The Legal Services Authorities Act, 1987, provides for the constitution of legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that no citizen is denied opportunities to secure justice because of economic or other disabilities, and for the organization of *Lok Adalats* to promote justice on the basis of equal opportunity.

In 2002, the Parliament of India amended the act requiring the establishment of permanent *Lok Adalats* for public utility services. "Public utility services," as defined in the amended act, include transport services for the carriage of passengers or goods by air, road, or water; postal, telegraph, or telephone services; insurance service; services in a hospital or dispensary; supply of power, light, or water to the public; and systems of public conservancy or sanitation. Any civil dispute with a public utility service, where the value of the property in dispute does not exceed Rs1 million (about \$2,200), or any criminal dispute that does not involve an offense not compoundable under any law, can be taken up in the Permanent *Lok Adalat*.

An important feature of this amendment is that after an application is made to the Permanent *Lok Adalat*, no party to that application can invoke the jurisdiction of any court in the same dispute. The Permanent *Lok Adalat* attempts to settle such disputes involving public utility services through conciliation and, failing that, it decides on the basis of merit. It is guided by the principles of natural justice, objectivity, fair play, equity, and other principles of justice without being bound by the Code of Civil Procedure and the Indian Evidence Act.

A 2002 amendment to Section 89 of the Code of Civil Procedure has also opened the way for conciliation, mediation, and pretrial settlement. Once the model rules framed by the committee headed by Justice Jagannadha Rao, chairperson, Law Commission of India, under the direction of the Supreme Court of India, have been adopted by all the High Courts, funds will need to be sanctioned for the requisite infrastructure and for the employment of mediators and conciliators. The mediators and conciliators must be trained in the art of mediation and conciliation in India. ADR would drastically bring down the pendency of cases by accelerating their disposal. In California, where

NAPSIPAG

systems of mediation, conciliation, and pretrial settlement were introduced only 2 decades ago, 94% of cases are referred for settlement through ADR and 46% of such cases are settled without contest. The result is that California has been able to decide civil cases within less than 2 years from the date of filing.

The constitutional validity of the amendments to section 89 of the Code of Civil Procedure incorporating ADR methods were upheld by the Supreme Court of India in a recently decided case (Supreme Court 2005b).

Some of the relevant sections from the Legal Services Authority Act, 1987, are as follows.

Section 19: General Provisions

- Central, state, district, and *taluk* legal services authorities have been created to organize *Lok Adalats*. *Taluk* is also known as 'block'. A district is divided into several blocks.
- *Lok Adalat* conciliators comprise the following:
 - A sitting or retired judicial officer,
 - Other persons of repute as may be prescribed by the state government in consultation with the chief justice of the High Court.

Section 20: Reference of Cases

Cases can be referred for the consideration of *Lok Adalat* in the following circumstances:

- Both parties to the dispute give their consent.
- One of the parties applies to have the case referred to the *Lok Adalat*.
- The court is satisfied that the matter is an appropriate one to be taken cognizance of by the *Lok Adalat*.

Compromise settlement shall be guided by the principles of justice, equity, fair play, and other legal principles.

Where no compromise is arrived at through conciliation, the matter is returned to the concerned court for disposal according to the law.

Section 21: Award

After the parties agree, the award is decided by the conciliators. The matter need not be referred to the concerned court for a consent decree.

The relevant provisions of the act are as follows:

- Every award of *Lok Adalat* shall be deemed as a decree of a civil court.
- Every award made by the *Lok Adalat* shall be final and binding on all the parties to the dispute.
- The award of the *Lok Adalat* shall not be subject to appeal.

Section 22: Status of Proceedings

Every proceedings of the *Lok Adalat* shall be deemed to be judicial proceedings for the purpose of:

- Summoning witnesses,
- Presenting documents,
- Receiving evidence, and
- Requisitioning public records.

Finality of *Lok Adalat* Award

One issue that often arises is the finality of the award of the *Lok Adalat*. During the *Lok Adalat*, the parties agree to abide by the decision of the *Lok Adalat* judge. However, the order is often challenged on several grounds. In a recent decision, the Supreme Court of India stated in unequivocal terms that the award of the *Lok Adalat* is as good as the decree of a court. Therefore, the courts have all the powers in relation to it as they have in relation to decrees they themselves passed. These powers include the power to extend time in appropriate cases. The award passed by the *Lok Adalat* is taken to be the decision of the court itself, though arrived at by the simpler method of conciliation instead of the process of arguments in court (Supreme Court 2005b).

Consent of the Parties

The most important factor to be considered while deciding cases in the *Lok Adalat* is the consent of both parties. However, once the parties agree, the matter has to be decided by the *Lok Adalat*. Then neither party can walk away from the decision. In several instances, the Supreme Court has held that without the consent of the parties the award of the *Lok Adalat* is not executable, and also that if the parties fail to agree to have the dispute resolved through *Lok Adalat*, the regular litigation process remains open to the contesting parties (Supreme Court 2004a).

The Supreme Court has also held that “compromise” implies some element of accommodation on both sides but cannot be described as “total surrender” (Supreme Court 2005c). A compromise is always bilateral and means mutual adjustment. “Settlement” is termination of legal proceedings by mutual consent. If no compromise or settlement is or can be arrived at, no order can be passed by the *Lok Adalat* (Supreme Court 2004b).

Legal Aid, National Legal Services Authority, and State Bodies

The poor find it difficult to prosecute or defend a case because of the high costs involved. Eminent judges of the Supreme Court and High Courts have often emphasized the need for free legal aid to the poor. The central

Government, taking note of this need, introduced article 39A into the Constitution in February 1977.

The article reads:

The State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability.

Articles 14 and 22(1) also make it obligatory for the state to ensure equality before law and to establish a legal system that promotes justice on the basis of equal opportunity for all. Legal aid strives to ensure that the constitutional pledge is fulfilled in its letter and spirit and that equal justice is made available to the poor, the downtrodden, and other weaker sections of society.

Since 1952, the Government of India has also addressed the question of legal aid for the poor in various conferences of law ministers and law commissions. In 1960, the Government drew up some guidelines for legal aid schemes. In different states, such schemes were put forward through legal aid boards and societies, and law departments.

In 1987, the Legal Services Authorities Act was passed, giving a statutory basis to legal aid programs throughout the country. This act was finally enforced on 9 November 1995 after certain amendments were introduced by the Amendment Act of 1994. The National Legal Services Authority (NALSA) was constituted on 5 December 1995.

NALSA lays down policies and principles for making legal services available under the provisions of the Legal Services Authorities Act and to frame effective and economical schemes for legal services. It also disburses funds and grants to state legal services authorities and nongovernment organizations (NGOs) for legal aid schemes and programs. NALSA provides legal services, legal aid, and speedy justice through *Lok Adalats*. The authority has its office in New Delhi and is headed by the chief justice of India, who is the ex-officio patron-in-chief.

Similarly, state legal services authorities have been formed in every state capital. The Supreme Court legal services committee, High Court legal services committees, district legal services authorities, and *taluk* legal services committees have also been created. Each state legal services authority is headed by the chief justice of the state High Court, who is its patron-in-chief. A serving or retired judge of the High Court is nominated as its executive person.

NAPSIPAG

The district legal services authority is headed by the district judge as ex-officio chairperson, and the *taluk* services committee has for its ex-officio chairperson a senior civil judge under the jurisdiction of the committee.

All legal services authorities celebrate 9 November every year as Legal Services Day.

Since the establishment of NALSA toward the beginning of 1998, the following schemes and measures, among others, have been planned and implemented:

- Establishment of Permanent and Continuous *Lok Adalats* in all the districts in the country;
- Establishment of separate Permanent and Continuous *Lok Adalats* for government departments, statutory authorities, and Public Sector Undertakings;
- Appointment of a legal aid counsel in all the courts of magistrates in the country;
- Publicity for legal aid schemes and programs to make people aware about legal aid facilities;
- Accreditation of NGOs for the legal literacy and legal awareness campaign;
- Emphasis on competent and good-quality legal services;
- Establishment of legal aid facilities in jails;
- Setting up of counseling and conciliation centers in all the districts in the country;
- Sensitization of judicial officers in regard to legal services schemes and programs; and
- Publication of *Nyaya Deep*, the official newsletter of NALSA.

Future Challenges

The *Lok Adalat* has had tremendous success in India. It has provided an important tool for the easy and early settlement of disputes that best suits Indian society and culture. The concept of legal services, which includes *Lok Adalat*, is a “revolutionary evolution of resolution of disputes” (Bhatt 2002).

There is a need to improve the quality of legal aid by advocates. The teeming millions of this country who live below the poverty line in tribal, backward, and far-flung areas look to the legal services authorities for help and support in resolving their legal problems. When involved in litigation, they very often feel that they are fighting an unequal battle, in which the party with better financial resources can secure more able legal assistance. The payment schedule for legal aid panel advocates should be improved. The panels

NAPSIPAG

should be reduced in size so that the advocates get more work and better remuneration from legal services authorities and are thus encouraged to render effective legal assistance (Bharucha 2000).

Legal aid and legal literacy programs must expand to take care of the poor and ignorant. Intertwining ADR methodology with justice dispensation would succeed in delivering quicker, inexpensive, good-quality justice that could hold its own versus its counterparts elsewhere in the world. Besides *Lok Adalat*, India has to be a venue for international arbitration.

New trends in litigation—such as those related to intellectual property rights, cyber crimes, environmental protection, money laundering, competition, telecommunication, taxation, international arbitration, and so on—need new expertise. The judges need to be brought up to date. A dialogue has already been initiated to restructure law education in such a way that after basic education, different levels of legal education are available to those who aspire to enter the legal profession, those who want to join judicial services, and those who wish simply to acquire a degree in law for academic purposes or for research. There is a need to make the masses legally literates; and for this, NALSA is doing yeoman service along with the state legal services authority (Lahoti 2004).

Conclusion

The large population of India and the unlettered masses have found the regular dispensation of justice through the regular courts very cumbersome and ineffective. Given the special conditions prevailing in Indian society and the economic structure, highly sensitized legal service is required. The *Lok Adalat* movement is no longer an experiment in India. It is now a success and needs to be replicated in matters that are as yet beyond its domain. Some brainstorming on the part of lawmakers, judges, lawyers, and teachers might result in some modifications so that the same model can be used effectively in business disputes. Moreover, there is a need to use the techniques of *Lok Adalat* in conflicts related to public issues where the number of players is quite large and the government is also involved one way or the other.

Lok Adalats have to reinvent themselves to meet the challenges faced by the judiciary. The new branches of law will require newer tools to come up with decisions that are acceptable to the litigants.

Only time will tell how far the *Lok Adalat* movement will go in India and elsewhere in curbing conflicts and disputes and in spreading harmony.

References

- Bharucha, S. P. (Justice and Executive Chairperson, NALSA). 2000. Writing in *Nyaya Deep* and delivering his keynote address at the meeting of the Member Secretaries in the NALSA office on 19 February, 2000.
- Bhatt, Jitendra N. (Judge, High Court of Gujarat, and Executive Chairperson, Gujarat State Legal Services Authority, Ahmedabad). 2002. A Round Table Justice through *Lok Adalat* (People's Court): A Vibrant ADR in India. (2002) 1 Supreme Court Cases (Journal) 11.
- Gandhi, M. K. 1962. *The Law and the Lawyers*. Ahmedabad: Navjivan Trust. Reprinted 2001.
- Lahoti, R. C. (Chief Justice of India). 2004. Envisioning Justice in the 21st Century. Keynote address at the Conference of the Chief Ministers of States and the Chief Justices of High Courts, Vigyan Bhavan, New Delhi, 18 September 2004. Reported in 7 Supreme Court Cases (Journal) 13.
- Supreme Court of India. 2004a. *Jagtar Singh and Another v. State of Punjab and Others*. Decided on 17 September 2004. Criminal Appeal Nos. 1030–1031 of 2004; 2004 Indlaw SC 784.
- . 2004b. *State of Punjab and Others v. Phulan Rani and Another*. Decided on 3 August 2004. Civil Appeal No. 4718 of 2004; 2004 (7) SCC 555/.
- . 2005a. *Salem Advocate Bar Association, Tamil Nadu v. Union of India*. Decided on 2 August 2005. Writ Petition (C) No. 496 of 2002 (with W.P. (C) No. 570 of 2002); (2005) 6 SCC 344.
- . 2005b. *P. T. Thomas v. Thomas Job*. Decided on 4 August 2005. Appeal (Civil) 4677 of 2005 (Arising Out of S.L.P (C) No. 20179/2003); (2005) 6 SCC 478.
- . 2005c. *State of Punjab and Others v. Mohinderjit Kaur*. Decided on 18 January 2005. Civil Appeal No. 563 of 2005; 2005 (2) SCC 743.

Using Q-methodology to Resolve Conflicts and Find Solutions to Contentious Policy Issues

Dan Durning¹

Introduction

Conflict is ubiquitous in policy making. Sometimes the conflict is over who gets the benefits bestowed by government and who bears the costs. Other times the conflict is over what behavior will be prohibited by government and what will be permitted. And still, other times the conflict is simply a disagreement about which information should be used so that the most efficient, efficacious, or fair decision will be made.

This paper is concerned with conflict that is based on competing interests, competing beliefs, or both, as policy proposals are being considered. Conflict over many of these types of policy issues generates such strong feelings or has such high stakes that it is beyond compromise. For these issues, policy deliberation is a zero-sum game. However, other issues—even though they generate strong competing positions—may yield to compromise solutions. Such compromises are possible when interests or beliefs (or both together when they coincide) are not so intense that they preclude finding some common ground.

When compromise solutions are possible for contentious policy issues, Q-methodology can help the process of finding mutually acceptable policies to address the problems associated with the issue. As I suggest in this paper, Q-methodology can contribute to resolving conflicts and finding solutions to difficult policy problems in three ways. It can (i) clarify perspectives (the beliefs and interests of decision makers, stakeholders, and the public); (ii) identify competing problem definitions and solutions, as well as agreements across contending groups; and (iii) provide information that can help forge new policy solutions that may attract a majority coalition of decision makers or stakeholders.

The main contribution of Q-methodology is that it can make clear the context of conflict over a policy issue. It can make transparent to all participants in deliberation the bases for the conflict, including the different perspectives (beliefs and interests) of contending groups and their different understanding

¹ Director, International Center for Democratic Governance, University of Georgia, Athens, Georgia, USA.

of the nature of the policy problem and its preferred solution. Also, it can reveal the interests, beliefs, and preferred actions on which conflicting groups of stakeholders agree.

All of this information—plus ideas for alternative policies that can be garnered from Q-methodology studies—can be used in policy making. Policy analysts can use the information to move forward discourse among the stakeholders in search of a compromise solution. Also, they can use the information to help negotiate a compromise policy action that will attract sufficient support to be adopted.

Policy Characteristics and Policy Conflict

What happens to a policy issue in the various stages of the policy process is influenced by its “characteristics,” which are defined as the information, ideology (beliefs), and interests evoked by the policy issue. Knowing the characteristics of a policy issue, one can predict the broad features of its initiation, analysis, decision making, and implementation.

This classification of the characteristics of policy issues is borrowed from Carol Weiss (1983). She wrote:

The premise that I want to develop is that public policy positions taken by policy actors are the resultant of three sets of forces: their ideologies, their interests (e.g., in power, reputation, financial reward), and the information they have. Each of these three forces interacts with the others in determining the participants’ stance in policy making. (p. 221)

Weiss explained that this model of the formation of policy positions is one in which there is “constant and iterative interaction” of information, interests, and ideology (beliefs).

With this premise or model, the expectation is that policy issues will evoke different levels of information (what is known about the issue), interests, and beliefs among policy makers, stakeholders, and the public. That is to say, issues will cause participants in policy making to be influenced more strongly by one characteristic (or a combination of two characteristics) than by the others. For example, when an issue directly affects the livelihood of the person, that person’s policy position will be most strongly influenced by self-interest considerations. When an issue is largely technical, the policy position will be influenced by information. If an issue is related to powerful beliefs, the person’s position will be most influenced by those beliefs.

Of course, the formation of policy positions will be complicated by the interactions of the three characteristics. Weiss (1983, p. 243) suggested how the characteristics of policy issues could interact:

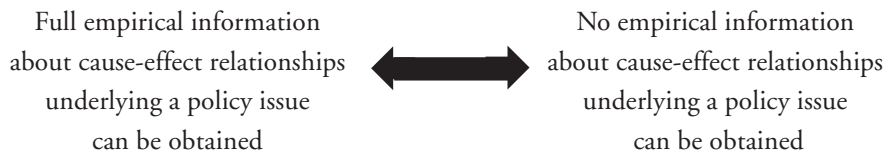
...if ideological commitments and strong interests are joined in a compelling way, they probably represent a combination too formidable to be overcome by an infusion of social science knowledge. If ideologies are weak or confused, or if there are division in interests among key actions, then social science knowledge is likely to stand a better chance of consideration and even action.

Policy decision making is a social process into which people bring their knowledge, beliefs, and interests, as well as their political skills and other resources. A policy issue affects the various stages of the policy process because it influences such things as who will be involved in making the decision and what they know, want, and believe. Dahl (1961), for example, showed that different types of local issues mobilized different sets of decision makers in New Haven, Connecticut.

Thus, the impact of policy characteristics on the policy process depends on the issue involved and the distribution of information, beliefs, and interests among policy makers, stakeholders, and the public related to that issue. The characteristics of an issue are essential in determining which interest groups are involved, their interests, and their beliefs. It will also determine the extent to which the public takes an interest in policy making and favors one position over another.

I suggest that issues can be characterized along these three dimensions:

Continuum 1: *Availability of empirical knowledge*



This dimension is concerned with both what is knowable and what is known. Empirical knowledge may be available because research can or has produced reliable knowledge of cause-effect relationships. Little empirical knowledge may be available either because research tools are not available to provide that information or because the research has not been undertaken.

The availability of knowledge is largely a function of the complexity of an issue and its putative cause-effect relationships. Research on technical and scientific issues is more likely to yield verifiable empirical conclusions than is research on behavioral issues.

Continuum 2: *Strength of beliefs*



This dimension is concerned with the extent to which issues are related to or evoke strongly held beliefs. If the issue is related to or evokes (e.g., through the use of symbols) a strongly held belief, it can be expected to influence the policy positions of policy makers. In the absence of strongly held beliefs, other characteristics are more likely to be influential.

Moral issues are likely to evoke deeply held beliefs. Thus, discussions of gay rights, gay marriages, euthanasia, and cloning will engage the beliefs of many policy makers. Similarly, issues related to important institutions such as families, religion, or private property can cause passionate reactions by decision makers and the public. On the other hand, few people have strong beliefs about countless issues such as soil conservation or civil service policies.

Continuum 3: *Extent of material rewards and deprivations*



This dimension is concerned with self-interest considerations. It suggests that if substantial rewards (money, power, prestige) from a policy issue are to be gained or deprivations (taxes, punishment) are to be avoided, the policy position of the persons who may receive the rewards or avoid the deprivations will be influenced by self-interest considerations. In the absence of potential rewards and deprivations, self-interest will not play an important role in forming a policy position.

For each of these three dimensions, there may be consensus or conflict. For example, consensus exists when information supports one position on a policy issue, when most participants in the policy process share beliefs related

to the policy issue, and when rewards or deprivations are divided in a way that evokes no conflicts among interest groups. When consensus exists on all three dimensions, potential policy issues do not generate conflict and policy decisions are easy.

Conflict will occur when decision makers, stakeholders, and the public disagree about the efficacy of information, when they hold different beliefs about an issue, and when they compete for substantial material rewards that will be produced by a policy. The most contentious issues will be those for which different groups of organized stakeholders have competing beliefs, competing interests, or both. For example, many issues in the policy process are characterized by the strongly held beliefs that they evoke among policy makers and the public. These issues include such things as whether abortion should be legal, if ownership of guns should be regulated, if the constitution should be amended to forbid burning the American flag, and whether prayers should be permitted in public schools. These issues evoke contradictory beliefs among substantial portions of society and thus provoke continuing conflict over public policy related to abortion.

Policy makers often have a difficult time resolving contentious issues when different groups (each with substantial numbers, resources, or influence) have competing beliefs, interests, or both. In many cases, they will seek compromise policy actions that will be acceptable to as many stakeholders as possible.

Q-methodology to Assist in Resolving Contentious Policy Issues

In the search for compromises and broadly acceptable solutions to contentious policy issues, Q-methodology can be a useful analytic tool. As described in more detail below, it can provide decision makers and stakeholders with information that can assist with the search for compromise. Because, as suggested above, different beliefs and interests are the main sources of policy conflict, Q-methodology can facilitate reaching a compromise by clarifying the perspectives and preferences of the participants in enacting governmental and organizational policies.

What is Q-methodology?

Q-methodology provides policy analysts with a research tool for studying systematically the subjectivity of one person or a group of people. It enables them to explore and understand in more depth the subjective perceptions of stakeholders, decision makers, and even themselves about the policy issues they are investigating.

This methodology was first proposed in an article published in *Nature* in 1935 by William Stephenson, a British physicist-psychologist. The theory underlying Q-methodology and its application is best described in Stephenson's book *The Study of Behavior*, published in 1953. Its application to political science was advanced in a book by Steven Brown, *Political Subjectivity*, published in 1980.

Q-methodology has been widely used in research, especially in psychology, sociology, social psychology, and political psychology. It has also been used in research in political science and, to a lesser extent, in public administration and public policy (Brown, Durning, and Selden 1999). However, advocates of post-positivist methods in policy analysis have urged its wider use by policy analysts (see Dryzek 1990 and Durning 1999).

The basic ideas of Q-methodology are simple, though its application requires substantial effort to master. It provides procedures for the empirical study of human subjectivity. The main steps in Q-methodology are as follows:

- Creation of a Q-sort, which is a set of statements that are broadly representative of the discourse on the topic of interest to the researcher.
- Administration of the Q-sort to one or more persons whose perspectives on the topic are of interest to the researchers or analysts. Each person sorts the statements in a quasi-normal distribution, placing each statement in relation to all other statements on the basis of the instructions given (e.g., agree more, disagree more). The selection of persons to complete the Q-sorts is purposeful, designed to include people whose opinions are of practical or theoretical interest.
- Correlation of the completed sorts and the factor analysis of the correlation matrix to identify clusters or groups of participants who sorted their statements similarly. In the factor analysis, the individual sorters are the variables and the Q-statements are the observations.
- Close examination of the weighted average sorts of the different groups of participants (the factors in the factor analysis) to identify the attitudes that characterize each of them and that cause them to differ from one another.

Following these steps, the researcher obtains insights into the sorters' minds. Through analysis of the Q-sorts, an analyst can map a participant's perspective on the topic that is being researched, that is, the research examines each participant's operant subjectivity. Thus, Q-methodology is an intensive

methodology that provides a picture of an individual's "subjective" understanding of the topic of interest.²

The designation of this method as "Q"-methodology is intended to differentiate it from "R"-methodology, which comprises the statistical methods used for "objective" research in the social sciences. The differences between the "Q"- and "R"-methods are not simply a matter of technique; they reflect different philosophies of inquiry that encompass competing epistemologies and understandings of what constitutes sound scientific practice. Some of the key differences between Q-methodology and R-methodology are:

- Q-methodology seeks to understand how individuals think (i.e., the structure of their thoughts) about the research topic of interest. R-methodology identifies the structure of opinion or attitudes in a population. Thus, the results of the Q-method identify the perspective of an individual, or individuals with common views, on the issue being researched; the results of the R-methods, describe the characteristics of a population that are associated statistically with opinions, attitudes, or behavior being investigated.
- While R-methods are intended for the "objective" analysis of research issues, Q-methodology is designed to study subjectivity. R-methodology is founded on logical positivism in which the researcher is an outside objective observer. In contrast, Q-methodology is more closely related to post-positivist ideas that reject the possibility of observer objectivity and question the assumption that the observer's viewpoint is, if not objective, then in some sense superior to that of any other observer, including the person being observed. Thus, Q-methodology is in tune with phenomenological, hermeneutic, and quantum theories.
- Q-methodology is an intensive method that seeks in-depth understanding of how at least one person thinks about the topic of investigation. As an intensive method, Q-methodology requires a small number of well-selected subjects to complete the Q-sort, which is a sample of the communications about the topic of interest. In comparison, R-methods are extensive methodologies designed to extract understandings of populations by surveying representative samples of them; thus, they require—depending on population size

² For a fuller discussion of Q-methodology and its use, see Brown (1980), McKeown and Thomas (1988), and Brown, Durning, and Selden (1999).

and sampling techniques—data drawn from a certain percentage of the population of interest.³

Dryzek (1990) explained Q-methodology and its value as a post-positivist method as follows:

The hallmark of Q-methodology is that it takes the subjective, self-referential opinions of respondents seriously in seeking to model the whole subject as [they apprehend] a particular situation.... (p. 176) Q is essentially interpretive in its philosophy of social science. As such, it abjures both objectivism and causal explanation.... Instead, Q seeks a “feeling for the organism” [Brown]. It engages in intensive analysis of particular individuals or collectivities in order to apprehend the fullness of their subjectivity in the subject’s own terms.... It does not (and cannot) seek causal explanation of individual actions. That is, Q interprets the actions of individuals in terms of their consistency (or otherwise) with the subjective orientations it uncovers.... (pp. 178–179) The encounter Q contrives is a thoroughly egalitarian one and the roles of observer and responded are interchangeable. (p. 184)

How Can It Help?

Q-methodology can assist with the search for compromise policy solutions for contentious issues in three ways. It can assist decision makers and stakeholders to:

- Understand more completely the interests and beliefs of contending stakeholders and search for commonalities among them; for example, it can help determine if positions on an issue are bipolar or multipolar.
- Identify different and competing definitions of problems to be addressed by a policy and the competing solutions linked to those problem definitions. This type of analysis can also identify actions that different groups of stakeholders find mutually agreeable.
- Forge a new solution that has not been advocated by any group of stakeholders, but may attract the support of a majority of stakeholders.

As discussed in the previous section, conflict over policy issues in governments and organizations is often based on disagreements about which values should guide the decision, which interests should benefit from them, or both. Q-methodology can clarify for participants in the policy process the

³ This comparison of Q- and R-methodologies is taken from Brown, Durning, and Selden (1999).

bases for the conflict and, perhaps, possible cooperation. It can enhance dialogue by precluding misunderstandings of the perspectives and motivations of contending groups of stakeholders. Also, it can help policy analysts to engage stakeholders in discourse about the issue and find widely acceptable compromises.

Each of these three uses of Q-methodology is discussed below in more detail.

Clarifying Stakeholder Perspectives⁴

Q-methodology makes transparent the values, beliefs, interests, and knowledge that underlie the competing positions of decision makers, stakeholders, and the public on issues to be decided. For example, the Q-method has been used to identify stakeholder perspectives related to environmental policies and specific controversial policies (e.g., abortion). Studies of this type have addressed many different issues, including forests (Hooker 2001, Clarke 2002, Steelman and Maguire 1999), coastal zone management (Shilin, Durning, and Gajdamaschko 2003), nature restoration (Wooley and McGinnis 2000), wolf management (Byrd 2002), biotechnology in Mexico (Galve-Peritore and Peritore 1995), corrections policy (Baker and Meyer 2002, 2003), and diversity in New Zealand (Wolf 2004).

Two good examples of these types of studies are Hooker's (2001) study of how stakeholders think about the relationship of individuals and society to forests, and Deitrick's research (1998) on how stakeholders in Pittsburgh perceive the issue of how brownfields should be redeveloped.

The purpose of Hooker's research was to identify competing perspectives related to forest policy. She wanted to understand the competing concepts of preservation, conservation, and development that influence individual perspectives on forest policy. She used Q-methodology for that purpose, gaining insight into how different stakeholders perceive the relationship of individuals to society and to forests.

To carry out the study, she created a 60-statement Q-sort that was a sample of 400 statements taken from literature on forest and natural resource policy. She administered the sort to a select group of diverse participants, including forest landowners, government officials, forest industry representatives, trade association representatives, scientists, leaders of conservation groups, academics, and public interest group representatives. A total of 189 participants ranked the 60 statements on a quasi-normal array from -5 (most disagree) to +5 (most agree).

⁴ The discussion of the three uses of Q-methodology to find solutions to contentious issues is taken from Durning and Brown (forthcoming).

Hooker used principal components factor analysis with varimax rotation to analyze the Q-sort correlation matrix, and she identified five factors, which represent five perspectives, that influence the positions that people take on forestry issues. She labeled these factors as New Stewards, New Conservationists, Individualists, Traditional Stewards, and Environmental Activists, and she explained how these have different, but sometimes overlapping, views on policies regarding the use of forests.

The purpose of Deitrick's (1998) research was to determine the different stakeholder views on proposals to redevelop brownfields in Pittsburgh. She constructed her 24-statement Q-sort from interviews with stakeholders (people with a direct interest in the brownfields issue), newspaper articles, letters to the editor, and other published materials. She asked stakeholders from the private, public, and nonprofit sectors, plus community activists in the areas affected by brownfields, to sort the statements from -4 (most disagree) to +4 (most agree). In all, 117 persons completed the Q-sort.

Deitrick analyzed the correlation matrix of the completed Q-sorts using principal components factor analysis and varimax rotation. She identified three factors, which can be considered to be separate perspectives related to this issue. She labeled them as (i) the development perspective, (ii) the community—environmental nonprofit/activist perspective, and (iii) the technical perspective.

Both of these studies provided novel social science knowledge about the perspectives related to these issues, and also offered decision makers information on the rival views of contending groups. Hooker's study gave decision makers a clearer picture of the clashing views on the use of forests, and Deitrick's study helped local decision makers understand better the differing perspectives on this difficult issue.

In her article, Hooker not only identified the different perspectives, but also suggested how that information could be used. She proposed that knowledge of the four different perspectives, especially information on the views they have in common, would be a good starting point for structuring beneficial interactions between factors. She wrote:

Conversations among analysts and members of the public who are interested in forest policy can use the new framework of beliefs identified in this study to redefine a policy agenda as well as commence facilitating dialogue.
(p. 174)

Hooker also suggested that the results of her study could be used to assist an effort to “structure a more effective public involvement strategy”

NAPSIPAG

(p. 174). She argued that citizen participation should be set up so that all of the four perspectives were represented in the discussions. By including people with the four main perspectives in public hearings and advisory groups, policy makers could make sure that all of the competing views are heard.

Deitrick concluded that “planning and policy” could benefit from understanding the three perspectives her study identified. She agreed with Hooker that knowledge of these three perspectives should improve public participation by ensuring that each of the three perspectives is represented when brownfield issues are discussed. Also, she pointed out that the study identified not only the disagreements among the three factors, but also the ways that they agreed. Thus, conversations among people with different perspectives could start with areas of agreement.

Identifying Competing Problem Definitions and Solutions

Maxwell and Brown (1999) provide an example of how Q-methodology can be used as a consulting or organizational tool to help an organization make decisions to address a complex problem. Their case concerned a middle school in which faculty members disagreed on how best to deal with increasing levels of student misconduct. The consultants were brought in to help the school manage the conflict and to find solutions to the problem that would be widely accepted.

As their first step, they conducted a Q-methodology study to determine how members of the organization understood the problem of student misconduct. They began by interviewing the teachers, staff members, and administrators in the middle school, asking them for their thoughts on the problems facing the school related to misconduct. Through these open-ended interviews, they compiled a list of 44 problems identified by the interviewees. The following are examples of the problems perceived by one or more interviewees:

- Too many office detentions are given.
- Kids do not want to put in the effort.
- Teachers do not know how to punish kids effectively.
- Parents do not respect the teachers.
- Kids have too many rights.

The 44 problem statements were used as the Q-sort. Faculty and staff were asked to sort the statements into an array from +4 (most important) to -4 (least important). In all, 30 participants completed the Q-sorts.

The Q-sorts were correlated and the correlation matrix was factor analyzed using the centroid method with varimax rotation. The factor analysis showed that most participants loaded on one of two factors, which the consultants labeled as (i) the Resentment Factor and (ii) the Differentiating Factor.

An examination of these two factors indicated that the participants loading significantly on the Resentment Factor strongly identified with teachers and staff in general, and had complaints against students, parents, administrators, and the school board, all of whom were viewed as “placing them in an untenable position” (p. 38). While the Resentment Factor was concerned largely with *inter*-group relations, the Differentiating Factor was more concerned with *intra*-group relations. The participants loading significantly on this factor wanted to recognize that the school had both helpful and harmful elements. They differentiated between groups of students (those needing support, as well as those needing discipline) and groups of teachers (those who punish effectively and those who do not).

The consultants presented the results of the first part of the Q-methodology study to the participants, showing them the statements that represented the sources of disagreement about the issue, but also pointing out the statements on which they agreed. They likened this process to “holding a mirror up to the teachers and staff...so that they might see themselves and co-workers more clearly” (p. 40).

In the second part of the study, the same participants were interviewed to elicit their proposals to solve the problems that had been identified. They came up with a list of 35 potential solutions, which became the Q-sort that was completed by 28 faculty and staff members. They were asked to sort the 35 potential solutions in an array from +4 (least effective) to -4 (most effective). This time the consultants used judgmental rotation rather than varimax rotation to analyze the Q-sort. They found three different perspectives, which they described as (i) Punishment (solve the discipline problem through punishment), (ii) Quarantine (use special programs to separate children causing problems from others), and (iii) Coordination (get teachers and staff to work together more effectively through cooperation and coordination).

In addition to these competing approaches to solving the problem, the Q-sorts identified actions that all three groups agreed should be implemented or should be avoided. For example, all three groups agreed that actions should be taken to:

- Establish a procedure for parents to sign an agreement about the rules of conduct and the consequences for misconduct that will apply to their child; and

- Consistently follow rules and regulations already in existence, such as the Student Conduct Code.

On the basis of the results of their Q-methodology research, the consultants informed school administrators about the differences of opinion on the causes of student misconduct and the differing preferences for actions to address the problems. Also, they identified the actions that were agreeable to all three factors as well as those they unanimously opposed.

Other studies report a similar approach to identifying competing problem definitions and solutions for other policy issues. For example, a paper by Brown et al. (2004) describes a 2-day workshop to “improve practices and to establish some common ground amid the controversies and conflicts surrounding carnivore management.” At the start of this workshop, 30 participants with very different perspectives (e.g., ranchers, environmental activists, scientists, and state and federal government managers) brainstormed about “the nature of problems associated with carnivore conservation.” The almost 300 problems identified by the group were recorded and a sample of 51 of them was incorporated into a Q-sort that the participants completed. This exercise identified four different decision structures (perspectives) on the issue of carnivore management.

After that, the researchers elicited opinions from the participants about possible solutions to the problems that had been identified. The solutions were recorded, and 40 of them were incorporated into a Q-sort, which was administered to the same group of participants. An analysis of those sorts found four factors, each a different decision structure (perspective) on how the problems associated with carnivore conservation should be addressed.

As with the middle school study, this workshop on carnivore management identified some possible policy actions that would be supported—or at least not opposed—by the four groups. These proposed actions are good starting points for policy makers. By identifying both the differences and commonalities in decision structures, Q-methodology provides policy makers with information that can help them put together a winning coalition to support policy actions.

An article by Gargan and Brown (1993) presents a case showing how Q-methodology can clarify “the perspectives of decision makers” and, in conjunction with other procedures, can ferret out “prudent courses of action” (p. 348). According to these authors, the special contribution of Q-methodology to decision making is “that it helps overcome the limitations of the mind in dealing with complexity, and also serves to locate elements of consensus (if they exist) that might otherwise go unnoticed in the emotional turmoil of political debate.”

The case concerns the formation of a strategic plan by a Private Industry Council (PIC), a local nonprofit agency primarily responsible for implementing the federal Job Training Partnership Act in a rural Midwestern county. The program's goal was to improve the employment chances of people having difficulty getting a job by providing them with training and skill development.

The PIC board of directors decided to develop a strategic plan to respond to opportunities and challenges it faced. First, the PIC board used nominal group technique to identify major issues and problems facing the agency. The board members answered this question: "What issues and problems must be considered as most important and of highest priority for PIC over the next 2 to 4 years if the employment needs of the hard-to-serve are to be dealt with effectively?" (p. 349).

A total of 33 answers were collected and were used as a Q-sort. Each of the 10 board members was asked to sort the statements according to the following condition:

Since all of the issues raised cannot be addressed simultaneously, some priorities must be established. To do this, you need to rank order the statements from those which you think should be the most important for PIC to deal with in the next two to four years (+4), to those which should be considered least important (-4). (p. 351)

The Q-sorts were correlated, and the correlation matrix was factor analyzed using the centroid method with varimax rotation. The factor analysis produced three factors, each representing different preferences for PIC priorities. These factors can be viewed as decision structures based on the values, beliefs, interests, and ideology of each of the board members.

Gargan and Brown noted that the different policy preferences revealed in the Q-sorts sometimes converged into agreement while at other times they conflicted sharply. Sometimes two of the factors (say, factors A and B) converged to agree on statement while factor C disagreed with them. On another statement, factors A and C agreed, but factor B disagreed. On some proposed policy actions, all three agreed; on others, all three disagreed.

By identifying the underlying conflicting perspectives and their views of different actions, Q-methodology provided valuable information to the board members who were going to decide about the strategic plan. Brown and Gargan suggested three ways that the decision makers could use the information from this Q-method study:

- Create a committee to write the group's strategic plan, including a representative of the three groups;

NAPSIPAG

- Adopt policies for which there is consensus support; and
- Use insights from the study to help formulate mutually beneficial deals and build coalitions to support a set of actions.

Finding New Solutions

Maxwell and Brown (1999) and Gargan and Brown (1993) illustrated how decision makers could use the results of Q-methodology to help with decisions on important issues. They showed that Q-methodology provides information about (i) consensus statements on which all of the factors agree, (ii) statements on which some factors—but not all—agree, and (iii) statements showing the greatest disagreements among the factors. This information can be employed in different ways to assist decision makers in making good choices.

Other research has shown how Q-methodology can be used innovatively to help decision makers facing intractable problems. Van Eeten's (2001) research demonstrated the utility of Q-methodology to help "recast intractable problems" to make them tractable.⁵ He presented a case study in which Q methodology was used to change an intractable problem into one that can be solved. The case was based on his experience in 1998 as a consultant to the Government of the Netherlands. He was involved in a study to determine the future policy for expanding Amsterdam's Schiphol Airport. A controversial expansion of the airport (requiring the building of a fifth runway) had been approved in 1995, and future expansion was due to come up again soon for consideration.

When discussing another expansion of the airport with stakeholders, he found bipolar positions. Stakeholders advocating an expansion of Schiphol Airport argued that it was necessary for the economic benefits that would result. Stakeholders opposing expansion argued that the environmental costs were too great for it to be allowed to happen.

As part of his work, van Eeten wanted to get a better understanding of how stakeholders viewed this issue: Were views really bipolar? To answer that question, he wanted stakeholders to reveal their views rather than being forced into the predefined categories (e.g., business orientation vs. environmentalists). To do so, he conducted a Q-study using Q-methodology. He collected 200 statements about the expansion of the airport from media archives, advocacy papers, interviews, and transcripts of several stakeholder meetings. From these statements, he extracted a sample of 80 statements for a Q-sort and administered it to 38 stakeholders.

⁵ Also see Dayton (2000), who suggested how Q-methodology could be used to assist dialogue about intractable issues, such as global climate change. For another example, see Focht and Lawler (2000).

The participants in his Q-methodology study were selected to reflect the distribution of views on the expansion issue, including people who worked for airlines, airport management, different levels and sectors of government, national environmental organizations, local citizens, environmental groups, and commercial or regional economic interests. The participants were asked to sort the 80 statements into seven groups from -3 (most disagree) to +3 (most agree).

Van Eeten analyzed the 38 Q-sorts by correlating them and factor analyzing the correlation matrix using the centroid method with varimax rotation. He identified four factors containing five “policy arguments” (which could also be understood as “decision structures”). He labeled these as:

- Policy Argument A: Societal integration of a growing airport;
- Policy Argument B1: Expansion of aviation infrastructure as a necessity in the face of international competition;
- Policy Argument B2: Expansion of civil aviation as an unjustified use of public funds;
- Policy Argument C: Ecological modernization of the civil aviation sector; and
- Policy Argument D: Sustainable solutions to a growing demand for mobility.

Van Eeten noted that policy arguments B1 and B2 captured the main public debate on the issue, and they represented a dichotomy of views that could not be reconciled. The clash of these two views made the issue intractable—they offered no room for compromise. However, he also observed that the Q study had identified three other perspectives, policy arguments not captured in the B1 vs. B2 arguments. He wrote,

Arguments A, C, and D...each state that there is more to the problem than what key stakeholders are now considering. Although these arguments are habitually collapsed into and treated as part and parcel of the positions for or against growth, the analysis indicates that they are, in fact, relatively independent. Instead of conflating the alternatives in A, C, and D into B1 or B2, the data insist that they can be sensibly viewed as relatively independent from (indeed orthogonal to) the continuum for-or-against further growth. (2001, p. 404)

Van Eeten suggested that the alternatives corresponding to policy arguments A, C, and D should be brought into the debate. They could be decoupled from the B1-B2 arguments and placed on the policy agenda for

consideration. According to him, their addition would present a “richer package of proposals” for consideration by decision makers. He wrote, “the alternatives posed by policy arguments A, C, and D address the expansion proposal by defining the problem more tractably as something in which decision makers can intervene in real and important ways” (2001, p. 406).

Conclusion

In this paper, I have suggested that Q-methodology can be a valuable tool for policy analysts to help resolve contentious policy issues for which compromise is possible. The paper maintains that some issues generate conflict based on differing beliefs held by groups of stakeholders. Other issues evoke conflict because they provide benefits and impose costs, and different stakeholders want to maximize the benefits they receive from the policy and minimize the costs. Still other issues create conflict because they evoke both competing beliefs and interest in gaining benefits and avoiding costs.

Q-methodology can help resolve conflict over policy decisions by clarifying the beliefs and interests of different groups of stakeholders with competing positions on a policy issue. Also, it can reveal how different groups understand (or define) the problem that a policy is supposed to address, along with the preferred solution to the problem. This information can be used by analysts to help structure a productive discourse among competing stakeholders that avoids misunderstandings of the motives and preferences of the competing groups. This transparency can help groups negotiate compromises.

In addition, as shown in the research summarized in this paper, Q-methodology can help resolve contentious issues in other ways. It can be used to:

- Structure an effective public and stakeholder involvement program by making sure that representatives of all perspectives are invited to participate in hearings and discussions (Hooker 2001, Deitrick 1998, Gargan and Brown 1993).
- Identify ways that different groups agree, often finding consensus actions that can be adopted with little controversy (Deitrick 1998, Maxwell and Brown 1999, Gargan and Brown 1993).
- Create insights to help formulate mutually beneficial deals and build coalitions to support a set of actions (Gargan and Brown 1993).
- Find new policy alternatives that can make a policy issue more tractable (van Eeten 2001).

These uses of Q-methodology to help solve difficult issues suggest that this analytic tool should be more widely used and taught.

References

- Baker, Ralph, and Fred Meyer. 2002. Women and Support for Correctional Reform. Paper presented at the 98th annual conference of the American Political Science Association, Boston, Massachusetts, USA. 28 August 28–1 September.
- . 2003. A Community Economic Elite and Support for Correctional Reforms. Paper presented at the Midwest Political Science Association annual meeting. Chicago, Illinois, USA. 3 April. <http://mpsa.indiana.edu/conf2003papers/1032035786.pdf>.
- Brown, Steven R. 1980. *Political Subjectivity: Applications of Q-Methodology in Political Science*. New Haven, Connecticut: Yale University Press.
- Brown, Steven R., Dan W. Durning, and Sally Selden. 1999. Q-Methodology. In *Handbook of Research Methods in Public Administration* (Public Administration and Public Policy series, Vol. 71 : 599–637. Edited by Gerald J. Miller and Marcia L. Whicker. New York: Marcel Dekker.
- Brown, Steven R., Kimberly Byrd, Tim W. Clark, David J. Mattson, and Murray Rutherford. 2004. Clarifying Perspectives in Large Carnivore Conservation. Paper presented at the 20th annual conference of the International Society for the Scientific Study of Subjectivity, Athens, Georgia, USA. 23–25 September.
- Byrd, Kimberly. 2002. Mirrors and Metaphors: Contemporary Narratives of the Wolf in Minnesota. *Ethics, Place, and Environment* 5(1): 50–65.
- Clark, Ann Hooker. 2002. Understanding Sustainable Development in the Context of Emergent Environmental Perspectives. *Policy Sciences* 35: 69–90.
- Dahl, Robert. 1961. *Who Governs?* New Haven, Connecticut: Yale University Press.
- Dayton, Bruce W. 2000. Policy Frames, Policy Making and the Global Climate Change Discourse. In *Social Discourse and Environmental Policy*, edited by Helen Addams and John Proops (pp. 71–99). Cheltenham, UK; and Northampton, Massachusetts: Edward Elgar.
- Deitrick, Sabina. 1998. Examining Community Perceptions of Brownfields Revitalization in Pittsburgh, Pennsylvania. Paper presented at the 40th annual meeting of the Association of Collegiate Schools of Planning, Pasadena, California, USA. 5–6 November.

- Dryzek, John. 1990. *Discursive Democracy*. Cambridge: Cambridge University Press.
- Durning, Dan. 1999. The Transition from Traditional to Post-positivist Policy Analysis: A Role for Q-Methodology. *Journal of Policy Analysis and Management* 18(3): 389–410.
- Durning, Dan, and Steven Brown. Forthcoming. Q-Methodology and Decision Making. In *Handbook of Decision Making*, edited by Gortug Morcol. New York: Marcel Dekker.
- Focht, Will, and James J. Lawler. 2000. Using Q-Methodology to Facilitate Policy Dialogue. In *Social Discourse and Environmental Policy*, edited by J. Proops and H. Addams (pp. 100–122). Cheltenham, UK: Edward Elgar.
- Galve-Peritore, Ana K., and N. Patrick Peritore. 1995. Mexican Biotechnology Policy and Decision Makers' Attitudes toward Technology Policy. In *Biotechnology in Latin America*, edited by N. Patrick Peritore and Ana K. Galve-Peritore (pp. 69–95). Wilmington, Delaware: Scholarly Resources.
- Hooker, Ann M. 2001. Beliefs regarding Society and Nature: A Framework for Listening in Forest and Environmental Policy. *Operant Subjectivity* 24: 159–182.
- Maxwell, Jennifer P., and Steven R. Brown. 1999. Identifying Problems and Generating Solutions under Conditions of Conflict. *Operant Subjectivity* 23: 31–51.
- McKeown, Bruce F., and Dan B. Thomas. 1988. *Q-Methodology*. Newbury Park, California: Sage.
- Shilin, Michael B., Dan Durning, and Natalia Gajdamaschko. 2003. How American Ecologists Think about Coastal Zone Environments. In *Values at Sea: Ethics for the Marine Environment*, edited by Dorinda Dallmeyer (pp. 239–259). Athens: University of Georgia Press.
- Steelman, Toddi A., and Lynn A. Maguire. 1999. Understanding Participant Perspectives: Q-Methodology in National Forest Management. *Journal of Policy Analysis and Management* 18: 361–388.
- Stephenson, William. 1953. *The Study of Behavior: Q-Technique and Its Methodology*. Chicago: University of Chicago Press.

- Van Eeten, Michel J. G. 2001. Recasting Intractable Policy Issues: The Wider Implications of the Netherlands Civil Aviation Controversy. *Journal of Policy Analysis and Management* 20: 391–414.
- Webler, Thomas, Seth Tuler, Ingrid Shockey, Paul Stern, and Robert Beattie. 2003. Participation by Local Governmental Officials in Watershed Management Planning. *Society and Natural Resources* 16: 105–121.
- Weiss, Carol H. 1983. Ideology, Interests, and Information: The Basis of Policy Positions. In *Ethics, the Social Sciences, and Policy Analysis*, edited by Daniel Callahan and Bruce Jennings (pp. 213–245). New York: Plenum Press.
- Wolf, Amanda. 2004. The Bones in a Concourse. *Operant Subjectivity* 27(3): 145–165.
- Woolly, John T., and Michael V. McGinnis. 2000. The Conflicting Discourses of Restoration. *Society and Natural Resources* 13: 339–357.