

# **Implication of Separation of Judiciary on the Coordinating Role of Deputy Commissioner**

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**Dedicated to.....**

**Anusha Barira Newaz, my loving daughter**

## **Abstract**

Coordination in field level is a widely discussed issue. Conflict among various agencies has made the issue more critical. Moreover, separation of judiciary which is a long cherished desire of the nation and by which structure of District Administration has significantly been changed supposed to have impact on coordination at district level. This study has been conducted to identify implication of separation of judiciary on the coordinating role of Deputy Commissioner. This study focuses on the coordinating role of Deputy Commissioner in case of law and order and gives emphasis to coordination of Deputy Commissioner only with police. The acceptance theory of authority, coordination theory of Henry Mintzberg and Mary Parker Follet were used as theoretical framework of the study. Gazipur was the study area for this research. Both qualitative and quantitative method was used for conducting this study. A total of fifty respondents were surveyed through questionnaire and ten respondents were interviewed for the purpose of this study. Besides, data was also collected through content analysis and secondary sources. Time constraint and lack of cooperation from the respondents were the main barriers faced by the researcher to conduct the study.

The study revealed that separation of judiciary has some negative impact on some of the coordinating mechanisms while it does not have any significant adverse impact on some other coordinating mechanisms exercised by Deputy Commissioner to maintain law and order. It was found in the study that though the legal authority of Deputy Commissioner to coordinate law and order has not been influenced by the separation of judiciary but in practice Deputy Commissioner is facing some problem in coordinating law and order functions. Respondents think that Deputy Commissioner is less powerful after separation of judiciary and the instructions of Deputy Commissioner became less obligatory. It was found that direct contact between District Administration and law enforcing agency has reduced. Though Police Magistracy meeting is very much important in order to maintain effective coordination between police and Executive Magistrates, this meeting is not being held at Deputy Commissioner Office. Again the participation of police in district law and order meeting has reduced. As a result of lack of formal contact, Deputy Commissioner facing problem to take decision and to monitor the implementation of the decision taken in the law and order meeting. It was revealed in the study that separation of judiciary has not any significant impact on informal communication between police and Executive Magistrates.

But, mutual cooperation between police and Executive magistrates is not satisfactory. Lack of mutual cooperation may results lack of mutual adjustment between police and Executive Magistrate, which might have a negative impact on the coordinating role of Deputy Commissioner to maintain law and order. The study proved that Deputy Commissioner even after separation of judiciary is inspecting police station regularly. and Office of the Superintendent of Police is still sending written reports relating to law and order to the Office of the Deputy Commissioner. However sometimes Deputy Commissioner complains of not informing him law and order situation of the district by the police and non cooperation by officer in charge in inspecting police station.

In order to overcome the difficulties mentioned above and in order to strengthen the grip of the Deputy Commissioner, power might be given to the Deputy Commissioner to send confidential report regarding the activities of the performance of the law enforcing agency. Under the supervision of District Magistrate an “Administrative Law and Order maintenance Force” can be formed consists of the police officer in order to maintain law and order of the district. In order to keep the law and order situation stable, Executive Magistrates may be given power among others to take cognizance of offence. Again effective measures can be taken to ensure the participation of Police Super and officers of all concern departments in District Law and Order Committee Meeting. Some committee may be formed or coordination meeting may be arranged in Deputy Commissioner Office to attain effective coordination between police and Executive Magistrate. Above all, leadership capacity of the Deputy Commissioner needs to be enhanced

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## **List of Abbreviations**

BGB: Border Guards Bangladesh

BPATC: Bangladesh Public Administration Training Centre

BCSAA: Bangladesh Civil Service Administration Academy

CJM: Chief Judicial Magistrate

CMM: Chief Metropolitan Magistrate

Cr.P.C: Criminal Procedure Code

DC: Deputy Commissioner

DM: District Magistrate

GOB: Government of Bangladesh

G.R. General Register

OC: Officer in Charge

MP: Member of Parliament

NILG: National Institute of Local Government

PRB: Police Regulation of Bengal

RAB: Rapid Action Battalion

SP: Superintendent of Police

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**Sahela Akter**

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# Chapter 1

## INTRODUCTION

### 1.1 Background:

The Office of the Deputy Commissioner (DC) in Bangladesh who is said to be the eye, ear and hand of the Government in the district started its journey in 1772 with the Hasting Plan. Initially the office of the Deputy Commissioner originated as Collector in British India geared towards collection of revenue, but later on in 1787 they were vested with the power of a Magistrate. In 1793 Collector's magisterial power was divested, but again in 1831 the power was restored. Deputy Commissioners after 1831 has exercised this magisterial power without any significant change up to 2007 when judiciary was separated from the executive as per obligations of the Constitution of Bangladesh.

The maintenance of *status quo* in regard to the question of separating executive from judicial functions may be explained by several factors. Since the beginning of the British colonial rule when the question was first debated, the underlying assumptions against the separation hinged on the principle of simplicity, energy, economy and efficiency. The union of powers was seen by some colonial rulers as a requirement which suited the conditions of the country. The idea perhaps was to create in the office of the District Magistrate as a powerful and awe-inspiring figure not only to perform stability supporting role but also to collect revenue for the government without any hindrance. Even after the Greaves Committee (1913) had recommended separation of power the governmental reluctance to implement the same was due primarily to allow the District Magistrate to play the role of supporting stability in the district by combining executive with judicial powers (Ali, 1993). Thus government always tried to create a powerful image of the institution of Deputy Commissioner.

At present in the context of Bangladesh, Deputy Commissioner still carries on the functions of the District Magistrate as well as Collector in the district. At the same time he/she also coordinates the work of all the officers of the Government posted in the district. Deputy Commissioners as District Magistrates are responsible for maintaining the overall law and order situation through proper application of different laws, conducting law and order

meetings, inspection of subordinate court and police station<sup>1</sup> (Zaman, 1995). He is the chairperson of District Law and Order committee and thereby contributes to coordinate the law and order situation in the district. Again, one of the most important functions of District Magistrate before separation of judiciary was administration of criminal justice in subordinate court. He had power to take cognizance of offence, issue warrant of arrest, power to grant bail, power to record confession, power to order for detention to try cases, to pass sentence of imprisonment maximum up to five year and to impose fine, etc. In short he had been responsible to execute all legal steps to take cognizance of offences, to try cases and then impose punishment. However, after separation of Judiciary from 1<sup>st</sup> November, 2007, the District Magistrate has lost these powers. He has no longer authority to administer criminal justice now. As District Magistrate, he is now only authorized to try some petty criminal cases and perform law and order functions.

As District Magistrate and as chairperson of District Law and Order Committee, Deputy Commissioner needs to coordinate the law and order function in a district. Broadly speaking Deputy Commissioner is the coordinator in regulatory field where he coordinates the activities of executive magistracy, police, Border Guard Bangladesh, etc. And in order to perform these coordinating roles effectively he needs the active cooperation and support from all law enforcing agencies.

But the post of Deputy Commissioner as District Magistrate after separation of judiciary is to some extent ornamental now. Separation of judiciary has brought about considerable shift of power and authority at the district level, a shift which brought in changing patterns of relationships and could have impact on the functions including on the coordinating role of the Deputy Commissioners in districts. In the changed circumstances, a situation has evolved as a result of which it seems to be difficult to practice different mechanisms of coordination at field administration. Under these circumstances the study intends to identify what was the implication of the separation of judiciary on the institution of the office of Deputy Commissioner, specially on the coordinating role of the Deputy Commissioner. It tried to asses, whether as a result divesture of the power which the Deputy Commissioners were exercising for more than two hundred years, has there any effect on the coordinating role of Deputy Commissioner as District Magistrate? More specifically whether it has affected the coordinating role of Deputy Commissioner in maintaining law and order situation?

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<sup>1</sup> Circular no *Ma Pa Bi/Ze Pro-4/9(66)/92(Angsha-1)/109*, dated 05/05/93 of the Cabinet Division,

## **1.1 Statement of the problem:**

It seems that civil servants were concerned about separation of judiciary and its impact even before the separation. Some civil servants opined that after separation of judiciary new situation will evolve for the field administration because the grip of District Magistrate may become loose (Khan, 2006). It was predicted District administration which was an institution of legendary and dominant image will lose that image. It seems that the separation may have brought about significant changes in the pattern and structure of district administration, as it has significantly reduced the authority of Deputy Commissioner. The age old organization is encountering challenges from different quarter. After separation of judiciary the institution has been suffering from a sort of image crisis. The abrupt separation has seriously affected the functioning of this institution (Obaidullah, 2008).

Deputy Commissioner as District Magistrate is still legally assigned to maintain law and order in the district but he has no mechanism to compel law enforcing agencies to implement decisions. Before separation of judiciary, the police force was connected with magistracy for functioning of the judicial process. Police were prosecuting, investigating and implementing agents in the courts. But at present Police are not functionally connected with District Magistracy through court proceedings. Separation of judiciary seems to have affected the functioning of law and order committee meeting too. The monthly meeting of Police-Magistracy is almost in limbo after separation of judiciary. As this meeting was designed for the monitoring evaluation and co-ordination of District Magistracy, its proper functioning is quite essential for effective working of the District Magistrate.

As a result of lack of formal interactions there are seems to arise some coordination gaps between police and Executive Magistrates. Under the above circumstances, it has become difficult for District Magistrate in many instances to properly work for maintaining law and order.<sup>2</sup> Changes in formal interaction could have impact on informal communication and mutual adjustment scenario between police and Executive Magistrates. As a result District Magistrate may become vulnerable in maintaining law and order situation in his locality.

This grey area of linkages between Police and Executive Magistrate has created an interesting situation, where the Deputy Commissioner is entrusted by and answerable to the government

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<sup>2</sup> Working paper for Deputy Commissioners Conference 2010

for the overall law and order situation in the district but is now seem to be facing challenges to properly carry on the task.

After the separation of judiciary in November 2007, the Deputy Commissioners have brought these issues to the attention of the Government in Deputy Commissioner's conferences. For example, Deputy Commissioner, Comilla in DCs Conference<sup>3</sup> held in 2007 expressed his views as follows:

*Separation of judiciary is the long cherished desire of the people. Deputy Commissioners are ready to cooperate in order to implement constitutional obligation and the decision of the Supreme Court. But concerned authority should be cautious not to make the age old district administration ineffective by reforming two hundred years old structure.*

The Deputy Commissioner of Chittagong in the DC's Conference<sup>4</sup> of 2009 further opined that

*The precondition of economic development for any country is stable law and order situation. In order to maintain law and order in district, there should be effective coordination among different agency at field level. Therefore it is crucial to strengthen district administration. Coordination between law enforcing agency and judiciary that has been practiced for long, has gone down after withdrawal of the judicial power of District Magistrate.*

After separation of judiciary it has been reported that it has become difficult for the executive magistrates working in the district level to exercise magisterial duty including control law and order situation, to conduct mobile court, to evacuate illegal occupant, inspect, to supervise and monitor public examinations, etc. As the power of Executive magistrates is limited now, many problems are arising in to protect life and property of public, to protect government property and to protect the law and order situation in district.<sup>5</sup> Though District Law and order Committee is entrusted to improve the law and order situation in district work

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<sup>3</sup> Resolution, Deputy Commissioners Conference , 06 -08 June2007

<sup>4</sup> Resolution, Deputy Commissioners Conference , 28-30 July ,2009

<sup>5</sup> Working paper, Deputy Commissioners Conference , 28-30 July ,2009



But these committees are not playing effective role as participation of its members in the activities of the committee is not satisfactory (Divisional Commissioner Dhaka).<sup>6</sup>

Though from management perspective it is essential to keep a balanced and effective coordination between police and administration in order to maintain law and order and to ensure legal rights at field level, however, after separation of judiciary legal authority of District Magistrate has been changed substantially. In fact coordination at the district level has always been a matter of concern as indicated by Rowland Committee Report in 1944, which identified coordination problem at district. It opined that “The lot of the district officer like that of a comic opera police man is not a happy one. He is expected to see that nothing goes wrong in his district but he has little power outside the magistrate and collector field to see that things go right”( Rowland 1944:45). If this is the scenario of the 1940s then it is certainly worth looking at what could be present scenario after divestiture of magisterial power of Deputy Commissioner.

Therefore this study will try to discover what has been the actual implication of separation of judiciary on the coordinating role of the Deputy Commissioner in law and order in district in Bangladesh.

### **1.3 Scope of the study:**

The study intends to find out the implication of separation of judiciary on the office of the Deputy Commissioner. As it has been noted earlier, the Deputy Commissioner has diversified functions of maintenance of law and order, revenue collection, general administration and overall coordination in a district. However, this study focuses only on the coordinating function of the Deputy Commissioner in maintenance of law and order in the district. Deputy Commissioner coordinates different activities in a district i.e. development activities, law and order etc. This study has been done to see the implication of judiciary separation in case of law and order coordination. Though Deputy Commissioner needs to coordinate law and order situation and hence need to coordinate with different law enforcing agencies i.e. Police, Ansar, Border Guards Bangladesh and other agencies. This study focused coordination of Deputy Commissioner only with police. The study tried to examine whether the separation of judiciary had any implication on the coordination between office of the Deputy

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<sup>6</sup> Resolution, Deputy Commissioners Conference , 28-30 July ,2009

Commissioner and law enforcing agency (police) in the district. The study also intends to identify the nature of such effect (if any) after judiciary separation.

#### **1.4 Objective of the study:**

The general objective of the research was to examine the implication of separation of judiciary on the coordinating role of Deputy Commissioner in the district, while the specific objective of the study was to find out the implication of separation of judiciary on coordinating role of Deputy Commissioner with regard to maintenance of law and order in the district.

#### **1.5 Research Questions**

This study is intended to answer some questions regarding implication of separation of judiciary on the office of the Deputy Commissioner. The answers of the questions will expose the reality of situation at the field level offices after separation of judiciary from the executive.

The research questions of the study are:

1. Has the separation of judiciary affected coordinating role of the Deputy Commissioner in maintenance of law and order in the district?
2. If so, what is the nature of such effect on the coordinating role of Deputy Commissioner in maintenance of law and order?

#### **1.6 Significance of the study:**

No significant study has been conducted so far regarding the implications of separation of judiciary on the executive organ of the state or on the office of the Deputy Commissioner. Thus the main idea of this study is to know the consequence of the judiciary separation on the office of the Deputy Commissioner which has been a part of the executive for more than 200 years. It is expected that this study will give some insights as to whether the separation has had any impact on the coordinating role of the Deputy Commissioner and if so what policy options are there to make the Deputy Commissioner's office more effective in discharging its mandated duties. It will also be helpful for future researchers to conduct study in this area.

## **1.7 Methodology:**

### **Research Method:**

Both qualitative and quantitative methods were applied in conducting the study. Qualitative data was collected through interview. Quantitative data, on the other hand, was collected through questionnaires. Quantitative data was collected from three target groups: (1) Executive Magistrates, (2) Law enforcing agency-police (3) Citizen and District level officer. The number of respondents was 60. In order to validate data collected through questionnaire and interview content analysis method was also applied in the study.

### **Selection of Study area:**

The main focus of the study is the implication of separation of judiciary on the coordinating role of Deputy Commissioner in maintenance of law and order. Therefore the unit of analysis of the study is district. One district of Dhaka division has been selected to collect primary data in this regard. For the purpose of research, data was collected from Gazipur. Gazipur is adjacent to Dhaka city and therefore has easy communication. Moreover Gazipur was the researcher's previous working station and researcher has personal relations with officers working in the DC office, Gazipur. Therefore it was convenient for the researcher to collect data.

### **Techniques of Data Collection**

Both primary and secondary methods of data collection were used.

### **Primary Data:**

Primary data are original data gathered by researcher for the research project at hand. Two methods were used to collect primary data; these are questionnaire survey, and in-depth interview method.

## Questionnaire Survey

This study used questionnaire survey method as a principle technique for data collection. The reason behind using survey method is that “it is probably the best method available to the social scientists interested in collecting original data for purpose of describing a population too large to observe directly. (Aminuzzaman 1991:39)” Executives Magistrates and member of law enforcing agency are entrusted by law to maintain law and order in the district. Therefore data were collected from them. Citizens were included in study population as they are major stakeholders. Lawyers have knowledge on the legal matters related to law and order and also on separation of judiciary. District level officers are involved with performing various duties at district level and are in a position to closely observe the Executive Magistrates and Police. Moreover different district level officers and lawyers are also members of District law and order committee. Therefore district level officers and lawyers have been included in study population. Data was also collected from journalists and politician. The questions were both open and close ended. Close ended questions were used to save time and open ended questions were used to get in-depth knowledge, observations and personal experiences. In order to triangulate data, questionnaire contains some questions which were common to three target groups. The following table indicates the overview of the respondents surveyed:

**Table -1: Overview of the Respondents surveyed**

<b>SI No.</b>	<b>Category</b>	<b>Total Number</b>
1	District Magistrates/Executive Magistrates( present/ex)	15
2	Police (present/Ex)	10
3	Citizens and Officers at District Level	25

## **Interview**

Primary data was also collected through interview. Interview was taken by the researcher through unstructured questionnaire. Interviews of Deputy Commissioner/ District Magistrate, civil servants, police, elected representatives, lawyer, and journalists were taken. The following table indicates the overview of the respondents interviewed:

**Table: 2 Overview of the Respondents Interviewed**

<b>SI No.</b>	<b>Category of interviewee</b>	<b>Total Number</b>
1	Civil Servants-Additional Secretary/Joint secretary	2
2	District Magistrates	3
3	Elected representatives-MP	1
4	Police-SP/Additional SP	2
5	Citizen	2

## **Secondary Data:**

The secondary data for this study was collected through content analysis. Secondary data was collected from various books, related Acts/Rules/Regulation, dissertations, publications, journals and reports on websites and government documents, articles, thesis materials, etc. The books and published documents in this study were collected from different sources i.e. Cabinet Division of the Government, Dhaka University library, North South University library, BPATC library, NILG library etc.

## **Sampling Method**

Purposive Sampling method was used to select the sample so that maximum variety of respondents can be incorporated in the research. The major reason behind this kind of sampling was to cover all potential people related to the research work and those who could be easily available. One district was surveyed in the study. For the purpose of the study the selected respondents are divided into three categories; (1) Executive Magistrates (2) Police and (3) Citizens i.e. lawyer, journalist, civil society member and District level officer i.e. District Information Officer, Engineer -PWD, District Women Affair Officer, District

Primary education Officer, District Livestock Officer, Officer of Department of Narcotics Control etc.

### **Data Processing, Analysis and validation:**

Collected data of this study was accumulated, categorized and analyzed keeping in mind the objective of the study. Quantitative data was analyzed with the help of MS Excel. Some charts, tables, graphs have been presented to present the study finding in a graphic manner. The qualitative data was presented in descriptive and tabulated form. It was presented to explicate significant incident, realities and personal experiences and opinions.

The data of the study was collected through questionnaire survey and in depth interview method. Both methods were used for triangulation of data which is considered as one of the best methods in data validation. The findings of the study from one type of method were used to check against the findings from other type of method. Moreover secondary method – content analysis was done in order to validate primary data. In order to get reliable data through content analysis, principle of authenticity and objectivity was maintained as far as possible.

### **1.8: Operational definition of some concepts used in the study:**

#### **Deputy Commissioner/District Magistrate/Collector:**

The Deputy Commissioner is the executive head of the district, an administrative sub-unit of a Division of Bangladesh. In his capacity as District Magistrate, he has the overall responsibility of law & order. He is also vested the authority to collect Land Revenue and is therefore also titled as Collector (Wikipedia). He usually belongs to the Administration cadre of the Bangladesh Civil Service. He coordinates the work of all the officers of the government posted in the district and administers almost all statutes and executes most of the government orders.

#### **Executive Magistrate:**

Executive Magistrate is Magistrate appointed by the government and exercise power which they are invested under different law. Normally Executive Magistrates are member of Bangladesh Civil Service (Administration) Cadre. All persons appointed as Assistant

Commissioner, Additional Deputy Commissioner or *Upazila Nirbahi* Officer (UNO) are Executive Magistrate and exercise power within their respective local area.

**Law Enforcing Agency:**

Law Enforcing Agency is agency responsible for enforcement of laws. Law Enforcing Agency for the purpose of this study means police.

**Separation of judiciary:**

Separation of judiciary means the separation of subordinate judiciary from the executive organ of the state. It includes withdrawal of power of Executive Magistrates including District Magistrate/ Deputy Commissioner to take cognizance of offence, to try cases and to impose punishment under penal code.

**Police:**

The term Police has been defined as the Department of Government or the civil force charged with the maintenance of public order. It is the system of regulation of a city, town or district for the preservation of order and enforcement of law, the civil officer employed to preserve peace and order constitute the police force. Their primary duty is to enforce regulations for the prevention and detection of crime (Rumy 2004).For the purpose of the study, police means Bangladesh police working in district.

**Superintendent of Police:**

Superintendent of Police heads the police force of a district. Superintendents of Police are officers of the Bangladesh Police Service. He is entrusted with the responsibility of maintaining law and order in a district (Wikipedia). According to section 1 of Police Act of Bangladesh, District Superintendent of police performs all or any of the duties of a district Superintendent of police under the Police Act in any district.

**Officer in Charge:**

An Inspector is generally given the charge of a Police Station and he is called the Officer in Charge of the police station. Actually the Officer in Charge of the police stations is the hands of the Superintendent of police. The Superintendent of police depends on them very much. Without the help of Officer in Charge the detection and prevention of crimes are unthinkable (Rumy 2004).

**Law and order:**

Law and order duty of Deputy Commissioner includes preventing riot, national and political unrest, laboring unrest, conducting public examination, conducting election etc. It also include taking effective measure to prevent tout, miscreants etc and to issue order absolute at once in urgent case of nuisance or apprehended danger under sec 144 of Criminal Procedure Code (Cr.P.C.), taking necessary steps in order to take possession of Government property if anyone illegally occupy or possess it. Inspection of the police station, acting as the chairman of District law and Order Committee also fall under the purview of law and order duty of Deputy Commissioner.

**1.9. Limitations of the study:**

The major limitation of the study is it focuses only one of the roles of Deputy Commissioner i.e. coordination. Due to a very sensitive issue researcher faced lack of cooperation from respondents. Some respondents were shaky in giving response. Another problem faced by the researcher was lack of secondary sources. Being a very recent issue, hardly any literature i.e. writing, research or reports was available. Therefore researcher found problem in collecting secondary data of academic nature. As Executive Magistrates and polices are very busy and involved with lots of responsibilities it was very much time consuming to get information from them. As Deputy Commissioners and senior police officers are very busy, it was to some extent inconvenient to collect information from them. As judiciary has been separated only three years ago, the findings of the study might not reflect in-depth picture. Above all, time was a major constraint in this study

**1.10 Chapter Outline**

The study has been divided into five chapters. The first chapter outlines the background of the thesis. It highlights on research objective, literature review, research questions, significance, scope and limitation, methodology of the study. Theoretical and analytical framework of the study has been discussed in the second chapter. It discusses conceptual dimension, relevant theories and the analytical framework of the thesis. Operational definition of the dependent and independent variables and indicators have been covered in this chapter. Third chapter gave a brief overview of coordinating role of Deputy



Commissioner highlighting the context of separation of judiciary. Chapter four specifically presents the analysis and findings of the study. The final chapter i.e. Chapter five is the concluding part which also contain some recommendations and include the direction for future research.

## **CHAPTER 2**

### **THE CONTEXT, CONCEPTUAL PERSPECTIVE AND ANALYTICAL FRAMEWORK**

#### **2.1 Introduction:**

This chapter discusses about the context of the study, conceptual perspective and analytical framework of the study. At the outset some available literature was reviewed. Then the concepts of power and authority and also coordination have been discussed. Thereafter the theories relevant to this study i.e. acceptance theory of authority, coordination theory by Henry Mintzberg, coordination theory by Mary Parker Follet have been highlighted. At last the chapter draws the picture of analytical framework of the study. For easier understanding, operational definition of the dependent and independent variables and indicators have also been discussed.

#### **2.2 The Context**

In the context of Bangladesh, separation of judiciary from the executive, as a way forward for the independence of judiciary from the executive has been a constant governance issue at least from the very moment of independence of Pakistan in 1947 from the colonial rule. This principle kept its universal appeal of incorporation in the functional mechanism of state authority for a large span of time (Brooke, 2000). Based on this principle and encountering with the ground realities, the issue of separation of judiciary from the executive has become prime concern for any administrative reform even at the British colonial rule which is evident from the writings related to the administrative and judicial history of British India. All writings contain the pre-eminence of separation of judiciary as a dominant part of independent judiciary. At the same time judiciary was not separated totally from the executive till very recently in 2007. Although there is a lot of studies are available on coordination, but there is hardly any literature available on coordination at district level after separation of judiciary. So far the resources available after this step are mainly some articles

and editorials published in the newspapers. However, there has been no detailed study concerned with the impact on Deputy Commissioner and his office at the district level after the separation of Judiciary.

Interestingly, even before the birth of Bangladesh, Khan (1964) had predicted about situation after separation of judiciary. He had argued that separation of power may weaken the authority of government and law and order problem might become serious. He criticized the effort to separate judiciary and executive by Punjab Government in 1954 as the scheme was revoked in 1956. He stated that concepts and ideas borrowed from other administrative system without adequate awareness of the local conditions fail to take root and create further complications. Newly developing countries where law and order problems are not completely solved and where tribal and familial ties defeat the spirit of formal legal procedures, can not afford to toy with separation of power. A general need of these countries is a strong government whose decisions are respected and implemented. This purpose can be achieved by consolidating the authority of the representatives of government rather than weakening it.

Moini (1964) tried to draw a picture of coordination of governmental activities at district level. He emphasized on need for coordination at district level, he also suggested to play coordinating role at district level by Deputy Commissioner rather than other agencies and emphasized on formal coordination mechanism instead of informal coordinating mechanism. He tried to find out the problems and obstacles for effective coordination by Deputy Commissioner and recommended some solutions to overcome it.

Shah (1964) emphasized on the necessity of separating the judiciary from executive as a constitutional obligation to attain the goal of separation in the functions of the judiciary and the executive. He opined that the danger of deteriorating result on the law and order accruing could be avoided by adopting other measures. Here though the writer emphasizes on separation of judiciary but at the same time he predicted that separation may cause deterioration in law and order situation.

Even if not focusing coordination after separation of power, however in Bangladesh some studies are available regarding coordination at district level. The major findings of the studies are as follows.

Ali (1987) identified the problems and issues of coordination in field administration after 1981 as function area conflict, generalist-specialist controversy. Other factors includes lack of interest on the part of committee chairman and members in the functions entrusted to the committees, lack of professional approach on their part to decision making and their implementation, absence of professionalism and interest on the part of ministries and agencies under them. Ali recognized two challenges towards district administration i.e. political challenge and technical challenge as the ideological shift towards representative control over decision making process i.e. institution of elected *Upazila* and *Zila parishad* and functional independence of the specialist services from the D.C. However he opined that DC will continue to coordinate in the regulatory sphere and his advice on matters affecting the welfare of the people in general would always be needed.

Panday (2006) attempted to show what happens to policy implementation when there is lack of coordination in terms of central-local relation. He emphasizes on how central-local relations as an external factor affect inter-organizational coordination. The study tried to identify the impact of the lack of inter-organizational coordination on the implementation of policies by the Rajshahi City Corporation. It was found that central-local relations are important for inter-organizational coordination.

Chowdhury (1987) stated some measures to improve coordination in the public administration in Bangladesh. He opined that there can be no coordination without effective integration of the individual and groups in the process of administration. He stated that coordination can be achieved through career prospects of public officials, through strict enforcement of government instructions. Fostering interagency understanding i.e. change of orientation and attitude of the public servants about their work is necessary to improve coordination. Coordination in public administration of Bangladesh can also be improved if clear and consistent policies are given by the Government in all cases. Coordination can also be greatly improved through effective and clear communication, by removing difficulties which hinder fuller participation of everyone in his assigned activities. Moreover uniformity of jurisdiction of all field organizations, non interference in other agency's sphere of activities, better use of committees/meetings, decentralization of decision making power and authority can help to reach to successful coordination.

Again Islam (1994) attempted to identify intra and inter organizational interdependence of some government department, determine coordination needs, impact of lack of coordination on administration and development and find out major coordination barriers in order to provide input for a more realistic coordination policy formulation. Coordination has been proved in the study to be an essential element of management and organization. The study again shows that lack of coordination hampers decision making. It was found that conflict between various services, corruption, lack of ethical values and lack of accountability are most hindering factors of coordination. It was also revealed that efficiency of coordination greatly depends on the efficiency of communication i.e. face to face dialogue, report submission, telephonic discussions, supervision and inspection. Greater the efficiency of communication more effective would be the coordination. For effective coordination, cooperation is essential. Lack of cooperation is detrimental to effective coordination.

Khan (2006) identified the coordination gap as one of the major problem among others in field administration and recommended some solution to overcome these problems. He identified the nature of problem like vertical functional departmentalism, reliance on deputy commissioner to secure coordination but without impairing departmental independence, excessive reliance on ministries on the leadership role of the deputy commissioner, weak local government system. Much reliance of the political government on deputy commissioner results inter-cadre rivalry. Specialists working in the field are not interested to be at the beck and call of Deputy Commissioner. But for implementation of government program mutual cooperation is necessary where mass participation is a fundamental requirement.

Obaidullah (2008) tried to map out the historical development of District administration in the early days of British colonial rule. The writer showed how District administration from controlling authority became prescribing authority after independence and in his writing the coordinative role of Deputy Commissioner in relation to local government institution has been emphasized. The paper also identifies the challenges faced by the age old institution.

Ahsan (2010) conducted study on coordination in local administration. He found that inter-departmental coordination is a major problem. This is because of the lack of clear division of labour among departments involved in policy implementation. Another problem associated with coordination is role ambiguity among officers which is a result of the lack of appropriate rules, indicating that the nature of rules determines the extent of coordination. Another factor

that also affects coordination is the untimely disbursement of funds. Dual authority hampers disbursement of funds at the *Upazila* level. The lack of skilled manpower is another factor affecting coordination. Lack of comprehensive training, work load, shortage of officers affect coordination. Coordination become problematic due to the lack of frequent informal communication among officers involved in inter-departmental function. It was found that there is lack of partnership among departments which is a by-product of the lack of trust among officers. It was also revealed that organizational culture has contributed to cause coordination problems between them.

In India, Mathur(1989) analyzed the need for administrative coordination among police, magistracy, central police organization and the army and has touched various problems and constraints which appear as irritants in coordination.

Though some writings are available on the broad area of coordination but very little literature is available in Bangladesh regarding the coordination between police and magistrate. However Romy (2004) tried to trace out the role of Superintendent of Police and his relationship with Deputy Commissioner., citizens and sub-ordinate police officer. The writer mentions the gap between police and Deputy Commissioner and has given some recommendations to overcome these problems.

So it is evident from the above discussion that no significant study has been undertaken so far on implication of separation of judiciary on coordination at district level. Therefore this study tries to fill a significant gap in the literature of coordination at field administration after separation of judiciary.

### **2.3 Conceptual Dimensions:**

#### **Idea of power and authority:**

Max Weber (1947) defined power as the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance. Pfeiffer the organizational behavioral therapist perhaps most closely associated with the study of power defined power as a potential forcer and in more detail as the potential ability to influence behavior to change the course of events, to overcome resistance and get people to do things that they would not otherwise do (Luthans, 1995).

French and Raven (1959) in their classic research on the bases of social power, described five bases of power: *reward power*, *coercive power*, *legitimate power*, *referent power* and *expert power*. In French and Raven's taxonomy, *reward power* is defined as the agent's ability to provide the target with desired outcomes such as pay increases or job promotions. *Coercive power* is the agent's ability to affect negative consequences, such as a demotion or transfer to a less desirable assignment. *Referent power* refers to the agent's ability to seek the target's response, based upon the target's desire to please the agent. *Expert power* is derived from the perceived expertise of the agent, gained by experience, education or training. *Legitimate power* is the agent's right to make a request, based upon their official position in the organization, as perceived by the target. Legitimate power identified by French and Raven stems from the internalized values of the other persons which give the legitimate right to the agent to influence them. The others feel that they have the obligation to accept this power. It is almost identical to authority and is closely aligned with both reward and coercive power because the person in the position with legitimacy is also in a position to reward and punish. French and Raven (1959) identified three sources of legitimate power: cultural values, position authority, and designation by a legitimate agent. Each of these forms of legitimate power creates an obligation to accept and be influenced. Within French and Raven's taxonomy of social power, expert and legitimate power have been shown to be the most effective and enduring (Luthans, 1995).

Pfeiffer says that power simply comes from being in the right place. He describes the right place or positions in the organization as one manager has: Control over resources, Control over access to information, Formal authority. According to him, organizational structure creates formal power and authority by designating certain persons to do certain tasks and make certain decisions and create informal power through the effect on information and communication structures within the organization. Besides power implication from organizational structuring there are also power differentials found in the formal positions in the hierarchy. Even though the heads of various functions of a business firm are on the same level, they do not possess the same power. Horizontal power differentials will be contingent on organizational environment, culture, structure and process (Luthans, 1995).

## **Authority:**

Authority is legitimate power. Source of authority includes cultural value, accepted social structure, organizational hierarchy. An important element for cooperative effort in a general organization, which is believed to be most crucial, is the element of "authority". Authority is power that has been legitimized within a specific social context. Only when power is part of an official organizational role does it become authority. Authority includes the legitimate right to use resources to accomplish expected outcomes. Authority originates in the ownership of the organization (Moorhead and Griffin, 1995). It is the right to manipulate or change others. Authority in public sector is the ability to establish or enforce the policies or behavior of public agencies. Authority differs from power because both the person who exercises it and those persons over whom it is exercised accept its legitimacy. The concept of organizational authority is closely tied to acceptance of law (Klingner, 1983). Authority may be either formal or informal. Formal authority is derived from a recognized organizational structure with delineated lines of responsibility and influence. Informal authority may exist outside of discernible organizational role definitions (Luthans, 1995). Authority creates an obligation on subordinates to accept and be influenced.

## **The Idea of Coordination**

One of the most crucial managerial functions is coordination. Administrative functioning gets jeopardized without coordination in place. With the passage of time and increasing focus of governance of welfare and development, the significance of coordination becomes more glaring.

It is basically the coordinating function that integrates the activities of executive, legislature and judiciary at the macro level of governance and the same is also evident at other governing units of the government in every form of polity. By virtue of its importance coordination has been considered as one of the major principles of organization. According to James D. Mooney, "Co-ordination is orderly arrangement of group efforts to provide unity of action in the pursuit of common goals" (Sahni and Vayunandan, 2010).



Coordination means bringing about consistent and harmonious action of persons with each other towards a common end. Every collective activity, however simple needs coordination (Tyagi 1974).

According to Henri Fayol, “Coordination consists of working together and harmonizing all activity and efforts so as to facilitate the working of the organization. Essentially the objective of coordination is to ensure that one department’s efforts are coincident with the effort with other departments and keeping all activities in perspective with regard to the overall aims of the organization (Sahni and Vayunandan, 2010).

Coordination is a systematic arrangement of group effort in the pursuit of common goals and purposes. The object of coordination is to unify all of the manager’s organizing efforts to make sure that the organizing process contributes to the achievement of organizational objectives. It is the essence of an organization. It means linking together different parts of an organization in achieving of a common goal and it can be *intra-organizational* and if two or more organizations are involved it can be *inter-organizational* and these depend on the structure and processes of organizations (Huda 1987).

Coordination can take place either horizontally or vertically. Horizontal or inter-organizational coordination can be between organizations on the same status or line, while vertical or intra-organizational coordination takes place within the organization. In other words, coordination concerned with managing the activities of different organizations and coordination concerned with managing the activities of individuals or subunits of an organization are considered as inter and intra-organizational coordination, respectively. Verhoest and Bouckaert (2005) state that inter-organizational coordination is more network-based, while intra-organisational coordination is more hierarchy-based (*cited* in Christensen and Lægheid, 2008). Inter-organizational coordination may take place at any level: between ministries, between divisions within the same ministries or in different ministries, or between departments or offices within the same or different divisions (Moore, 2000).

Malone and Crowston (1991 and 1994) synthesized work done on coordination from a variety of fields. They defined coordination as “managing dependencies between activities”. They conceptualize *dependencies* as arising between tasks rather than individuals or units. Malone and Crowston (1994) analyzed group action in terms of *actors* performing

*interdependent tasks*. These tasks might require or create *resources* of various types. *Tasks* include translating aspects of a customer's problems into system requirements and checking requirements for consistency against other requirements. While, *resources* include the information about the customer's problems, existing system functionality and analysts' time and resources.

In this view, actors in organizations face *coordination problems* arising from dependencies that constrain how tasks can be performed. While developing this framework, Malone and Crowston describe "coordination" mechanisms as relying on other necessary group functions, such as decision making, communications and development of shared understandings and collective sense making. Malone and Crowston's main contribution to the coordination theory is that they show dependencies and the mechanisms for managing them are general, that is, a given dependency and a mechanism to manage it will be found in a variety of organizational settings. According to Malone and Crowston (1994) in order to overcome these coordination problems, relevant actors must perform additional work, which they called *coordination mechanisms*.

## **2.4 Relevant Theories:**

### **Acceptance Concept of authority:**

Chester Barnard (1938) defines authority as "the character of a communication (order) in a formal organization by virtue of which it is accepted by a contributor or 'member' of the organization as governing the action he contributes". This, indicates that for authority consists of two aspects; first, the subjective aspect, the personal aspect- the accepting of communication as authoritative and second, the objective aspect-the character in the communication by virtue of which it is accepted. Barnard further argues that if a directive communication is accepted by one to whom it is addressed; its authority for him is confirmed or established. Disobedience of such a communication is a denial of its authority for him. Therefore under the definition, the decision as to whether an order has authority or not, lies with the persons to whom it is addressed and does not reside in "persons of authority", or those who, issue these orders. He adds that organizations fail because the authority fails which means they cannot secure sufficient contribution of personal efforts to be effective or

cannot induce them on terms that are efficient. Further authority fails because the individuals in sufficient numbers regard the burden involved in accepting necessary orders as changing the balance of advantage against their interest and they withdraw or withhold the indispensable contributions. It is for this reason Barnard emphasizes "the necessity of the assent of the individual to establish-authority. A person can and will accept' "the authority only when four conditions simultaneously obtain: (a) he can understand the communication; (b) at the time of his decision he believes that it is not inconsistent with the purpose of the organization; (c) at the time of his decision, he believes it to be compatible with his personal interest as a whole; and (d) he is mentally and physically able to comply with it. (Moorhead. Gregory & Griffin, 1995)

In this study the idea of bottom up approach of authority explained by Chester Barnard will be used in order to analyze the authority of Deputy Commissioner after separation of judiciary.

Mary Parker Follett, said to be the pioneer of modern Management laid out four principles for effective co-ordination (Henry C. Metcalf, Urwick L 1941). Those are as follows:

*Direct personal contact* – According to this principle coordination is best achieved through direct personal contact with people concerned. Direct face-to-face communication is the most effective way to convey ideas and information and to remove misunderstanding. It denotes control through cross relations between heads of departments instead of up and down the hierarchy. Personal and face-to-face contacts are the most effective means of communication and co-ordination. For this purpose Committees help to promote unity of purpose and uniformity of action among different departments.

*Early beginning* – Coordination can be achieved more easily in early stages of planning and policy-making. Therefore, plans should be based on mutual consultation or participation. Integration of efforts becomes more difficult once the uncoordinated plans are put into operation. Early co-ordination also improves the quality of plans. The direct contact must begin in the earliest stages of the process by directly involving people from the very initial stages of designing a project, managing any task or coordinating any event. This involves the relevant people right from the step of taking a decision to implement it.

*Reciprocity* –This principle states that all factors in a given situation are interdependent and interrelated. For instance, in a group every person influences all others and is in turn influenced by others. When people appreciate the reciprocity of relations, they avoid unilateral action and coordination becomes easier. Coordination as the reciprocal relating of all the factors in a situation indicates the actual process of coordination. It encapsulates what happens between the heads of departments in an organization. Say A cannot adjust to B and to C and to D. To coordinate A adjusts to B and also B influenced by C and also to C influenced by D. Again he adjusts himself to C and also to a C influenced by B and to a C influenced by D and to a C influenced by D. This is like an inter-penetration of every part by every other part. Coordination is like a goal never wholly reached. The process of coordination is like interpenetration and it cannot be enforced by an outside body. Rather it is by its very nature a process of auto-governed activity.

*Continuity* – Coordination is an on-going or never-ending process rather than a once-for-all activity. It cannot be left to chance, but management has to strive constantly. Sound coordination is not fire-fighting, i.e., resolving conflicts as they arise. Coordination is a continuing process means that the mechanisms for coordination should be continuous, where precedents, experiences and relationships require continuous nurturing.

Henry Mintzberg (1979) proposed a range of coordinating mechanisms that are found in operating organizations. In his view, organization structure corresponds to the ways tasks are first divided and then coordinated. Mintzberg described five major ways in which tasks are coordinated: *by mutual adjustment, by direct supervision, by standardization of skills and knowledge, by standardization of work processes, by standardization of outputs*. These five methods can exist side by side within an organization.

*Mutual adjustment* simply means that workers use informal communication to coordinate with one another. Mutual adjustment achieves the coordination of work by the simple process of informal communication. Mutual Adjustment is a model of organizational coordination, where, in a generally understood environment of moral rules, norms, conventions, and mores, "very large numbers of people watch each other, then modify their own behavior just enough to accommodate the differing purposes of others, but not so much that the mutual adjusters lose sight of where they themselves want to go" (Cleveland, 2000).

Mutual adjustment occurs in diverse ways, such as through language creation, moral codes, biological self-selection, and especially in market systems and politics. It implies and requires a highly developed system of information-exchange that allows information to flow between and among independent people and entities. Any human system that works "is doing so because nearly all of the people involved in it cooperate to make sure that it works" (Cleveland, 2000). In mutual adjustment there is no center of control, no leader, no supervisor; the rules work in this model "because nearly all those who need to abide by them are motivated to comply because the rules make sense to them" (Cleveland, 2000).

Under mutual adjustment, control of the work rests in the hands of the doers. Because it is such a simple coordinating mechanism, mutual adjustment is naturally used in the very simplest of organizations—for example, by two people in a canoe or a few in a pottery studio. Paradoxically, it is also used in the most complicated. Consider the organization charged with putting a man on the moon for the first time. Such an activity requires an incredibly elaborate division of labor, with thousands of specialists doing all kinds of specific jobs. But at the outset, no one can be sure exactly what needs to be done. That knowledge develops as the work unfolds. So in the final analysis, despite the use of other coordinating mechanisms, the success of the undertaking depends primarily on the ability of the specialists to adapt to each other along their uncharted route, not altogether unlike the two people in the canoe (Mintzberg, 1983).

Coordination by *direct supervision* means that a manager or supervisors coordinates the action of workers. As an organization outgrows its simplest state—more than five or six people at work in a pottery studio, fifteen people paddling a war canoe—it tends to turn to a second coordinating mechanism i.e. Direct Supervision. Direct Supervision means achieving coordination by having one person take responsibility for "the work of others, issuing instructions to them and monitoring their actions. In effect, one brain coordinates several hands, as in the case of the supervisor of the pottery studio or the caller of the stroke in the war canoe. Consider the structure of an American football team. Here the division of labor is quite sharp: eleven players are distinguished by the work they do, its location on the field, and even its physical requirements. The slim halfback stands behind the line of scrimmage and carries the ball; the squat tackle stands on the line and blocks. Mutual adjustments do not suffice to coordinate their work, so a field leader, called the quarterback, is named, and he coordinates their work by calling the plays (Mintzberg, 1983).

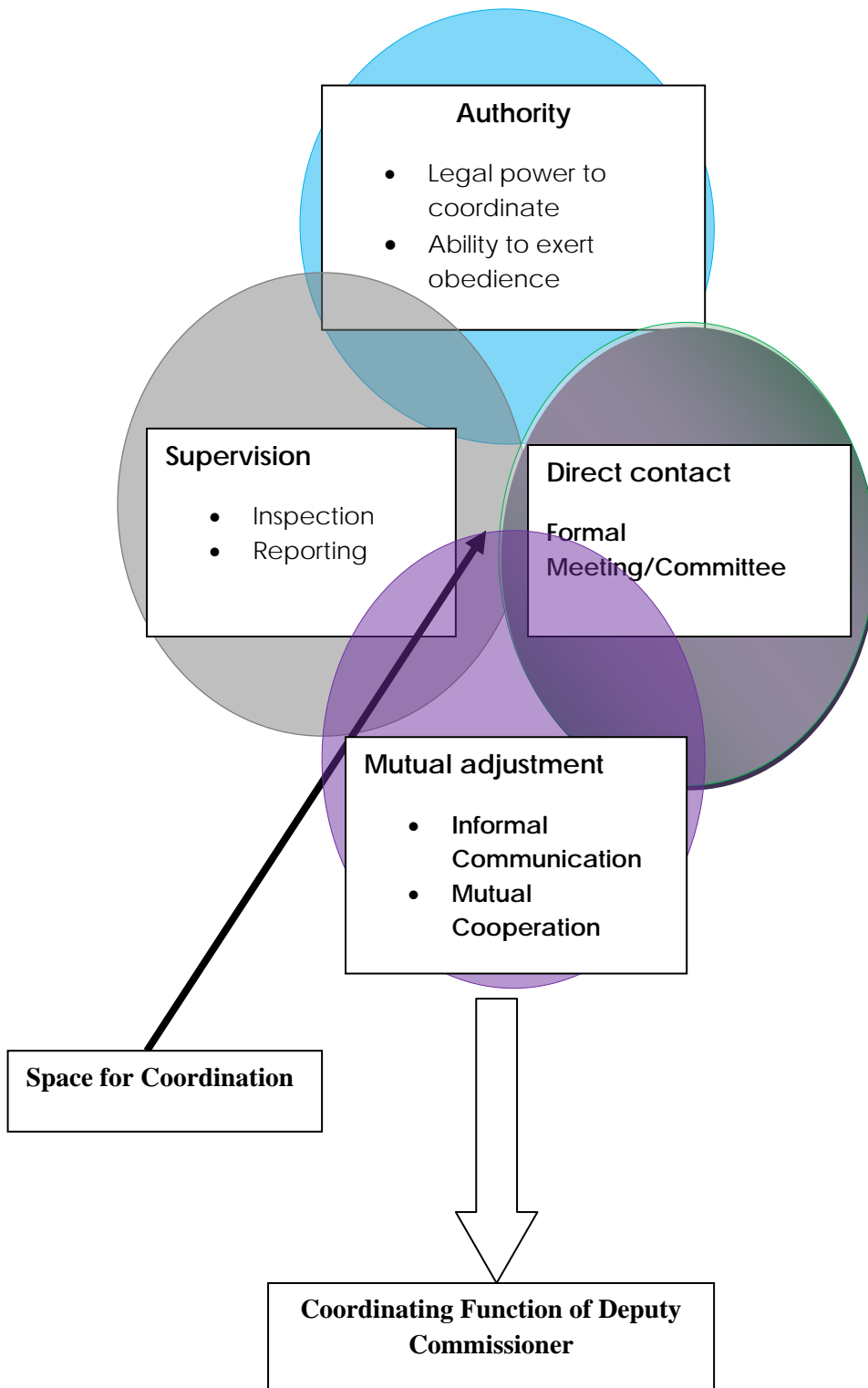
Whereas. *Standardization* may be used as a coordination mechanism in three different ways: we can standardize the worker skills that are input to the work process, the process themselves (that is the method workers use to transform inputs into outputs) or the outputs meaning the products or the services or the performance level expected of workers. Standardization usually developed by staff analyst and enforced by management that skills, processes and output meet predetermined standards. Mintzberg further suggests that the five coordinating mechanisms roughly correspond to stages of organizational development and complexity (Moorhead & Griffin1995).

Our discussion up to this point implies that under specific conditions, an organization will favor one coordinating mechanism over the others. It also suggests that the five are somewhat substitutable; the organization can replace one with another. These suggestions should not, however, be taken to mean that any organization can rely on a single coordinating mechanism. Most, in fact, mix all five. At the very least, a certain amount of direct supervision and mutual adjustment is always required, no matter what the reliance on standardization. Contemporary organizations simply cannot exist without leadership and informal communication, even if only to override the rigidities of standardization. In the most automated (that is, fully standardized) factory, machines break down, employees fail to show up for work, schedules must be changed at the last minute. Supervisors must intervene, and workers must be free to deal with unexpected problems. This favoring and mixing of the coordinating mechanisms is also reflected in the literature of management across this century (Mintzberg, 1983).

## **2.5 Analytical Framework:**

In the present study coordinating role of Deputy Commissioner is dependent on the variables of authority, direct contact, supervision and mutual adjustment. Based on the concepts discussed above, in this study an analytical framework has been drawn up to examine the implications on the coordinating role of the Deputy Commissioner in maintaining law and order in the district after separation of the judiciary.

**Figure: 1 Analytical framework of the study**



## **2.6 Operational understanding of different variables and indicators:**

### **Coordinating role of Deputy Commissioner:**

Coordinating role of Deputy Commissioner means harmonizing the activities of law enforcing agency particularly activities of police by the Deputy Commissioner in district. It also includes actions of Deputy Commissioner as chairman of District Law and Order Committee.

### **Power:**

Power is the ability of Deputy Commissioner to influence the behavior of others specially behavior of law enforcing agency. It is the ability of Deputy Commissioner to overcome resistance and get things done by law enforcing agency. It may be described as capability of Deputy Commissioner to exert obedience from law enforcing agency.

### **Authority:**

Authority is the right to manipulate or influence others. It means the legal power of the Deputy Commissioner to coordinate the law and order situation of the district. It includes power of Deputy Commissioner to exert obedience from law enforcing agency.

### **Legal power to coordinate:**

Legal power of Deputy Commissioner to coordinate means the legal power of Deputy Commissioner to coordinate law and order functions in District by virtue of law i.e. Act, Rules, Circulars issued by the Government. Police Regulation of Bengal, Police Act, 1861, Criminal Procedure Code 1898 deal with the relation between Magistrate and Police, functions of District Magistrate, Executive Magistrates. For the administration of law and order in the district, the Deputy Commissioner is legally entrusted to exercises general control over the district police. Moreover circulars issued by Cabinet division delegates overall responsibility on Deputy Commissioner to maintain law and order in District. Legal power also includes the position of the Deputy Commissioner as the chairman of District law and order committee and chairman of Police Magistracy meeting.



**Ability to exert obedience:**

Authority creates an obligation to accept and be influenced. Authority denotes the ability to influence the behavior of subordinates. It is the right to seek compliance by others. As legally authorized to coordinate law and order functions Deputy Commissioner is expected to influence the behavior of the law enforcing agency members and thereby exert obedience from them.

**Direct Contact:** One of the important means of coordination is direct personal contact. Direct contact for the purpose of this study means direct personal contact between Deputy Commissioner and the law enforcing agency. Here direct personal contact only include contact through formal way i.e. committee, formal meeting etc.

**Formal Committee/Meeting:**

Formal committee/meeting includes District Law and Order Committee Meeting, Police Magistracy meeting. District Law and Order committee consists of police, Ansar, BGB, elected representatives, lawyer, civil society member, representatives of local government, entrusted to maintain law and order in the district.<sup>7</sup> On the other hand, mostly Police and Magistrates are the member of Police Magistracy meeting.

**Supervision:**

Coordination can be achieved by direct supervision. Supervision may be defined as the direction accompanied by authority of the work of others. In its etymological sense, Supervision is the act of overseeing and guiding the activities of the subordinates by the superior (Tyagi, 1974). For the purpose of this study, supervision means inspection and reporting. These are two important means of supervision. Reporting helps to know the work progress whereas inspection helps to know about result.

**Reporting:**

Reporting means reporting orally and in written by police to Deputy Commissioner. Under PRB police Super is bound to keep the Deputy Commissioner informed of the law and order situation in district. Again, from the law enforcing agency at district level several reports on

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<sup>7</sup> Circular no 1/22/88/-sha:sa(Raj-2)124(136),dated 19/2/89 of Ministry of Home

law and order situation are send to the office of the deputy commissioner. These are weekly, fortnightly, monthly reports etc. These reports help the Deputy Commissioner to be informed about the law and order situation in district and also supervise the activities of law enforcing agencies.

**Inspection:**

Inspection means inspection of Police station by Deputy Commissioner. Deputy Commissioner by virtue of law <sup>8</sup> are authorized to inspect police station in the district. Inspection of police station helps the Deputy Commissioners to monitor overall crime situation and prevention of crime in district

**Mutual adjustment**

Mutual Adjustment consists of a constant interchange of informal communication. Individual coordinate their work through informal processes such as meetings, task forces and liaison positions, mutually adjusting to one another needs. Employees communicate with whomever they need to communicate with, without regard for formal lines of communication (Cherrington, 1989). Without cooperation mutual adjustment is not possible. Therefore in this study mutual adjustment includes informal communication and mutual cooperation.

**Informal Communication:**

In this study informal communication means conversation over phone, informal meeting, getting together in club, social program or unofficial program between police and Executive Magistrates.

**Mutual Cooperation:**

Mutual Cooperation means cooperation between police and executive magistrates, spontaneous response of police to Executive Magistrates, activity of police with Executive Magistrates.

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<sup>8</sup> Police regulation of Bengal ( Regulation 19)

## **2.6 Conclusion:**

In this chapter the conceptual dimensions, theoretical perspective and analytical framework have been discussed. On basis of the discussions, an analytical framework has been based on Concept of Authority ( Barnard 1938) to explain the right to coordinate, the ideas of ‘Mutual Adjustment’ and ‘Direct Supervision’ (Mintzberg 1979), then the concept of ‘Direct Contact’ (Follett 1941 ) to explain the functioning of coordination at the district level. The next chapter will present an overview of coordinating role of Deputy Commissioner in law and order and impact on the coordinating role of Deputy Commissioner after separation of judiciary.

## **CHAPTER 3**

### **COORDINATING ROLE OF DEPUTY COMMISSIONER IN LAW AND ORDER AND SEPARATION OF JUDICIARY: AN OVERVIEW**

#### **3.1 Introduction:**

This chapter discusses about coordinating role of Deputy Commissioner in law and order and the influence on it by the separation of judiciary in 2007. It describes the legal authority of Deputy Commissioner for coordination entrusted by different law and circulars by concern authority. Then the chapter explains how Deputy Commissioner exercises coordinating role through different committees/meetings and importance of these committees/meetings as a means to achieve coordination. The chapter also discusses other mechanisms to achieve coordination at field level i.e. informal communication, supervision etc. Lastly it talks about how separation of judiciary seems to affect the coordinating role of Deputy Commissioner.

#### **3.2 Legal rights of Deputy Commissioner for coordination**

The Government is represented by numerous department and agencies at the district level. These agencies are the instruments of government policy and thus share and work within the overall objective of that policy. The duties and responsibilities of each are assigned and separate but this general allocation does not and can not exclude overlapping, duplication, impingement on each other and competing claims. Besides, there is need for cooperation, accommodation and mutual assistance. Coordination at the district level is achieved mainly through the agency of the Deputy Commissioner. Deputy Commissioner is preferred as coordinator over all other contenders because of its inheritance of prestige and power, multifunctional character, and its traditional role of representative of and trouble-shooter to the government (Moini 1964).

Although the ultimate responsibility to protect law and order and to establish rule of law vested on the Government, but District Magistrate on behalf of the government performs this critical job. District Magistrate ensures the freedom of life, property and movement by proper application of related laws. In fact Deputy Commissioner is the custodian of life and property of public. Deputy Commissioner is the District Magistrate and Collector as well. He also

coordinates the work of all the officers of the Government posted in the district. The functions of District Magistrate have been described in Criminal Procedure Code, 1898 (Zaman, 1995). Moreover Police regulation of Bengal, Special Power Act, and Arms Act describe several functions of District magistrate. Again circulars issued by the Cabinet Division also delegate authority on the Deputy Commissioner/District Magistrate to maintain law and order in district.

District Magistrate is entrusted with supervising the activities of police in district. He is responsible for prevention of riot; maintain public tranquility, controlling law and order in a district. Deputy Commissioners are still directed for proper application of different laws, to conduct law and order meeting to inspect subordinate court and police station in order to improve the law and order situation in district <sup>9</sup>(Zaman, 1995). District magistrates are authorized to maintain the district jail, issue arms, to conduct public examination, national, local government elections and mobile court etc. He has also duties regarding prevention of smuggling, drugs in district.

Criminal Procedure Code (Cr.P.C.) assigns some authority on Deputy Commissioner to maintain law and order in district. Functions of district magistrate have been described in Schedule III and Schedule IV of Criminal Procedure Code, 1898 as amended up to 2007. Disperse of unlawful assembly<sup>10</sup>, proceeding for security for keeping peace and for good behavior<sup>11</sup>, removal of public nuisance,<sup>12</sup> temporary orders in urgent cases of nuisance or apprehended danger<sup>13</sup>, disputes as to immovable property<sup>14</sup> etc are some important law and order function of District Magistrate under Cr.P.C.

Different regulations of Police Regulation of Bengal (PRB), 1943 assign some authority to the District Magistrate. PRB deals about the relation between police and magistrates in a district, the Superintendent of Police is the immediate head of the police force of the district and is responsible for all matters concerning its internal economy, management, efficiency and discipline. Police Super is also responsible subject to the general control of District

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<sup>9</sup> Circular no *Ma Pa Bi/Ze Pro-4/9(66)/92*(Angsha-1)/109, dated 05/05/93 of the Cabinet Division

<sup>10</sup> Section 127-132, of chapter IX of CrP.C. 1898 as amended upto 2007

<sup>11</sup> Sec 107-121, Chapter VIII. CrP.C 1898 as amended upto 2007

<sup>12</sup> Sec 132A-143, chapter X, CrP.C. 1898 as amended upto 2007

<sup>13</sup> Sec 144, chapter XI, CrP.C. 1898 as amended upto 2007

<sup>14</sup> Sec 145-148, chapter XII, CrP.C. 1898 as amended upto 2007

Magistrate for criminal administration and for proper performance by officers subordinate to him of all preventive and executive duties.<sup>15</sup>

The above mentioned law and also circulars issued from cabinet division and other ministry vests the Deputy Commissioner the authority to coordinate law and order situation in district.

### **3.3 Committee as a means to achieve coordination:**

At the past the means of achieving coordination was more or less informal and subsequently the need for systematic, continuous and exact method of coordination was sought and some attempts to achieve coordination through different committees were introduced. Committees as key mechanisms of coordination are considered important to ensure coordination in the activities of various departments. One of the ways to reduce intergroup conflict is bringing the group together and increasing the contact between them. Communication between head of the groups or department rather than members of group may help to increase cohesiveness. Through meeting heads of departments can identify problem or issue, can get facts, opinions, ideas and also provide facts, opinion, ideas, clarify a confused situation and can reach to an agreement (Tyagi,1974). And in this way interaction between the heads of the department leads to reduce complexity, solve problem and to reach to a decision and ultimately to achieve coordination. The extent to which coordination is achieved through committees depends largely on how frequently the meetings of a committee are held; how many members attend, bring up issues in the meetings, and participate in the discussion of such issues; and how well they interact and how cordial they are to the problems faced by others.

District Law and Order Committee is entrusted in maintaining law and order at district level and the committee as per Government directives is represented by concerned authorities. Deputy Commissioner is the chairman of the district Law and Order Committee.<sup>16</sup> District law and order committee is assigned to examine crime and the overall law and order situation of the district, initiate and execute plan to keep the law and order situation stable, start and implement program to prevent the criminal activities, to take programs and implement these programs in order to control heinous crime i.e. murder, rape, kidnapping, acid throwing, eve teasing, extortion etc, aware citizen and involve them in activities to control crime and

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<sup>15</sup> Regulation 15, Police Regulation of Bengal,1943

<sup>16</sup> Circular no 1/22/88-*Sha:Sa(Raj-2)*124(136), dated 19/2/89) of Home Ministry

criminals, encourage the law enforcing agency to take integrated steps in order to prevent crime, take all other necessary steps to maintain stable law and order situation, and act as per direction given by the government time to time.<sup>17</sup> Through the proper functioning of the District Law and Order Committee and through the active participation of the members of the law and order committee specially by the active participation of Police Super and head of other law enforcing agency, Deputy Commissioner can coordinate the law and order function in a district.

Again Police Magistracy Meeting is an important way to coordinate issues arises between police and Magistrates.<sup>18</sup> In this meeting the overall crime feature, the progress of investigation by police, First Information report (FIR), Seizure list, charge sheet, Final Report, progress of process execution, arrest by police under 54 and other related matter are discussed. District Magistrate is president and Police Super is member in the meeting. Different issues between police and magistrates are discussed in this meeting and it is possible to come to a solution. It is very much important to arrange Police Magistracy meeting between police and magistrates in order to achieve better coordination. The aim of the Police Magistracy meeting is to remove the communication gap between police and Magistrates, to examine the activities of police and to take preventive measure in order to prevent crime in a district.<sup>19</sup> Moreover, Police Magistracy meeting is very much important to determine strategy in order to maintain stable law and order situation in a district. Because there are some matters which need to be discussed only in Police Magistracy meetings as these cannot be discussed publicly in other meetings including District law and order meetings.

### **3.4: Other mechanisms of coordination by Deputy Commissioner:**

Besides formal relation between District Administration and Law enforcing agencies in every district there are some informal ways to settle down issues between them. Informal communication mechanisms i.e. conversation over phone, informal meeting, getting together in some unofficial programs or some social programs is the key to co-ordination. Effective interchange of opinions and information helps in resolving differences and in creating mutual

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<sup>17</sup> Circular no *sha ma(raj-2)Aa Shri ka-Zila/2/3/2009/214* dated 03.03.2009 of Home Ministry, GOB

<sup>18</sup> Circular No *Ma Pa Bi/chi ge-1/8-21/88-244(600)* dated 01/9/92 of the Cabinet Division

<sup>19</sup> Memo no *Ma Pa Bi/si je-1/4-21/88-244(600)* dated 01/09/92 of Cabinet Division

understanding. Informal means of communication are usually as effective in public administration as in private life. Public officials are human beings like ordinary citizens and therefore meet fellow officials in clubs, restaurants and other meeting places and have family and neighborhood relationships like all other people. It is therefore natural that they must discuss among others different issues, (i.e., who is doing what, who is having what problem, who needs what), problem of departmental conflicts. The exchange of information works in two ways that lead to coordination: it enhances the appreciation of the actors of their mutual problems and interdependencies and influences their decisions and actions (Alexander, 1995: 43), thereby facilitating mutual learning.

Reporting and inspection are complementary devices of supervision and the latter almost always follows the former. Supervisors need to see for themselves that work is being performed and how it is being done. Moreover through supervision personal contact is possible with operating employees and supervisors become able see with their own eyes the circumstances and difficulties under which the operating team has been working. Inspection as a technique of supervision can be used to encourage and help rather than annoy and hinder the operating heads in the performance of their work (Tyagi, 1974). District Magistrate is responsible for constant supervision over the detection and prevention of crimes for the proper conduct of which he is ultimately responsible to the government. It is an important duty of District Magistrate to inspect police stations of his district at regular intervals.<sup>20</sup>

One of the important techniques of supervision which is very common among government agencies is to require the operating units to submit periodical reports of their performance. These reports may be statistical or narrative and may be brief and detailed. The central office usually lays down the scope and format of these reports and also prescribes the periodical limits within which the reports have to be submitted. Reporting can be a very effective method of improving administrative performance and efficiency. It can be used as a convenient device of self examination (Tyagi, 1974). Office of the Deputy Commissioner works as coordinator to collect reports from office of Superintendent of Police, such as weekly report of district law and order situation, special fortnightly report on district law and order situation, special fortnightly report on smuggling, report regarding regional taskforce

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<sup>20</sup> Regulation 19, Police Regulation of Bengal, 1943



on smuggling, report on prevention of smuggling etc.<sup>21</sup> Besides these report, Police Regulation of Bengal (PRB 1943) entrusted the Superintendent of Police to be in close touch with District Magistrate. The Superintendent of Police is bound to be in constant personal communication with the District Magistrates whenever possible and consult District Magistrate on all important matters. It is incumbent on Superintendent of Police to afford the District Magistrate all possible assistance in the criminal administration of the district and in such matters he shall as far as possible accedes to his wishes.<sup>22</sup>

### **3.5 Impact of separation of judiciary on the coordinating role:**

Before separation of judiciary, among subordinate criminal courts, in magistrate courts judicial function was conducted by the District Magistrate and his subordinate Executive Magistrates. This functioning has been practiced by him from 1787. He was worked as court of first instance and appeals were heard by Court of Sessions. He had power to hear appeals in some cases (Section 144,145 of CRPC). Before separation of Judiciary, there were three types of magistrate courts. Those were First Class Magistrate, Second Class Magistrate, and Third Class Magistrate. These magistrates were appointed from executive organ of the state. District Magistrate was the First Class Magistrates. Executive Magistrate had power to take cognizance of offence, issue warrant of arrest, power to grant bail, try cases, to pass sentence of imprisonment maximum up to five years and also power to impose fine, to record confession, to order for detention, etc. Now a District magistrate has lost these powers and a result drastic change has been brought in the power structure of Deputy Commissioner after separation of judiciary.

For effectively playing the role of coordinator in law and order mentioned above, the Deputy Commissioner needs the active cooperation of law enforcing agency i.e. police, Border Guard Bangladesh, Ansar and also cooperation from the other departments. As before separation, police was functionally under the control of District Magistrate, mutual cooperation scenario between police and executive Magistrates was also good. Before separation police force was connected with District Magistracy for functioning of the judicial process. Now police are not functionally connected with District Magistracy through court proceeding. Therefore District Magistrate has lost actual control over police. Moreover after separation of judiciary, Police

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<sup>21</sup> Judicial Munshikhana, Office of the Deputy Commissioner.

<sup>22</sup> Regulation 16 of Police Regulation of Bengal

Magistracy meeting which was held at Office of the Deputy Commissioner is now being held at Office of the Chief Judicial Magistrate in Sessions Judges court. Therefore there may be some coordination gap between police and Executive Magistrate. Moreover, scope of informal communication between police and Executive Magistrate seems to be narrow after separation of judiciary.<sup>23</sup>

### **3.6 Conclusion:**

Deputy Commissioner is entrusted by law to coordinate law and order situation in district. But according to information reported in different official reports and proceedings of Conferences of Deputy Commissioners, separation of judiciary seems to have weakened the mechanism of exercising coordinating role by Deputy Commissioner. This study therefore is intended to assess whether separation of judiciary has had any impact on the coordinating role of Deputy Commissioner on maintaining law and order in the district. The next chapter will present the analysis and findings of the study. And for this purpose the data will be analyzed and subsequently findings will be presented.

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<sup>23</sup> Researcher's personal experience while working at field level

## CHAPTER 4

### FINDINGS AND ANALYSIS

#### 4.1 Introduction

This chapter discusses findings of the study. This study has been conducted to examine the implication of separation of judiciary on the coordinating role of Deputy Commissioner in maintaining law and order in the district. In this regard the study focuses on two research questions: (1) Does separation of judiciary has any impact on the coordinating role of Deputy Commissioner in maintaining law and order? and (2) What is the nature of such impact on the coordinating role of Deputy Commissioner? With a view to addressing the above mentioned questions, a survey has been conducted in Gazipur District. The survey has been conducted on a total sample population of fifteen Executive Magistrates, ten Police personnel, two local politician, five lawyers, four journalists, four civil society member/citizens and ten different government officers at district level. In addition to that, concerned Deputy Commissioner, Superintendent of Police, Member of Parliament, lawyers, journalists have been interviewed through unstructured questionnaire in order to know about their opinion on the issue. In order to present the data in sequence, at first, the data have been furnished highlighting the different variables. Similarly, the study findings and its relevant analysis have been expressed accordingly. All these are done in order to justify the analytical framework of the study with a view to achieve the research objectives. Please note that the detailed data of findings of this study in Tables and other presentation forms have been put in Annexure- 4 and 5, while in this chapter the main findings and their analysis has been discussed.

#### 4.2 Authority of Deputy Commissioner

It was found in the study that separation of judiciary has not brought any change so far regarding the legal authority of Deputy Commissioner to coordinating law and order. Again the relevant regulations of Police Regulation of Bengal (PRB) dealing with relations between police and magistrates have not been changed. Theoretically the Deputy Commissioner is still authorized to coordinate law and order function even after separation of judiciary as he is holding the position of chairman of the District Law and Order Committee. Deputy

Commissioner is also the chairmen of Police Magistracy meeting. But in practice, as Deputy Commissioner has no authority on criminal justice system and thereby actual control on the prosecuting agency in court i.e. police, this study indicates that the Deputy Commissioner is facing some problems in coordinating law and order in district. Though his authority of coordination has not been decreased in law but practically he is not that much able to exert obedience from law enforcing agencies in maintaining law and order in the district.

**Table -3: Perception about reduction power of Deputy Commissioner**

(Q. Do you think that power of Deputy Commissioner has reduced after separation of judiciary?)

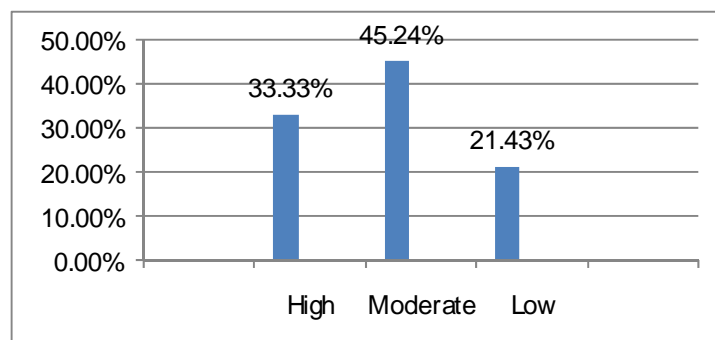
Response	No of respondent
Yes	42
No	8

Source: Field survey n=50

It was found in this study that among 50 respondents 42 ( 84 %) think that power of Deputy Commissioner has been reduced and 8 (16%) respondents think that power of Deputy Commissioner has not been reduced after separation of judiciary. Among the respondents who replied in affirmative, Executive Magistrates were 14, citizen/district level officer were 19 and police were 9. And of the respondents who replied “No”, 6 represented citizen/district level officers, while one was from the police and another one from Executive Magistracy.

**Figure No 2: Extent of reduction of power of Deputy Commissioner**

(Q. How do you evaluate the extent of reduction of power of Deputy Commissioner?)



Source: Survey data n=42

It is evident from the above graph that 33.33 percent of the respondents think that power of Deputy Commissioner has been highly reduced after separation of judiciary, while the highest number , i.e. 45.24 percent opined that power reduction is moderate, while 21.43 percent think that power reduction is low. However, out of 14 Executive Magistrates surveyed 9 said reduction of power is high, 3 said that reduction of power is moderate and 2 said reduction of power is low. Out of 19 citizen/district level officers surveyed, 4 said reduction of power is high, 11 said reduction of power is moderate and 4 said reduction of power is low. On the other hand, among 9 police personnel of the sample, only one person said reduction of power is high, while 5 said that reduction of power is moderate and 3 said that reduction of power is low.

The box below adds more to the picture that we have got so far about the reduction of power by the Deputy Commissioner

**Box-1:**

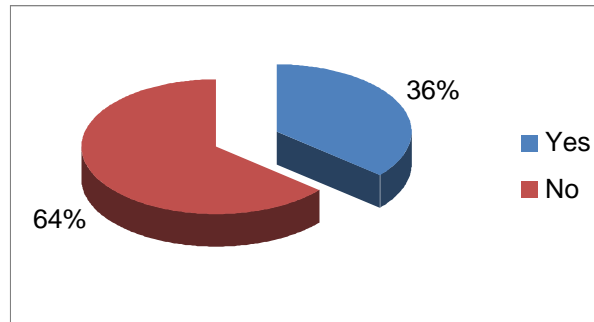
**Reduction of Authority of Deputy Commissioner**

Presently Deputy Commissioner has no authority on the judicial proceedings including granting bail, therefore Deputy Commissioner is facing problem in coordinating law and order situation. Previously Deputy Commissioner had been informed of the criminals of heinous crimes and had knowledge about the total crime and law and order scenario of the district. Deputy Commissioner could manage to reject bail of accused of heinous crime and could contribute to the prevention of crime in district. But after separation of judiciary, Deputy Commissioner can not exercise this authority.

Source: Advocate and Ex-President Bar Association

**Figure-3: Perception regarding respect of Law Enforcing Agency**

(Q. Do you think that respect of law enforcing agencies towards DC/Executive magistrates reduced after separation of judiciary?)



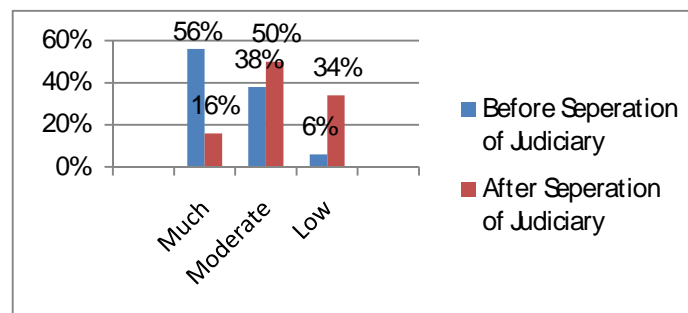
Source: Survey

n=50

It is revealed from the above figure that 64 percent (32) respondents think that respect of law enforcing agencies towards Executive Magistrates has not reduced after separation of judiciary, but 36 percent (18) think that respect of law enforcing agency towards Executive Magistrates has reduced after separation of judiciary. However out of 15 Executives Magistrates 10 said respect of law enforcing agency has reduced and 5 said respect has not been reduced after separation of judiciary. Out of 10 police personnel, all said respect of law enforcing agency has not reduced. On the other hand, out of 25 citizen/District level officers surveyed, 8 said respect of law enforcing agencies has been reduced and 17 said respect has not reduced after separation of judiciary.

**Figure-4: Perception regarding obligatory force of the instructions of D.C. before and after separation of Judiciary**

(Q.To what extents were/are the instructions of Deputy Commissioner obligatory for law enforcing agencies before/after separation of judiciary?)



Source: Survey data

n=50

It is evident from the above figure that, obligations of the law enforcing agencies to carry out the instructions of Deputy Commissioner has been reduced. According to 56 percent of respondents, instructions of Deputy Commissioner was much obligatory before separation of judiciary, according to 38 percent respondents, instructions of Deputy Commissioner was moderately obligatory and according to 6 percent respondents before separation, instruction of Deputy Commissioner had less obligations. On the other hand, after separation of judiciary only 16 percent respondents think that instruction of Deputy Commissioner is much obligatory, while 50 percent think that it is moderately obligatory and 34 percent think that instructions of Deputy Commissioner is of less obligatory now.

It is revealed from the study (See Table A2 in Annexure 5) that most of the Executive Magistrates (80%) and most of the Citizen/District Level officers (52%) said before separation of judiciary, instructions of Deputy Commissioner was highly obligatory. On the other hand, most of the police (60%) said before separation instruction of Deputy Commissioner was moderately obligatory. It was also found that (see Table A3 in Annexure 5) most of the Executive Magistrates (46.67%) said after separation of judiciary, instructions of Deputy Commissioner became less obligatory. On the other hand, most of the Citizen/District Level officers (56%) and most of the police personnel (60%) opined said that after separation of judiciary, instructions of Deputy Commissioner is moderately obligatory now. The prevailing scenario is also reflected in the following case cited below:

#### **Box- 2**

##### **Illegal Occupation of Private Land**

A number of elites illegally occupied a land of some innocent people which has been reported in news paper. President of Press Club attract the attention of Police Super regarding this issue in District Law and Order Committee Meeting. This issue has been discussed in three consecutive meetings of the District Law and Order Committee. Deputy Commissioner requested the Police Super to take necessary action in this matter. Police Super assured to take necessary steps in order to solve the problem. Even Deputy Commissioner talked over phone to the officer in charge to take necessary actions in this issue. But no significant action has been taken in this issue. Lastly the matter was solved with the intervention of the Home Minister.

Source: Press Club

Thus, the above case reveals that after separation of judiciary, the members of law enforcing agencies are less concerned to comply with the orders of the District Magistrates and to implement the decisions of the District Law and Order meetings. It can be assumed that as Deputy Commissioner has no power to take cognizance and to try cases, law enforcing agencies often neglect the orders of District Magistrate.<sup>24</sup>

After losing magisterial power, psychological conflict between Deputy Commissioner and Police Super seems to have reached to the extreme. Before separation as Deputy Commissioner exercised magisterial power, Police Super was somewhat bound to pay heed to Deputy Commissioners direction/order/request but the scenario totally changed after separation.<sup>25</sup> In law and order meetings many decisions are taken to keep the law and order situation stable but these decisions are not implemented properly by the police. Police now are somewhat reluctant to execute the instructions of Deputy Commissioner. The instructions of Deputy Commissioner have become less obligatory.<sup>26</sup>

It was found in the study that ( See Table A4 in Annexure 5), 60 percent of respondents (30 respondents) believe that after separation of judiciary, Deputy Commissioner is facing problems in coordinating law and order situation; while 40 percent respondents (20) believe that Deputy Commissioner is not facing any problem in coordinating law and order situation. Most of the respondent who said that Deputy Commissioner is facing problem to coordinate law and order opined that law enforcing agencies are reluctant to implement the instructions of Deputy Commissioner properly, as after separation of judiciary, District Magistrate has less control over law enforcing agency. Some of the respondents said that Deputy Commissioner has no authority over judicial proceeding including bail. As a result, Deputy Commissioner cannot reject bail of heinous criminals and criminals by coming out of jails by getting bail are repeating these heinous crimes. Some respondents opined that after separation of judiciary, members of law and order meeting remain absent in the meeting and hence the meeting became ineffective which negatively affect the coordinating role of Deputy Commissioner.

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<sup>24</sup> President, Press club

<sup>25</sup> Ex-Deputy Commissioner, Gazipur

<sup>26</sup> Comments by Member of the Parliament, Gazipur



### 4.3 Direct contact:

#### Direct contact between police and Executive Magistrates

Though Police Magistracy meeting is very much crucial for effective coordination between police and magistrate and Deputy Commissioner is the chairperson of the meeting. After the separation of judiciary, although there has not been any instruction or Circular from the Cabinet Division not to discontinue with this meeting in Office of the Deputy Commissioner, nevertheless the Police Magistracy meeting is not being held in the office of the Deputy Commissioner after separation of judiciary. Now a day this meeting is being held not between Police and Executive Magistrate but between Police and Judicial Magistrate in the office of the Chief Judicial Magistrate as Cr.R.O directs CJM or CMM to conduct this meeting once in a month.<sup>27</sup> This is so because the District Magistrate is now not authorized to take cognizance of offences, to try case, issue process<sup>28</sup>, to impose punishment and this authority has been vested to the judicial magistrates. Therefore it seems to be logical to organize the meeting at office of the Chief Judicial Magistrate but still there are many tasks of executive magistrates where the appearance and active cooperation/assistance of police is essential i.e. dispersal of unlawful assembly<sup>29</sup>, proceeding for security for keeping peace and for good behaviour<sup>30</sup>, removal of public nuisance,<sup>31</sup> temporary orders in urgent cases of nuisance or apprehended danger<sup>32</sup>, disputes as to immovable property,<sup>33</sup> etc. Moreover for the proper functioning of mobile courts, public examinations, evacuation, and election activities active cooperation of police is quite essential. However, due to lack of interactions in Police Magistracy meeting under the changed scenario, it is now not possible to discuss and solve many issues that arise from time to time between police and magistrates. It is interesting to note that after separation of judiciary no initiative has been taken on either part of police or magistrates to solve this issue.<sup>34</sup> And the whole situation is in limbo.

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<sup>27</sup> Rule 481 of Criminal Rules and Order as amended upto 2009

<sup>28</sup> Process means the procedure to ensure the appearance of accused at the court  
i.e. summon, warrant, proclamation, attachment

<sup>29</sup> Section 127-132, of chapter IX of CrP.C. 1898 as amended upto 2007

<sup>30</sup> Sec 107-121, Chapter VIII. CrP.C 1898 as amended upto 2007

<sup>31</sup> Sec 132A-143, chapter X, CrP.C. 1898 as amended upto 2007

<sup>32</sup> Sec 144, chapter XI, CrP.C. 1898 as amended upto 2007

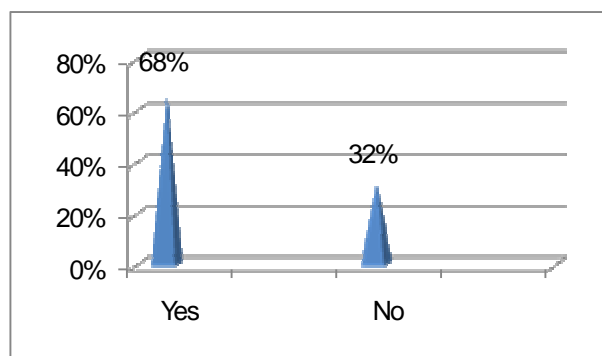
<sup>33</sup> Sec 145-148, chapter XII, CrP.C. 1898 as amended upto 2007

<sup>34</sup> Ex Deputy Commissioner, Gazipur

On the other hand, District Law and Order Committee meeting is still being held in the Office of the Deputy Commissioner after separation of judiciary. But after separation of judiciary, the Law and Order Committee meeting has become to some extent ineffective as it seems that participation of the police in the Law and Order meeting has reduced. Police Super seldom attends the meetings and most of the time representative of Police Super is sent. Therefore decision making is hampered in the law and order meetings. Members of the meeting discuss different issues regarding law and order situation in the district, but because of the absence of the head of police of the district, representatives might not always come to concrete decisions and hence decision making and implementation seems to be delayed.<sup>35</sup> Before judicial separation, participation of Police Super in law and order meeting was found to be moderate. (Figure A4 Annexure 5) If he could not present then he informed his inability prior to the meeting. But now in most cases Police Super remain absent in meeting without informing in the early hours. Representatives of Police Super can not inform the committee about the implementation of decisions held in the previous meeting.<sup>36</sup>

**Figure -5: Reduction of formal communication between Police and Executive Magistrates**

(Q. Has formal communication between police and Executive Magistrates reduced after separation of judiciary?)



Source: survey

n=50

In this study, it was revealed from the above figure that 68 percent of respondents think that after separation of judiciary, formal communication between Police and Executive

<sup>35</sup> Ex Deputy Commissioner, Gazipur

<sup>36</sup> Ex Deputy Commissioner, Gazipur

Magistrates has been reduced and 32 percent think that formal communication has not changed after separation of judiciary.

As regarding the participation of Police Super in law and order meetings question was asked to only to Executive Magistrates and Citizens/District level officers. In order to avoid biasness, police was not asked this question. Out of 40 respondents, 3 respondents refrained from giving answer. .It is evident from the figure that ( See Figure A4 in Annexure 5) before separation of judiciary according to 27 percent respondents, participation of Police Super in Law and Order Meeting was high, according to 72.97 percent respondents, participation of Police Super in Law and Order Meeting was moderate but nobody mentioned that it was low. On the contrary, after separation of judiciary no one opined that participation of Police Super in Law and Order Meeting is high, as according to 43.24 percent respondents, participation of Police Super in Law and Order Meeting is moderate and according to 56.76 percent respondents, participation of Police Super in Law and Order meeting is low. This situation becomes even clearer when a picture reflected in the official records of the meeting as evident in the findings in the table below:

**Table -4: Participation of Police Super in District Law and Order committee meetings**

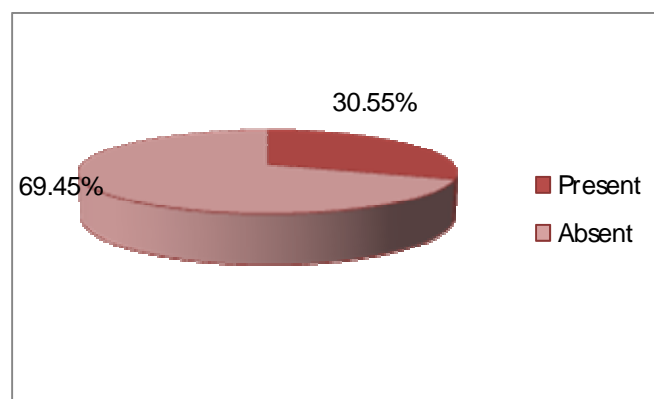
<b>Duration</b>	<b>Designation of officer</b>	<b>No of meeting</b>	<b>%</b>
(From January 2008- December 2010) = 3 year( total 36 month)	Superintendent of Police	12	30.55%
	Representatives	23	66.66%
	Nobody from police	1	2.78%
	Total	36 meeting	100%

Source: Minutes of District Law and Order committee meeting, D.C. Office

It is revealed from the above table derived from minutes of District Law and Order committee meetings of Office of the Deputy Commissioner that from the period from January 2008 to December 2010, thirty six law and order meetings have been arranged in the district. However, in spite of being Vice Chair of District Law and Order committee and in light of

some official circulars of the government<sup>37</sup> regarding the compulsory participation of Police Super in Law and Order meetings, out of thirty six meetings the Superintendent of Police of District attended only 12 meetings and then sent his representatives in rest 23 meetings and in one meeting no one from police was present. It is also evident from this study that ( See Table A5 in Annexure 5 details) in meetings where representatives of Police Super were sent, Additional Superintendent of Police was present in seventeen meetings, Senior Assistant Superintendent of Police was present in one meeting, Assistant Superintendent of Police was present in four meeting and in one meeting a police officer of inspector level was present. This only indicates the lack of importance that the Police give to such meetings and lack of direct contact between Deputy Commissioner and Police only undermines the coordinating role of the Deputy Commissioner in matters of maintenance of law and order in the district.

**Figure-6: Percentage of Police Super’s participation of in Law and Order Meetings**



Source: Minutes of District Law and Order committee meeting, Judicial Munshikhana, Gazipur D.C. Office

The above figure shows that from January 2008 to December 2010 in three years, out of thirty six law and order meetings Police Super was present in 30.55 percent meetings and his representatives was present in 69.45 percent meetings. The absence of Police Super in Law and Order meetings is also clear from the below mentioned statement.

<sup>37</sup> Circular no Ma Pa Bi/Si je-1/8-10/90(Angsha)-34(500) dated 30-1-1992 of Cabinet Division, Government of Bangladesh.

**Box-3**

**Absence of Police Super in Law and Order Meeting**

Most of the time Superintendent of Police remain absent and representatives are sent on behalf of him in the District Law and Order committee meeting which was not that much common before judiciary separation. If we ask the reason for absence, Police Super shows different causes but as there is no appropriate way to examine the cause of nonattendance we cannot held them accountable.

Member of Parliament and Advisor of the District Law and Order Committee

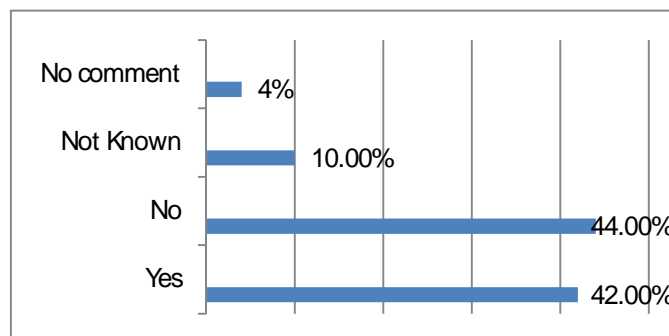
**4.4 Mutual Adjustment Scenario**

**Informal Communication**

Informal Communication is one of the best ways to mutually adjust and is an important ingredient of coordination. The figure below reveals the scenario of informal communication between police and Executive Magistrates before and after separation of judiciary.

**Figure-7: Informal Communication between Police & Executive Magistrate after separation of judiciary**

(Q.Has the frequency of informal communication (conversation over phone, informal meeting, getting together in club, social program) between police and Executive magistrates reduced after judiciary separation)



Source: Survey data

n=50

It is revealed from the above Figure that 42 percent (21) respondents think that after separation of judiciary, informal communication between police and Executive Magistrates (conversation over phone, getting together in club, social program) has been reduced, while 44 percent (22) respondents think that informal communication between police and Executive Magistrates has not reduced, while 10 percent respondents do not know about it and 4 percent respondents did not comment on it. Some respondents, who said that informal communication between police and magistrates has reduced, opined that it has reduced because scope of interaction between Police and Executive Magistrates has become narrow compared to the past. Because of their job nature, Police do not need the opinion of magistrates after separation of judiciary. Dependency of law enforcing agency on Executive Magistrates has reduced after separation, therefore Police do not think it necessary to maintain informal communication with Executive Magistrates. Deputy Commissioner in order to keep law and order situation stable has to spontaneously maintain informal communication with Police. For example, Deputy Commissioner rings up Police Super on and off, but Police Super hardly talks to the Deputy Commissioner on his own.<sup>38</sup> However, some respondents opined that informal communication and mutual cooperation sometimes depend on the interpersonal relations between Deputy Commissioner and Police Super.<sup>39</sup>

It is also revealed from the study that ( See Table A6 Annexure 5) out of 15 Executive Magistrates, 11 said that informal communication between police and Executive Magistrates has been reduced while 4 said that it has not been reduced after separation of judiciary. On the other hand, out of 10 police personnel, 2 did not comment on it, 3 said that informal communication between Police and Executive Magistrates has been reduced, while 5 said that informal communication between police and Executive Magistrates has not been reduced. Similarly out of 25 citizens/district level officer, 7 said that informal communications between police and Executive Magistrates has been reduced and 13 said that informal communication between police and Executive Magistrates has not been reduced, while the rest 5 have no idea about it.

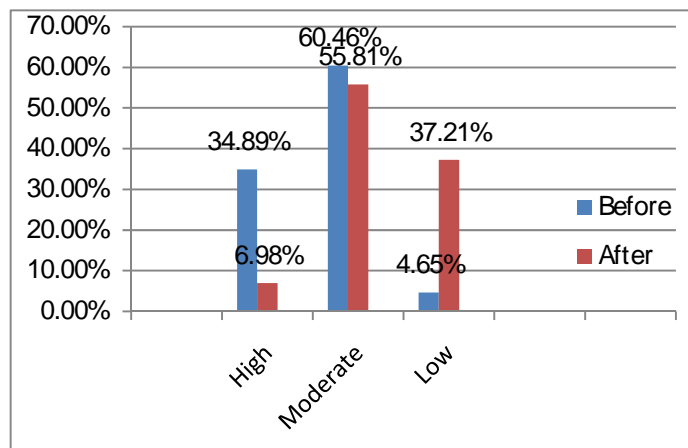
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<sup>38</sup> Ex Deputy Commissioner, Gazipur

<sup>39</sup> President, Press Club

### Figure-8: Extent of informal Communication Before & After Separation of Judiciary

(Q.How would you assess the frequency of informal communication between police and Executive Magistrates before/after separation of judiciary?)



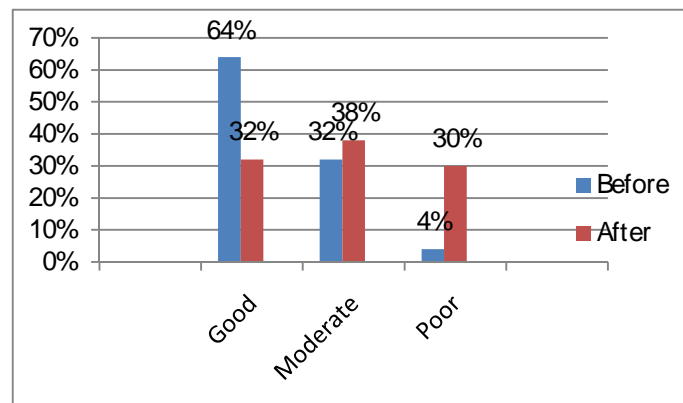
Source: Survey data n=50

The above figure reveals that according to 34.89 percent respondents, before judiciary separation, informal communication between Police and Executive Magistrates was high; while 60.46 percent respondents thought that informal communication between police and Executive Magistrates was moderate and 4.65 percent thought that it was low. But after separation of judiciary, only 6.98 percent think that informal communication between police and Executive Magistrate is high, while 55.81 percent think that it is moderate, 37.21 percent think that it is low now.

## Mutual Cooperation:

**Figure-9: Mutual Cooperation between Police & Executive Magistrate after separation of judiciary**

(Q. How would you evaluate mutual cooperation between police and Executive Magistrates before/after separation of judiciary?)



Source: Survey data

n=50

The findings of the study in the above figure shows that 64 percent respondents think that before separation of judiciary, mutual cooperation between Police and Magistrates was good, 32 percent think that it was moderate and 4 percent think that it was low, but after separation of judiciary according to the opinion of the 32 percent of respondents, mutual cooperation between Police and Executive Magistrates is good, according to 38 percent it is moderate and 30 percent think that it is poor now.

It is further revealed from the study that ( See table 7Annexure 5) most of the Executive Magistrates (66.67%), police (90%) and citizen/district level officer (52%) said that before separation of judiciary mutual cooperation between police and Executive magistrates was good. On the other hand, after separation of judiciary ( see Table A8 Annexure 5) according to most of the Executive Magistrates (40%) mutual cooperation between police and Executive Magistrate became Poor. However most of the Citizen/district level officers (40%) said that after separation of judiciary mutual cooperation between Police and Executive Magistrate became moderate. Interestingly, according to most of the Police (70%), mutual cooperation between Police and Executive Magistrates remain good even after separation of judiciary. The poor mutual cooperation of Police and Executive magistrates is also evident from the incident mentioned below.



#### **Box-4**

##### **Illegal Occupation of Public Land**

Land of Court of Wards was illegally occupied by some local people for long. Civil suit was pending in the court of law for around 35 years and at last the case was disposed in High Court. High Court issued order to concern authority to evacuate the illegal occupant from the land. In order to implement the order of the Honorable High Court, Police Super, Officer in Charge of the concerned Police Station was officially informed by the district administration regarding the evacuation. Deputy Commissioner appointed Executive Magistrate to evacuate illegal occupier from the land. On the day of evacuation, executive magistrates went to the spot to evacuate illegal occupants. But the local people obstructed the executive magistrates. Police were inactive and reluctant to take any step rather police were saying that they were not instructed from higher authority and can not proceed to evacuate in this place. Magistrates could not but then leave the place in front of the protest of aggressive people. Deputy Commissioner then communicated with higher authority regarding this matter and also communicated this matter with army officer as this occurred during Caretaker regime and army was working at that time in aid to civil power. Later, Police Super admitted his lapses. Subsequently with the help of army and Police, Deputy Commissioner evacuated the illegal occupants.

Source: Press Club

the study it has also been found that (see Table A9 in Annexure 5) among 15 respondents, 6 respondents (40%) opined that after separation of judiciary Police still spontaneously respond to Executive Magistrate. But 9 respondents (60%) opined that after separation of judiciary police do not spontaneously respond to Executive Magistrate.

Moreover, the study also indicates that (See details in Table A10 in Annexure 5) among 15 respondents, 6 respondents (40%) opined that after separation of judiciary, Police do not actively work with Executive Magistrates; but 9 respondents (60%) opined that after separation of judiciary still Police actively work with Executive Magistrate.

#### **4.5. Supervision:**

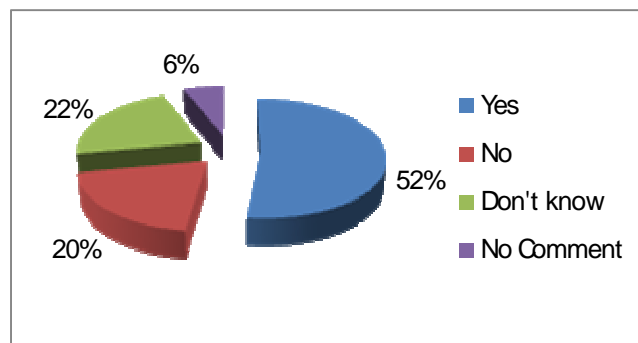
##### **Inspection**

Deputy Commissioner is liable for constant supervision over the prevention and detection of crime, for the proper conduct of which he is ultimately responsible. An important duty of

Deputy Commissioner is to inspect the police stations of his district at regular intervals. It is not necessary for him to examine the details of the working of the department but he should give special attention to general diary, recording of vital statistics, working of Arms Act, general state of crime in the police station, working of Sub- Inspector, working of police station officials, etc.<sup>40</sup>

**Figure -10: Inspection of Police station by Deputy Commissioner after separation of judiciary**

(Q. Does Deputy Commissioner inspect police station regularly after separation of judiciary?)



Source: Survey data

n=50

It has been found in the study that 52 percent of respondents said that Deputy Commissioner inspects police station after separation of judiciary. 20 percent said that Deputy Commissioner does not inspect police station after separation of judiciary. 22 percent respondents do not know about it and 6 percent respondents did not comment on it. Some respondents who replied in affirmative also said that although Deputy Commissioner does inspect police stations, such inspection has become to some extent ceremonial now.

The study further indicates that (See Table A11 in Annexure 5) most of the Executive Magistrates (66.67%) and all Police (100%) said that Deputy Commissioner inspect police station regularly even after separation of judiciary. But most of the citizen/district level officers (44%) have no idea about it. Some respondents refrained from putting any comment on it.

Though Deputy Commissioner inspects police stations regularly after separation of judiciary but sometimes he faces some problems in inspecting police stations. After separation of

<sup>40</sup> Regulation 19 of PRB 1943

judiciary, officers at the police stations are not interested to show honour towards Deputy Commissioner and also reluctant about inspection of police station. As such, Deputy Commissioner is also not that much interested to inspect the police stations now. Before separation, police used to show due respect for inspection. Deputy Commissioner could scrutiny the pros and cons of issues related to summons, warrants, proclamation, attachment processes and other related matters. But after separation, since Deputy Commissioner has now limited power, scope of inspection has also become narrow. Deputy Commissioners feel embarrassed to inspect police stations in depth and scrutinize things which after separation has gone beyond the jurisdiction of Deputy Commissioner i.e. execution of process of the courts. Rather inspection of police station by Deputy Commissioner has become largely ceremonial now. Sometimes Police officer remain absent while inspecting police station which impede inspection activities. Below mentioned case add more in this regard.

#### **Box-5**

##### **Absence of Officer in Charge of Police Station during inspection by Deputy Commissioner**

Deputy Commissioner after notifying about his inspection and mentioning the date of inspection through a notice sent to Police Super as well as to Officer in charge of a police station went to a police Station of Gazipur for inspection. Though there is a circular of Cabinet Division (Circular no *Ma Pa Bi/si je-1/8-10/90(angsha)-34(500)*, dated 30/01/1992) that officer in charge must be present at police station during the inspection of police station by District Magistrate/Deputy Commissioner in order to produce all registers, document and files for inspection. Otherwise the inspection activities will be hampered. But unfortunately the officer in charge intentionally remain absent on the day of inspection of the police station by the Deputy Commissioner. Therefore Deputy Commissioner could not inspect the police station properly on that day. Deputy Commissioner informed the matter to the Police Super and Police Super said that he did not know anything about the inspection. According to the Deputy Commissioner, during his working period as Deputy Commissioner, he never noticed this type of incident before separation of judiciary.

Source: Ex Deputy Commissioner

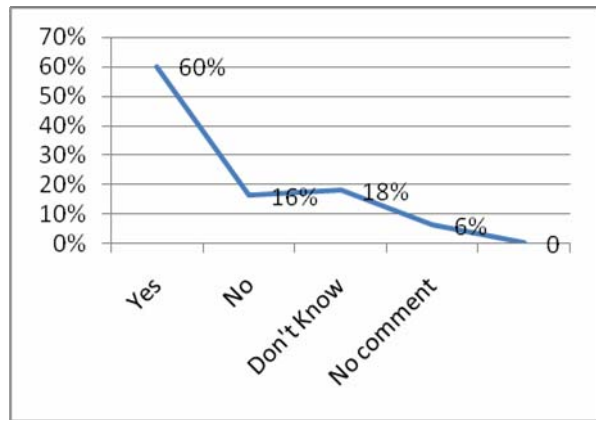
## **Reporting**

According to PRB, Police Super is legally obliged to inform the Deputy Commissioner about each and every issue which might have law and order implications. But the prevailing

scenario after separation of judiciary is that Police officers often hardly inform the District Magistrate about matters which affect the peace of the district .Unless and until Police Super thinks that assistance of Executive Magistrate is essential, Police Super has been found to refrain from informing District Magistrate about matters affecting peace of the district and therefore District Magistrates sometime fall in some embarrassing situation. According to practice, the Police Super besides verbal information sends some reports after fixed intervals to Deputy Commissioner.

**Figure: 11 Reporting by law enforcing agency to Deputy Commissioner**

(Q.Does police send reports regularly to district administration on law and order situation after separation of judiciary?)



Source: Survey data n=50

It is apparent from the above figure that after separation of judiciary 60 percent respondents believe that law enforcing agency is sending reports to Deputy Commissioner regularly, while 16 percent respondents think that Law enforcing agency is not sending reports to Deputy Commissioner, 18 percent respondent do not know about it and 6 percent respondents did not comment on it.

The findings from this study reveals ( See Table A 12 in Annexure-5) that most of the Executive Magistrates(53.33% ), Police(90%) and citizen/district level officers (52%) said that Police send reports regularly to Deputy Commissioner after separation of judiciary However a significant number of citizen/district level officers have no idea about it (36%). Some respondents refrained from putting any comment on it.

Though respondents opined that police send reports regularly to Deputy Commissioner, but the Deputy Commissioner said that Police Super do not always keep the Deputy Commissioner informed of all matters having implication on the law and order situation of the district. If Police does not inform Deputy Commissioner on situation relating to law and order, the Deputy Commissioner may fall in some embarrassing situation. It became difficult for him to take a decision to tackle law and order situation immediately. Because sometimes it may be necessary for Deputy Commissioner to call an urgent law and order meeting to prevent or control some unexpected situation.<sup>41</sup> It is evident from the below case below that sometimes police try to refrain from informing Deputy Commissioner of incidents related to law and order situation in district. This too hampers coordination role of the Deputy Commissioner regarding law and order.

**Box- 6**

**Not informing of law and order situation to Deputy Commissioner**

In 2009 an accident occurred at Joydevpur in Gazipur and a garments worker died on the spot around 8 o'clock in the morning. Immediately law and order situation deteriorated in that place. The excited people and garments workers damaged transport, shops at the place of occurrence. Police going to that place tried to stop the mob and also threw tear shell. The place of occurrence was within 2 kilometers of the residence of Deputy Commissioner and it was a holiday. Deputy Commissioner was not informed by Police even after two hours of the occurrence. At about 10 a. m. the then State Minister for Home rang the Deputy Commissioner and wanted to know the details of the occurrence. When Deputy Commissioner failed to inform the Minister the details the Minister got dissatisfied with the Deputy Commissioner. Later on, the Minister rang the Superintendent of Police and asked him the reason for not informing the Deputy Commissioner about the occurrence. Later Superintendent of Police apologised to Deputy Commissioner for not informing him the matter.

Source: Ex Deputy Commissioner

Nevertheless senior civil servants opined that Deputy Commissioner also should have some networking relationships with the people at all levels and. they should not rely on Police Super only to get information relating to law and order.<sup>42</sup>

Moreover, opinions of the Executive Magistrate were not always consistent with the opinion of Police. Regarding separation of judiciary most of the Police think that separation of

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<sup>41</sup> Deputy Commissioner, Gazipur

<sup>42</sup> Additional Secretary, Cabinet Division.

judiciary has not affected the relation between Police and Executive Magistrate as Police cooperates with Executive Magistrate as before separation. However, the findings of this study seem to point out that separation has somewhat affected the authority of Deputy Commissioner and therefore the Deputy Commissioner sometimes face problems to control and prevent crime in district as he has no authority over judicial proceeding particularly on bail.<sup>43</sup>

#### **4.6 Findings**

In this study, we wanted to find out what was the implication of the separation of judiciary on coordinating role of Deputy Commissioner in maintaining law and order in the district. To evaluate this we have used an analytical framework by using the concepts of power and authority, direct contact, supervision and mutual adjustment.. Now we would discuss the findings of the study highlighting those concepts.

Executive Magistrates, members of law enforcing agency, officers working at district level, lawyer, media people and politician opined that Deputy Commissioner after separation of judiciary is less powerful now. The respondents believe that the power reduction of Deputy Commissioner after separation of judiciary is moderate. All types of respondents agreed in the issue that after separation of judiciary Deputy Commissioner is facing some problems in maintaining law and order whereby people at large are suffering. As Deputy Commissioner has no authority on bail therefore he cannot exercise the power of rejecting bail of dreadful terrorist and hence facing problem in preventing crimes in district. It was found that respect of law enforcing agency towards Magistrates has not reduced after separation of judiciary. According to the opinion of the respondents before separation of judiciary the instruction of Deputy Commissioner was much obligatory but after separation of judiciary the instructions of Deputy Commissioner became moderately obligatory. According to Executive Magistrates and citizen/district level officers, obligatory force of the instructions of Deputy Commissioner has somewhat reduced after separation of judiciary but according to Police it remains same i.e. most of the Police think that before separation instructions of Deputy Commissioner was moderately obligatory and after separation it is as it was before. As Deputy Commissioner is responsible for overall law and order situation in district, if his ability to influence law enforcing agencies get reduced or he became less capable to exert influence on law enforcing agencies it may not be possible for Deputy Commissioner to

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<sup>43</sup> Senior Police Officer

coordinate the law and order situation in district and thereby keeping law and order situation stable in district. As the study indicates that after separation of judiciary law enforcing agencies are to some extent reluctant to implement the decisions of law and order meeting or instructions of Deputy Commissioner. This relates to Barnard's concept of acceptance of authority.

Direct contact between district administration and law enforcing agency has reduced. Though there is no clear direction from the Cabinet or other concerned authority regarding discontinuing Police Magistracy meetings in the Office of the Deputy Commissioner but this meeting is not being held in Deputy Commissioner Office. Though the necessity of Police Magistracy meeting is limited for the Executive Magistrates after separation of judiciary still its importance cannot be ignored. In order to protect the overall law and order situation in a district, to reduce the crime, and in order to enhance the mutual good relations and to maintain effective coordination between police and Executive Magistrates, this meeting is of utmost importance. There are certain matters which can be discussed in Police Magistracy meetings and it is not convenient to discuss this matter publicly in law and order meetings where representatives of all group of people and citizen are present. Therefore because of lack of Police Magistracy meetings there may arise some coordination gap between police and Executive Magistrates. Again the participation of police in district law and order meetings has reduced. As a result Deputy Commissioner faces problems to share certain things with the head of police resulting to failure to take decisions in the law and order meetings. Additional Police Super, Assistant Police Super or officer below the rank of Assistant Police Super cannot always fill the gap of the absence of Police Super and can not come to decision on behalf of Police Super due to the hierarchical nature of such organisations. It seems that due his absence and because of participation of different officers on behalf of the Police Super in different meetings, accountability of Police regarding their implementation of decisions of the law and order meetings cannot be ensured. These findings relate to the concept of Direct Contact put forward by Mintzberg.

Again as Deputy Commissioner as District Magistrate has no power to try cases, formal interaction through judicial proceeding between police and magistrates has decreased highly. Police was prosecutor in General Registrar (G.R)<sup>44</sup> Cases which were previously tried by

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<sup>44</sup> G.R. stands for General Register i.e. cases filed by police on the basis of First Information Report(FIR)

Magistrates (Presently Executive Magistrate). Previously Police appeared before the Magistrate Court, issued the process i.e. summon, warrant etc, ensures the appearance of accused before Magistrates, requested for remand, brought accused before Magistrates for recording statements and confession, participated in hearing, and showed evidence, examined the witnesses and cross examined the defence. In short all necessary steps relating to trial of G.R. cases were executed by the police. But now police perform these duties before the court of Judicial Magistrates. Hence there is formal relation between Police and Executive Magistrates in some preventive cases only. Therefore, formal interaction between police and Executive Magistrates at court has reduced to a great extent.

Informal communication is an effective way to mutually settle different issue. The study indicates that there is no significant change on the informal communication between police and Executive Magistrates. Most of the respondents (44%) said that informal communication between police and Executive Magistrates has not reduced. However a good number (42%) respondent said that informal communication between police and executive Magistrates has reduced. Most of the Executive Magistrates think that informal communication between police and Executive magistrates has reduced. But according to most of the citizen/ district level officer and police, informal communication between police and Executive Magistrates has not changed. It is evident from the study that informal communication between police and Executive Magistrates before and after separation is moderate. We should bear in mind that, reduced informal communication cannot but have a negative impact on the coordinating role of Deputy Commissioner. In fact informal communication scope between Police and Magistrate has become narrow now. Previously Police interacted with Executive Magistrates formally and informally for seeking opinion for different purpose i.e. taking accused into custody, request for police remand, recording of statement and confession. Now Police do not need Executive Magistrates' opinion on these matters now after separation of judiciary. The concept of mutual adjustment i.e. mutual adjustment through informal communication by Henry Mintzberg is relevant here.

According to highest number of respondent before separation of judiciary mutual cooperation between police and Executive Magistrate was good. After separation of judiciary according to most of the respondents mutual cooperation between Police and Executive Magistrate is moderate now. Regarding the question of spontaneous response of police to Executive Magistrates after separation of judiciary, most of the Executive Magistrates (60%) said that



police do not spontaneously respond to them after separation of judiciary. On the other hand according to 60 percent Executive Magistrates, Police actively participate while working with them. However some respondents opined that informal communication and mutual cooperation depends on the relation between Police Super and District Magistrate. If there is a cordial relation between Police Super and District Magistrate, then Police and Magistrate communicate with each other informally and mutual cooperation will also remain satisfactory. But if the relation between Police Super and District Magistrate is not cordial then in such each case non cooperation between them is visible.

It was found in the study that Deputy Commissioner is supervising the activities of Law enforcement agencies like Police. Executive Magistrates, Police and citizen/ district level officers have similar opinion on this issue. However respondents opined that though Deputy Commissioner still inspect police stations even after separation of judiciary but they sometimes do not get proper treatment and respect from law enforcing agency. Sometimes police do not show guard of honour to Deputy Commissioner though there is a practice of showing guard of honour towards Deputy Commissioner while inspecting police stations. Although this is not that much significant for coordinating law and order situation but it indicates the behavioral change of the law enforcing agency towards Deputy Commissioner after separation of judiciary. Most importantly Officer in Charge of the police station remains absent though rarely when Deputy Commissioner goes to the police station for inspection. As a result it is not possible or convenient to inspect police station properly, because the officer who is in charge of the police station remain absent the subordinate officer cannot communicate with Deputy Commissioner and might not be able to show relevant documents, files, registers for his inspection. Consequently the inspection activities are hindered.

Regarding reporting most of the respondent (60%) said that law enforcing agency is sending reports regularly to District Administration. Opinion of Executive Magistrates, police and citizen/ district level officers was similar on this issue. As Deputy Commissioner is bound to send this law and order related report of the district to higher authority law enforcing agency send it regularly to District Administration or District Administration somehow collect these reports from law enforcing agency. Nevertheless sometimes Police super does not keep the Deputy Commissioner informed of the law and order situation which he is legally bound to do so. The above findings reflect the ideas of Direct Supervision of Mintzberg and are shown that without supervision, coordination becomes problematic.

It was found in the study that the opinion of Executive Magistrates and Police was sometimes contradictory. Data collected from Executive Magistrates and Police were not always supported by citizen and district level officer. Though Executive Magistrates were saying that separation of judiciary has significant adverse impact on the coordinating role of Deputy Commissioner, but police were not supporting this opinion. According to most of the Police separation has not any adverse impact on the coordinating role of Deputy Commissioner in maintaining law and order or the relation between Police and Executive Magistrates. In this regard, views of citizens and officers at district level were mixed. Opinion of Police sometimes seems to be biased and as separation of judiciary adversely affected power and authority of Executive Magistrates, therefore opinion of Executive Magistrates could also construed to be biased.

#### **4.7 Conclusion:**

So the findings indicates that that separation of judiciary seems to have some negative impact on some of the ingredients of the coordinating role of Deputy Commissioner while it does not have any significant impact on some other ingredients of coordinating role of Deputy Commissioner in law and order. Power and authority of Deputy Commissioner has been moderately reduced by separation of judiciary. As a result the obligatory force of the instructions of Deputy Commissioner has also reduced. Deputy Commissioner is facing some problems in coordinating law and order situation in district. After separation of judiciary, direct contact between police and Executive Magistrates has significantly reduced. Though there is not remarkable reduction of informal communication between police and Executive Magistrates but mutual cooperation between them has become poor compared to the past. No significant change has been found on the supervision of Deputy Commissioner over law enforcing agencies. Deputy Commissioner is still inspecting police station and police also sending reports on law and order regularly to Deputy Commissioner. Nevertheless some problems seem to arise from time to time in supervising activities of police by Deputy Commissioner.

## CHAPTER 5

### CONCLUSION

#### 5.1 Conclusion

Separation of Judiciary which is a constitutional obligation and long cherished desire of the people at large but in the way it has been implemented has affected the coordinating role of Deputy Commissioner who is responsible for overall law and order situation in district. It was found in the study that separation of judiciary has some impact on some of the mechanisms of coordinating role of Deputy Commissioner in law and order. By the separation of judiciary, the power and authority of Deputy Commissioner has been moderately reduced. Deputy Commissioner is now less able to exert influence on law enforcing agencies particularly from police. Direct personal contact including formal contacts between Deputy Commissioner and Police Super has reduced. The study indicates that informal communication between Police and Executive Magistrates has not decreased but mutual cooperation scenario in law and order is not satisfactory. Deputy Commissioners after separation of judiciary are inspecting police station regularly which is evident from the study. Regarding reporting it was revealed in the study that Office of the Superintendent of Police is still sending written reports relating to Law and Order to the Office of the Deputy Commissioner. So some of the practices are still going on, but how it all actually relates to the effectiveness of the coordinating role of the Deputy Commissioner in matters of law and order is somewhat getting complicated.

In short, separation of judiciary has some adverse impact on power and authority of Deputy Commissioner, direct contact between police and Executive Magistrates. It has some mixed impact on mutual adjustment scenario i.e. negative impact on mutual cooperation between police and Executive Magistrates and no significant adverse impact on informal communication between them. Again separation of judiciary has not resulted in any undesirable effect on supervision by Deputy Commissioner over law enforcing agencies.

However, due to reduction of authority, Deputy Commissioner is facing some problems in coordinating law and order situation in the district. Deputy Commissioner can not get involved in judicial proceedings in order to prevent the crime situation in district. Moreover, reduction of formal communication has an implication on the coordinating role of Deputy Commissioner. It is noted that due to absence of Police Super in law and order meetings,

decision making, implementation and evaluation of implementation of decisions of that body can not be done properly. There may arise some gap between Police and Executive Magistrates as Police Magistracy meeting is not being held at Office of the Deputy Commissioner between police and Executive Magistrates. Moreover, lack of direct personal contact may lead to conflict, mistrust and ultimately result in lack of coordination in maintenance of law and order in district. Lack of mutual cooperation may also lead to lack of mutual adjustment between Police and Executive Magistrate.

## **5.2 Policy Implications**

In order to overcome the difficulties mentioned above policy makers might come up with some policy options. Law enforcing agency is always under the control of the Executive magistrate-by what name it may be called all over the world. So Deputy Commissioner could be given the power of sending monthly/fortnightly confidential reports to the Government regarding the activities of the performance of the law enforcing agencies working in the district. If authority is vested to Deputy Commissioner to comment on the role of Police Super and overall situation of police then Deputy Commissioner might be able to exert some sort of influence on the police. Under the supervision of Deputy Commissioner an “Administrative Law and Order Maintenance Force” can be formed consisting of the police officer in order to maintain law and order of the district. -

Again effective measures can be taken to ensure the participation of Police Super and officers of all concerned departments in District law and Order meeting. Some accountability mechanism can be introduced to ensure participation of members of meeting.

Some committee may be formed or coordination meeting may be arranged in Deputy Commissioner Office to attain effective coordination between police and Executive Magistrate.

Enhancement of Leadership capacity of the Deputy Commissioner is needed. Deputy Commissioner supposed to build up personal relations with officers of all departments at district level including Police Super. In the changed circumstances Deputy Commissioner

will have to emphasize on consultative coordination rather than directional coordination. They will have to play role of facilitator in district.

Though lots of functional department have started their journey in district nevertheless people still prefer to go to Deputy Commissioner to get their problem solved by Deputy Commissioner. With the passing time the institution of Deputy Commissioner has been and is being facing lots of challenges. Presently Deputy Commissioner as an institution suffering from image crisis and its authority has been grossly reduced by separation of judiciary, nevertheless the Government keeping on to rely on Deputy Commissioner as coordinator at the district level. Deputy Commissioner needs to continue to coordinate in the regulatory arena and hence he has to oversee the work of the law enforcing agency including police. Guidance of Deputy Commissioner on issues affecting the wellbeing of the citizens will be needed at all times.

### **6.3 Scope for further research:**

Some relevant and crucial issues have not been covered by this research and therefore there is ample scope to conduct study on this issue. To identify the implications of separation of judiciary on the coordinating role of Deputy Commissioner, in this study, only one coordinating role i.e. coordinating role in law and order has been covered. Whereas implication of separation on the other coordinating roles of Deputy Commissioner i.e. coordinating role in development function can be investigated by further research. Implication of judiciary separation on other important functions of Deputy Commissioner i.e. revenue, general administration remain untouched in this study which can be important area for further research in this regard. Again with the passage of time, more studies might be conducted to get in-depth knowledge about the impact of separation of judiciary.

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**Questionnaire (for Executive Magistrates)**

This questionnaire has been prepared for collection of data in order to conduct an academic research titled “State of Coordinating role of Deputy Commissioner after Separation of Judiciary” as a requirement of Master in Public Policy and Governance (MPPG) program at North South University. Information collected will be used only for academic purpose.

(For the purpose of this study Separation of judiciary means the separation of subordinate judiciary from the executive organ of the state. It includes withdrawal of power of Executive Magistrates including District Magistrate/ Deputy Commissioner to take cognizance of offence, to try cases and to impose punishment under Penal Code.)

**Personal information**

Sex: Male

Female

Age:

Designation:

Length of service:

Year of joining:

Education level:

1. Do you think that power and authority of Deputy Commissioner has been reduced after the separation of judiciary?

1.Yes

2.No

3.comment (if any)

2. If answer is yes, how do you evaluate the reduction of power? ( Here 1 is for very high reduction and 5 is for very low reduction)

Very High

High

Moderate

Low

very low

1.

2.

3.

4.

5.

3. Do you think that respect of law enforcing agencies towards DC/magistrates decreased after separation of judiciary?

1.Yes

2.No

3.comment (if any)

4. To what extent do you think were the instructions of Deputy Commissioner obligatory for law enforcing agencies before separation of judiciary? (Here 1 is very much obligatory and 5 is very low obligatory)

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

5. To what extent do you think are the instructions of Deputy Commissioner obligatory for law enforcing agencies after separation of judiciary?

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

6. Does the Deputy Commissioner face any problem in coordinating law and order situation in district after separation of judiciary?

1.Yes                      2.No                      3.comment (if any)

7. If yes, then explain how?

.....

8. Has formal communication between police and Executive magistrates reduced after separation of judiciary

1.Yes                      2.No                      3.comment (if any)

9. How would you rate participation of Police Super in the Law and Order meetings before separation?

Very High	High	Moderate	Low	very low
1.	2.	3.	4.	5.

10. How would you rate participation of Police Super in the Law and Order meetings after separation?

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

11. Has the frequency of informal communication (conversation over phone, informal meetings, get together in club, social program) of police and magistrates been reduced judiciary separation?

1.Yes

2.No

3.comment (if any)

12. If yes, why do you think it has been reduced?

.....

13. How would you assess the frequency of informal communication ( conversation over phone, informal meetings, get together in club, social program) between police and magistrates before separation of judiciary? ( Here 1 is very high frequency and 5 is very low frequency)

Very High

High

Moderate

Low

very low

1.

2.

3.

4.

5.

14. How would you assess the frequency of informal communication between police and magistrates after separation of judiciary?

Very High

High

Moderate

Low

very low

1

2.

3.

4.

5.

15. How would you evaluate Mutual Cooperation between police and Executive magistrate before separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong

Strong

Moderate

Poor

Very poor

1.

2.

3.

4.

5.

16. How would you evaluate Mutual Cooperation between police and Executive magistrate after separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong

Strong

Moderate

Poor

Very poor

1.

2.

3.

4.

5.

17 .Do police spontaneously respond to the requests from executive magistrates now?

1.Yes

2.No

3.comment (if any)

18. Do police actively participate while working with executive magistrates after separation?

1.Yes

2.No

3.comment (if any)

19. Does the Police department send regularly reports to district administration on law and order situation after separation of judiciary?

1.Yes

2.No

3.comment (if any)

20. Does the DC inspect/visit police stations regularly after separation of judiciary?

1.Yes

2.No

3.comment (if any)

21 .If no, then what are the reasons?

.....

.....

22 .What measures do you suggest for ensuring effective coordination of Deputy Commissioner with law enforcing agencies after separation of judiciary?

**Questionnaire (for Police)**

This questionnaire has been prepared for collection of data in order to conduct an academic research titled “State of Coordinating role of Deputy Commissioner after Separation of Judiciary” as a requirement of Master in Public Policy and Governance (MPPG) program at North South University. Information collected will be used only for academic purpose.

(For the purpose of this study Separation of judiciary means the separation of subordinate judiciary from the executive organ of the state. It includes withdrawal of power of Executive Magistrates including District Magistrate/ Deputy Commissioner to take cognizance of offence, to try cases and to impose punishment under Penal Code.)

**Personal information**

Sex: Male

Female

Age:

Designation:

Length of service:

Year of joining:

Education level:

1. Do you think that power and authority of Deputy Commissioner has been reduced after the separation of judiciary?

1. Yes

2. No

3. comment (if any)

2. If answer is yes, how do you evaluate the reduction of power? ( Here 1 is for very high reduction and 5 is for very low reduction)

Very High

High

Moderate

Low

very low

1

2

3

4

5

3. Do you think that respect of law enforcing agencies towards DC/magistrates decreased after separation of judiciary?

1. Yes

2. No

3. comment (if any)

4. To what extent do you think were the instructions of Deputy Commissioner obligatory for law enforcing agencies before separation of judiciary? (Here 1 is very much obligatory and 5 is very low obligatory)

Very High	High	Moderate	Low	very low
1	2	3	4	5

5. To what extent do you think are the instructions of Deputy Commissioner obligatory for law enforcing agencies after separation of judiciary?

Very High	High	Moderate	Low	very low
1	2	3	4	5

6. Does the Deputy Commissioner face any problem in coordinating law and order situation in district after separation of judiciary?

1. Yes                      2. No                      3. comment (if any)

7. If yes, then explain how?

.....  
.....

8. Has formal communication between police and Executive magistrates reduced after separation of judiciary

1. Yes                      2. No                      3. comment (if any)

9. Has the frequency of informal communication (conversation over phone, informal meetings, get together in club, social program) of police and magistrates been reduced judiciary separation?

1. Yes                      2. No                      3. comment (if any)

10. If yes, why do you think it has been reduced?

.....  
.....

11. How would you assess the frequency of informal communication ( conversation over phone, informal meetings, get together in club, social program) between police and

magistrates before separation of judiciary? ( Here 1 is very high frequency and 5 is very low frequency)

Very High	High	Moderate	Low	very low
1	2	3	4	5

12. How would you assess the frequency of informal communication between police and magistrates after separation of judiciary?

Very High	High	Moderate	Low	very low
1	2	3	4	5

13. How would you evaluate Mutual Cooperation between police and Executive magistrate before separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong	Strong	Moderate	Poor	Very poor
1	2	3	4	5

14. How would you evaluate Mutual Cooperation between police and Executive magistrate after separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong	Strong	Moderate	Poor	Very poor
1.	2.	3.	4.	5.

15. Does the Police department send regularly reports to district administration on law and order situation after separation of judiciary?

1.Yes                      2.No                      3.comment (if any)

16. Does the DC inspect/visit police stations regularly after separation of judiciary?

1.Yes                      2.No                      3.comment (if any)

17 .If no, then what are the reasons?

.....  
.....

18 .What measures do you suggest for ensuring effective coordination of Deputy Commissioner with law enforcing agencies after separation of judiciary?



**(Questionnaire for citizen(lawyer/civil society/politician)/district level officer)**

This questionnaire has been prepared for collection of data in order to conduct an academic research titled “State of Coordinating role of Deputy Commissioner after Separation of Judiciary” as a requirement of Master in Public Policy and Governance (MPPG) program at North South University. Information collected will be used only for academic purpose.

(For the purpose of this study Separation of judiciary means the separation of subordinate judiciary from the executive organ of the state. It includes withdrawal of power of Executive Magistrates including District Magistrate/ Deputy Commissioner to take cognizance of offence, to try cases and to impose punishment under Penal Code.)

**Personal information**

Sex: Male

Female

Age:

Designation:

Length of service:

Year of joining:

Education level:

1. Do you think that power and authority of Deputy Commissioner has been reduced after the separation of judiciary?

1.Yes

2.No

3.comment (if any)

2. If answer is yes, how do you evaluate the reduction of power? ( Here 1 is for very high reduction and 5 is for very low reduction)

Very High

High

Moderate

Low

very low

1

2

3

4

5

3. Do you think that respect of law enforcing agencies towards DC/magistrates decreased after separation of judiciary?

1.Yes

2.No

3.comment (if any)

4. To what extent do you think were the instructions of Deputy Commissioner obligatory for law enforcing agencies before separation of judiciary? (Here 1 is very much obligatory and 5 is very low obligatory)

Very High

High

Moderate

Low

very low

1

2

3

4

5

5.To what extent do you think are the instructions of Deputy Commissioner obligatory for law enforcing agencies after separation of judiciary?

Very High

High

Moderate

Low

very low

1

2.

3.

4.

5.

6. Does the Deputy Commissioner face any problem in coordinating law and order situation in district after separation of judiciary?

1.Yes

2.No

3.comment (if any)

7. If yes, then explain how?

.....

.....

8. Has formal communication between police and Executive magistrates reduced after separation of judiciary

1.Yes

2.No

3.comment (if any)

9. How would you rate participation of Police Super in the Law and Order meetings before separation?

Very High

High

Moderate

Low

very low

2.

2.

3.

4.

5.

10. How would you rate participation of Police Super in the Law and Order meetings after separation?

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

11. Has the frequency of informal communication (conversation over phone, informal meetings, get together in club, social program) of police and magistrates been reduced judiciary separation?

1.Yes                      2.No                      3.comment (if any)

12. If yes, why do you think it has been reduced?

.....  
.....

13. How would you assess the frequency of informal communication ( conversation over phone, informal meetings, get together in club, social program) between police and magistrates before separation of judiciary? ( Here 1 is very high frequency and 5 is very low frequency)

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

14. How would you assess the frequency of informal communication between police and magistrates after separation of judiciary?

Very High	High	Moderate	Low	very low
1	2.	3.	4.	5.

15. How would you evaluate Mutual Cooperation between police and Executive magistrate before separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong	Strong	Moderate	Poor	Very poor
1	2.	3.	4.	5.

16. How would you evaluate Mutual Cooperation between police and Executive magistrate after separation of judiciary? ( Here 1 is very strong cooperation and 5 is very low cooperation)

Very strong	Strong	Moderate	Poor	Very poor
1.	2.	3.	4.	5.

17. Does the Police department send regularly reports to district administration on law and order situation after separation of judiciary?

1.Yes                      2.No                      3.comment (if any)

18. Does the DC inspect/visit police stations regularly after separation of judiciary?

1.Yes                      2.No                      3.comment (if any)

19 .If no, then what are the reasons?

.....  
.....

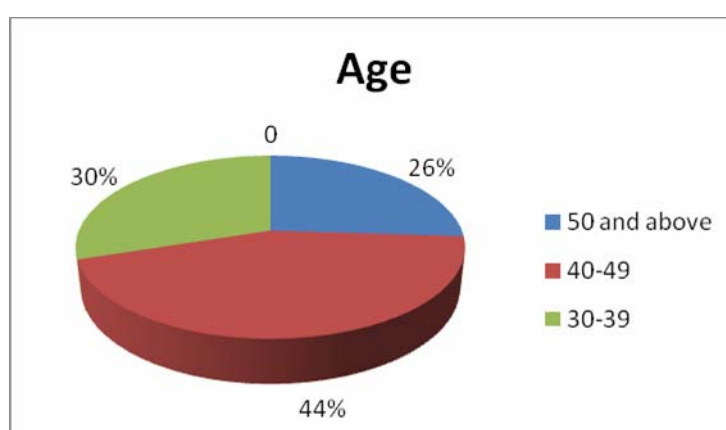
20 .What measures do you suggest for ensuring effective coordination of Deputy Commissioner with law enforcing agencies after separation of judiciary?

### Socio Economic Profile of Respondents

**Table A1: Category of Respondent for survey**

Category of respondent	No of respondent	%
Executive Magistrates	15	30%
Police	10	20%
Lawyer	4	8%
Journalist	5	10%
District level officer	10	20%
Civil Society/citizen	4	8%
Elected representatives/ politician	2	4%
<b>Total</b>	<b>50</b>	<b>100%</b>

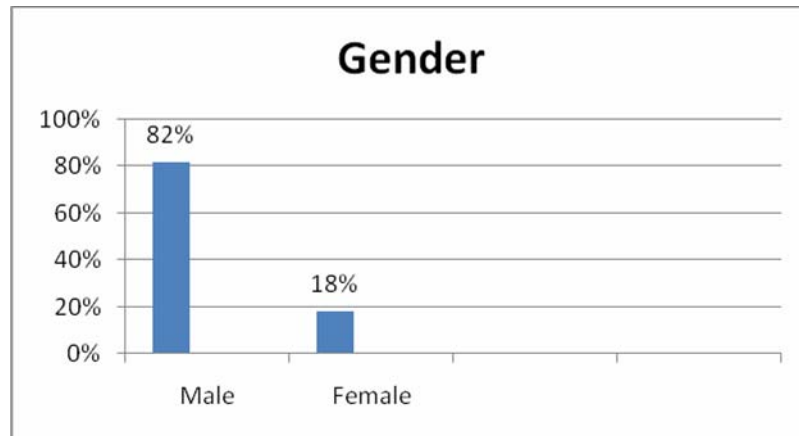
**Figure A1 : Age of respondent**



From the above figure it is evident that 30% (15) of the respondent are of the age of 50 and above 40% (20) are of 40-49 and 30% (15) are of 30-39.

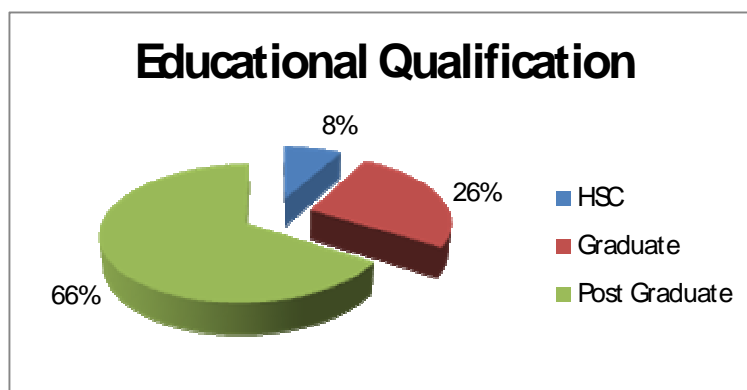
In the category of 50 and above, out of 13 most of the respondents are district level officers (6), in the category of 40-49 out of 20 most of the respondents are police are ( 8) and in the category of 30-39, out of 15 most of the respondents are executive magistrates (11).

**Figure A2: Gender Ratio**



From the above figure it is apparent that 82% (41) respondents are male and 18% (9) are female, among these 9, district level officers 2, lawyer 1, politician 1, citizen 1 and executive magistrate 4. Respondents are randomly selected irrespective of sex.

**Figure A3 : Educational Qualification of respondent**



The above figure shows that 66% respondent's educational qualification is post graduation, 26% respondents educational qualification is graduation and only 8% respondent's educational qualification is H.S.C.

### Details of Data

**Table A2: Variance in opinion regarding binding force of instructions of D.C. before separation of judiciary**

<b>Response</b>	<b>Executive magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
High	12	13	3	28
Moderate	3	10	6	19
Low	0	2	1	3
<b>Total</b>	15	25	10	50

Source: Survey

n=50

**Table A3: Variance in opinion regarding binding force of instruction of D.C. after separation of judiciary**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
High	3	4	1	8
Moderate	5	14	6	25
Low	7	7	3	17
<b>Total</b>	15	25	10	50

Source: Survey

n=50



**Table A4: Problems faced by Deputy Commissioner to coordinate law and order situation**

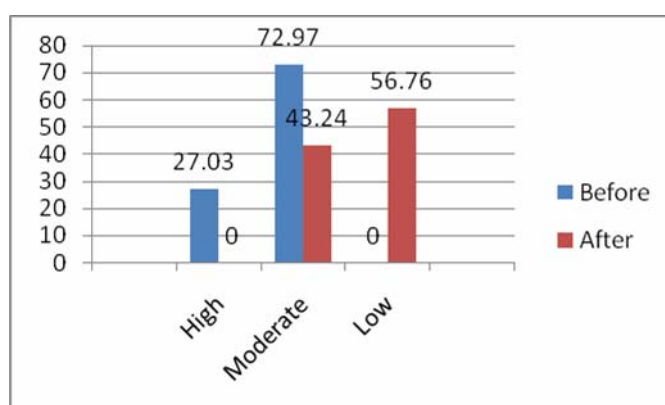
(Q. Does Deputy Commissioner face any problem in coordinating law and order situation in district after separation of judiciary?)

Response	No of Respondent	%
Yes	30	60%
No	20	40%

Source: Field survey n=50

**Figure-A4: Perception of Police Super's participation in Law and Order meetings**

(Q. How would you rate participation of Police Super in Law and Order meeting before /after separation of judiciary?)



Source: Survey data n=40

**Table A5: Rank of representatives attending meetings on behalf of Police Super**

Duration	Rank	No of meeting	%
(From January 2008-December 2010) = 3 year( total 36 month)	Additional Police Super	17	47.22%
	Senior Assistant Police Super	1	2.78%
	Assistant Police Super	4	11.11%
	Police Inspector	1	2.78%

Source: Minutes of District Law and Order committee meeting, Judicial Munshikhana D.C. Office

**Table A6: Variance in opinion regarding informal communication between police and Executive Magistrates**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
Yes	11	7	3	21
No	4	13	5	22
Do not know	0	5	0	5
No comment	0	0	2	2
<b>Total</b>	15	25	10	50

Source: Survey

no=50

**Table A7: Variance in opinion regarding mutual cooperation between police and Executive Magistrates before separation of judiciary**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
Good	10	13	9	32
Moderate	5	10	1	16
Poor	0	2	0	2
<b>Total</b>	15	25	10	50

Source: Survey

n=50

**Table A8: Variance in opinion regarding mutual cooperation between police and Executive Magistrates after separation of judiciary**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
Good	1	8	7	16
Moderate	6	10	3	19
Poor	8	7	0	15
<b>Total</b>	15	25	10	50

Source: Survey

n=50

**Table- A9: Spontaneous response of police to Executive Magistrates**

(Q.Do police spontaneously respond to the requests from Executive Magistrates after separation?)

<b>Response</b>	<b>No of Respondent</b>	<b>%</b>
Yes	6	40%
No	9	60%

Source: survey

n=15

**Table –A10: Active participation by Police with Executive Magistrates**

(Q. Do police actively participate while working with Executive Magistrates after separation?)

<b>Response</b>	<b>No of Respondent</b>	<b>%</b>
Yes	9	60%
No	6	40%

Source: survey

n=15

**Table A11: Variance in opinion regarding inspection of police station by Deputy Commissioner after separation of judiciary**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
Yes	10	6	10	26
No	5	5	0	10
Don't Know	0	11	0	11
No Comment	0	3	0	3
<b>Total</b>	<b>15</b>	<b>25</b>	<b>10</b>	<b>50</b>

Source: Survey

no=50

**Table A12: Variance in Opinion regarding sending report by police to Office of the Deputy Commissioner after separation of judiciary**

<b>Response</b>	<b>Executive Magistrates</b>	<b>Citizen/District Level officer</b>	<b>Police</b>	<b>Total</b>
Yes	8	13	9	30
No	7	0	1	4
Don't Know	0	9	0	9
No Comment	0	3	0	3
<b>Total</b>	15	25	10	50

Source: Survey

n=50