

# The Backpedalling Stops

**BANGLADESH** Country Paper  
Land Watch Asia





## Acknowledgments

This paper is an abridged version of the Bangladesh Land Watch Country Paper "Land Watch Asia Campaign: Bangladesh Status Report" on the status of Access to Land, Water and opportunities and strategies for Civil Society Advocacy. This is a collective effort of many civil society organizations, including members and partners of the Association of Land Reform and Development (ALRD), the Society for Environment and Human Development (SEHD), and other individuals in Bangladesh.

The principal author is Dr. Abul Barkat, Professor of Economics in the University of Dhaka and Chief Adviser to Human Development Research Centre. He is also well-known internationally as a researcher with a difference. Mr. Sohel Ibn Ali, a freelance researcher, also made immense contribution in incorporating the feedback of the National Workshop participants and in re-arranging the chapters in accordance with the priorities of ANGOC guidelines. The paper was prepared under the guidance of ANGOC and in accordance with the strategic objectives of ALRD, which acts as the focal point for Land Watch Asia in Bangladesh. Philip Gain, SEHD Director, also provided significant inputs and suggestions to the country paper.

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## Acronyms

ADB	Asian Development Bank
ALRD	Association for Land Reform and Development
ASEAN	Association of Southeast Asian Nations
CS	Cadastral Survey
CHT	Chittagong Hill Tracts
DF	District Forest
EBSATA	East Bengal State Acquisition and Tenancy Act
EPA	Enemy Property Act
G.E. Manual	Government Estate Manual.
K. cal.	Kilo calorie
LAND	Land and Agrarian Network for Development
LDTs	Land Development Taxes
NCCLRP	NGO Coordination Council for Land Reform Program
RS	Revised Survey
RF	Reserved Forest
ROR	Record of rights
SAARC	South Asian Association for Regional Cooperation
Tk	Taka
VPA	Vested Property Act

## Glossary

Abwab	Illegal extraction by the Zamindars.
Adalat	Court.
Amin	Land surveyor of the Revenue Department.
Bangla Saal (B.S.)	Bengali calendar.
Barga	Sharecropping. Produce sharing system of tenancy where the share of the harvest is paid as rent for the land.
Batta	Commission.
Bhadralok	Gentleman.
Bigha	Indigenous unit of land area. One acre is equal to three standard bighas.
Char	Alluvial land or land thrown up from the river. Land silt on the river bed created by flood or sedimentation.
Chowkidar	Village guard.
Chula	Literally means the oven, usually means kitchen.

Collector	District level officer responsible for collection of revenue from government land, the Deputy Commissioner.
D.C.R.	Duplicate Carbon Receipt; the receipt (Form No. 1077) given to the operator of land after collection of all government dues except land tax.
Daag	Field plot.
Dadan	A form of security usually given in future products, usurious money lending practice.
Dafadar	Peon, messenger.
Dalal	Broker.
Dar patnidar	Intermediary between Zamindar and raiyat.
Diara (Deara)	Alluvial accretions.
District (Dist.)	Geo-administrative unit. Presently there are 64 districts in the country.
Diwani	Civil.
Eksona	One-yearly.
Faujdar	Criminal (jurisprudence).
Heba	Will for disposing property.
Ijaradar	Lease holder.
Jotedar	A real landlord who had the title to the land he owned, whereas the Zamindar was usually a rent collector. Jotedars developed under the Zamindari system of Permanent Settlement Act of 1793.
Kabuliyat	Registration deed between the Government and the tenant.
Kahaikhalashi	A form of land collateral for loans.
Kanungo	An official in the office of the Deputy Commissioner involved in the work of land management.
Kathha	One-twentieth of a bigha, equal to about 0.017 acres.
Khajna	Tax.
Khal	Canal/creek.
Khas land	Government land.
Khasmahal	Block of khas land under the management of the government.
Khatian	The form in which the record of rights is prepared showing all the details relating to any particular "interest".
Khudkasht	Resident raiyati.
Kist	Installment.



<b>Kot kabla</b>	A form of land security for loans.	<b>Tebhaga</b>	A system of three shares, corresponding to a tenancy system where the landowner gets one-third of the produce as rent, one-third goes to the tenant for his labor, and another one-third (to the tenant) for other inputs.
<b>Krishi</b>	Agriculture.	<b>Tehsil</b>	Lowest revenue unit, comprised of several mauzas.
<b>Lakh</b>	One hundred thousand, 10 lakhs=1 million.	<b>Tehsildar</b>	Revenue official in charge of tehsil.
<b>Mahajan</b>	Usurious money lender.	<b>Thana</b>	The lowest local administration office of the government, established during the British Period. Renamed as Upazila during 1982–1990. Thana is divided into a number of units.
<b>Mahalladar</b>	Caretaker of a Mahalla (neighborhood).	<b>Union Parishad (U.P.)</b>	Elected council for administration and development activities at the union level.
<b>Malik</b>	Proprietor, landowner.	<b>Union</b>	Lowest self-government unit comprising of several villages.
<b>Matabar</b>	Village headman leader.	<b>Upazila</b>	Literally means Sub-district, the new administrative unit that contains the same territory of the Thana but acts as a local administrative center as the District.
<b>Mauza</b>	Village as per revenue unit (and not a village as per social unit).	<b>Viti</b>	The homestead area, usually elevated higher than the cultivation fields.
<b>Motwalli</b>	Trustee.	<b>Wakf</b>	Property vested with Muslim religious institution.
<b>Nirbahi</b>	Executive.	<b>Ward</b>	Electoral constituency within a union.
<b>Paiwast</b>	Alluvion.	<b>Zamindar</b>	Large landed proprietors in Bengal with ultimate revenue collection and tax extraction rights, instituted during the Mughal Period and modified during the British Rule. Landlord, a class of rent-receiver created through the Permanent Settlement Act of 1793 by the British East India Company.
<b>Para</b>	Cluster of houses in close proximity, usually closely related kin, within a village.		
<b>Patit</b>	Fallow.		
<b>Pattan</b>	Lease principle and the reason for the entries.		
<b>Raiyat</b>	A person who has required a right to hold land directly under the Government for the purpose of cultivating it by himself or by members of his family or by, or with the aid of, servants or laborers or with the aid of partners or bargadars, and includes also the successors-in-interest of persons who have acquired such a right.		
<b>Saf kobla</b>	A type of land security.		
<b>Salami</b>	Earnest money; also a pseudo name for bribe.		
<b>Se patnidar</b>	Intermediate between Zamindar and raiyat.		
<b>Shikast</b>	Diluvion.		
<b>Talukdar</b>	Large landed proprietor/landlord; one type of rent-receiver between the state and the raiyat before 1950.		
<b>Tauzi</b>	Division of land for collection of revenue under private proprietors or the Government.		

# BANGLADESH

## QUICK FACTS

- Total land (million hectares) ----- 15.1
- Population (in million)  
(extrapolated based on Population Census 2001) ----- 150.0
- Household (in million)  
(2007, extrapolated based on Population Census 2001) ----- 30.0
- Land under agriculture (million hectares) ----- 9.1
- Privately owned (rural-urban, disputed, non-identified khas land  
including community forestry)  
(million hectares) ----- 5.1
- Land under government use (rail, port, road, office, industry,  
educational institutions, health, utility service, etc)  
(million hectares) ----- 4.1
- *Khas* land and *khas* water bodies (million hectares) ----- 2.1
  - of which, agricultural *khas* land ----- 0.5
  - Waterbodies (closed and open) ----- 0.5
- Non-agricultural land ----- 1.1
- Enemy Property Act (EPA)/ Vested Property Act (VPA) -----  
(government as custodian) (million hectares) ----- 0.9
- Abandoned ((government as custodian) (million hectares) ----- 0.4



## Overview of Access to Land

There is an acute shortage of land in Bangladesh. Its population of 150 million—still growing at an annual rate of 1.54%—makes Bangladesh the ninth most heavily populated country in the world, as of the 2001 Population Census. With a land area that is just a little over 15 million hectares, its population density (839 persons per square kilometer) is also one of the highest in the world.

Sixty (60) percent of the country's land, about 9 million hectares, is devoted to agricultural use, and 56% of this land, some 5 million hectares, is privately owned (See Table 1). It is estimated that households own an average of 0.3 hectares of land.

**Table 1. Basic Features of Land and Population in Bangladesh, 2007**

Land/Population	Amount
Total land (in millionhectares)	15.1
Population (in millions) (Extrapolated based on Population Census 2001)	150.0
Household (in millions) (2007, extrapolated based on Population Census 2001)	30.0
Land under agriculture (in million hectares)	9.1
Privately owned (rural-urban, disputed, non-identified khas land including community forestry) (in million hectares)	5.1
Land under government use (rail, port, road, office, industry, educational institutions, health, utility service, etc) (in million hectares)	4.1
<i>Khas</i> land and <i>khas</i> water bodies (million hectares) of which:	2.1
Agricultural <i>khas</i> land	0.5
Waterbodies (closed and open)	0.5
Non-agricultural land	1.1
Enemy Property Act/Vested Property Act (government as custodian) (in million hectares)	0.9
Abandoned (government as custodian) (in million hectares)	0.4

**Table 2. Landownership Structure, 1960–1996**

	1960		1983–84		1996	
	% of HHs	% of land	% of HHs	% of land	% of HHs	% of land
Landless (0–0.19 hectare)	19	1	46.3	3.1	56.0	4.9
Marginal and small (0.2–0.9 hectares)	38	15	33.6	26.2	30.7	36.5
Medium (1–2.9 hectares)	33	47	16.3	44.9	11.2	41.3
Large (3 hectares and over)	10	37	3.8	25.8	2.1	17.3
All	100	100	100	100	100	100

Source: Government of Bangladesh 1999a, 1999c, 1993d, 1989; Government of East Pakistan, 1965.

Note: Measure for land size converted from decimal to hectare. 1 decimal is equivalent to 0.01 acre or 0.004047 hectare.



In Bangladesh, the opportunity to use land is frequently determined by either ownership or access to state-owned land, known as *khas* land. More broadly, it can depend on ownership, use (usufructory right), right of entry proportionate to population size, and accrual of benefits. Accordingly, the history of land reform in the country is little more than a record of past and current attempts to distribute *khas* land to the landless poor.

*Khas* land and *khas* water bodies cover some 2.1 million hectares, 24% of which (0.5 million hectares) are agricultural. Past administrations have all adopted an agrarian reform agenda with the key strategy of distributing *khas* land to the poor, but all have made little progress in land reform.

While *khas* lands have been given to poor peasants under past programs, large numbers of these recipients have either been forced or tricked into giving up their holdings, due to alleged collusion among village leaders, government officials, and urban-based groups. Land speculation and widespread grabbing of *khas* land are two other major issues hindering land reform in Bangladesh.

Meanwhile, the absolute number of landless people in the country has doubled in the last 30 years, with a large section forced to migrate to the slums of big cities, where they live in subhuman conditions. Studies have indicated that free and fair distribution of *khas* land could resolve this rural push-migration (Barkat &

Akhter, 2001). Therefore, the equitable distribution of *khas* land and/or enhanced access of the poor to the same should be a major component of Bangladesh's poverty eradication agenda.

## Landownership and Distribution

### Landownership Structure

In 1960, 10% of households owned 37% of the country's largest parcels of land (3 hectares and above). Thirty-six years later, in 1996, the percentage of owners of large landholdings had dwindled to 2.1%. Meanwhile, the percentage of landless households (or those owning 0–0.19 hectare) rose from 19% in 1960 to 56% in 1996.

### Landownership as Determinant of Rural Poverty

According to a recent report of the Center for Policy Dialogue, over 48.5% of the rural population of Bangladesh lives below the lower poverty line, and 53.1% below the higher poverty line. The report also indicated a strong association between landownership and poverty, i.e., poverty is reduced with increased landownership.

The amount of food consumed by a household, for instance, is directly related to its landownership status: the bigger the land owned by a household, the greater its daily food intake (mea-

**Table 3. Landownership and Poverty Trends (in %)**

Landownership group	Households living below the lower poverty line as % of all households within the landownership group	Households living below the higher poverty line as % of all households within the landownership group
No land (absolutely landless)	57.1	70.6
0.004–0.016 hectare (near landless)	48.1	64.2
0.02–0.19 hectare (functionally landless)	39.8	59.1
0.2–0.59 hectare (marginal)	30.6	47.6
0.6–0.90 hectare (small)	22.2	35.7
1–2.90 hectares (medium)	12.5	24.4
3 hectares and over (large)	4.1	8.1
All	37.4	53.1

Source: Ministry of Finance, 2003



**Table 4. Income, Health Care Expenditure, Education Expenditure, Expenditure on Food and Valuation of Capital Assets (in US\$, Based on 2003 Prices) and Per Capita Daily Food Intake (in K.cal.) by Landownership Categories**

	Annual average income	Annual average health care expenditure	Annual average education expenditure	Annual average expenditure on food	Valuation of capital assets—2002(Tk.)	Per capita daily food intake (K.cal.)
Landless (0–0.19 hectare)	697	48	19	572	1,76,510	2,194
Marginal (0.2–0.59 hectares)	826	56	28	590	4,78,769	2,278
Small (0.6–0.90 hectare)	1,367	53.8	32	684	7,59,712	2,281
Medium (1–2.90 hectares)	1,512	54	68	859	1,09,503	2,666
Large (3 hectares and over)	3,490	111	85	1,278	2,791,959	2,880

Source: Government of Bangladesh, 2003

Note: 1 Bangladeshi Taka=0.01788 US Dollar (in 2003 prices )

**Table 5. Overall Literacy and Adult Literacy Rate by Landownership Groups**

	Overall literacy rate (age 7 and above)			Adult literacy rate		
	Male	Female	Both	Male	Female	Both
Landless (0–0.19 hectare)	51.2	41.3	46.6	53.2	37.3	45.9
Marginal (0.2–0.59 hectares)	65.3	53.0	59.2	65.9	50.2	58.5
Small (0.6–0.9 hectare)	72.5	52.1	62.9	77.3	55.6	67.4
Medium (1–2.9 hectares)	74.2	60.3	67.9	77.0	62.1	70.4
Large (3 hectares and over)	78.4	70.0	74.6	78.0	74.2	76.4
Average rate	62.2	49.8	56.4	64.6	48.6	57.3



sured in terms of kilo calories [K.cal.]). Among the landless, the daily per capita intake is 2,194 K.cal., which is only slightly higher than the 2,122 per capita food intake of persons living on the "absolute poverty line."

Landless households also spend almost 2.3 times less on health care than large landowners. When it comes to education, landless households spend 4.7 times less than the land rich. As a result, landownership is a determinant of literacy. Landless households are 1.6 times less likely to be literate than land-rich households. Both the overall literacy and adult literacy rates improve with increases in landownership. More importantly, the gender-divide in literacy is pronounced when correlations with landownership status are made; only 37% of landless females are literate, compared to 53.2% of landless males. Moreover, the literacy gap between the landless and the land rich is higher among females (36.9%) than it is for males (24.8%).

## Issues Affecting Access to Land

### Access to and Distribution of *Khas* Land

Agricultural "*khas*" (government owned) land is a core issue in discussions of access of the poor to land in Bangladesh. Agricultural *khas* land covers some 321,323 hectares. Of this, 139,691 hectares, or 43.47% of the total agricultural *khas* land, has reportedly been distributed to landless households. In 1997, the government instituted a policy for distributing *khas* land to landless peasants. "Landless peasants" were defined to include landless families *with or without homestead* and are dependent on agriculture for their livelihood. The policy also prioritized certain groups, such as the families of freedom fighters, families that lost their land to erosion, divorced women with adult sons, landless families without homestead, and families whose lands were expropriated by the government. However, a study conducted in 2001 reported that while 82.8% of *khas* recipients fit into the above-mentioned categories, as much as 17.2% of *khas* recipients do not even own close to a quarter of a hectare of land.

*Khas* recipients are supposed to pay government a fee of 1 taka (US\$0.01, in 2008 prices) per acre of *khas* land received. In practice, however, *khas* land recipients have to fork out bribes for as much as US\$105-150 (in 2008 prices) per acre. Bribes are exacted by the assistant land officer, the chair of the union

*parishad* (the lowest tier of government), and even by minor officials at the land offices.

### Access to and Distribution of Non-agricultural Land

Before March 1995, there were no guidelines for the management of non-agricultural land. In the absence of a regulatory mechanism in this area, influential and well-connected persons have been able to claim ownership of non-agricultural land through a court ruling that is usually based on forged documents. In March 1995, the government issued detailed guidelines for the management and settlement of state land in urban areas. By then, however, most of these lands had already been awarded to the rich and powerful.

### Access to Government Owned Fisheries

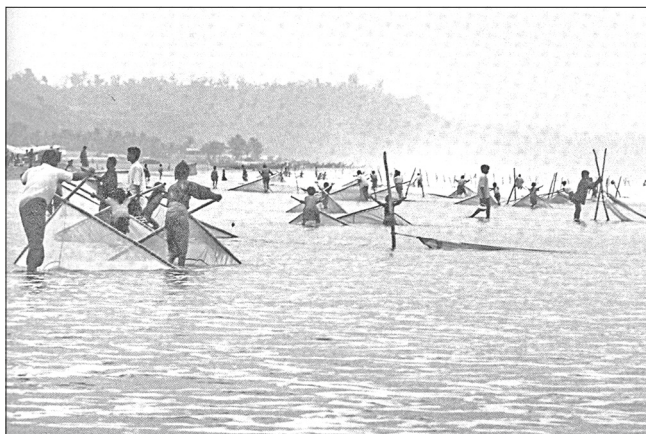
Government-owned fisheries covering 1.2 to 8 hectares, called *jalmahals*, are auctioned off by the Districts to fisherfolk cooperative societies. The lease, which is effective for one year, is awarded to the highest bidder. However, not all the bidders are fisherfolk coops; many of them are fronts for moneyed persons. The fisherfolk therefore end up as laborers and are merely paid wages, while the profits go to the financiers behind the operations.

### Absentee Landownership

Thirteen (13) percent of households own more than half (58%) of the country's land. Many of these households do not engage in agriculture, but live and make their living in urban areas, either by running their own business or by being employed in the government or the private sector. This encourages rent-seeking behavior.

### Commercialization of Agriculture and Forestry

**Shrimp Cultivation.** 1.5 million persons are engaged in shrimp cultivation. In the early stages of this industry, shrimp culture was practiced in the household and on fallow and/or marginal land, to augment incomes from the farm. When shrimp culture became more profitable than crop farming, various coastal lands, including rice farms, mangrove areas and marshes were brought under shrimp cultivation. This has created serious environmental problems, such as deterioration of water quality, loss of vegetation, loss of biodiversity, land degradation due to increase in soil salinity, declining numbers of livestock and poultry, etc.



Rubber and fuelwood plantations have destroyed forests, displaced ethnic, forest-dwelling communities and caused conflict between forest-dependent groups and the government's Forest Department.

### Land Conversion

The country's agricultural land has been reduced considerably due to forcible land acquisition to make way for export processing zones, residential development, infrastructure development and other government projects. Much of the land that has been converted thus is *khas* land which the government ought to be distributing to landless peasants.

## Legal Framework for Access to Land

The following is a summary of the features of laws and programs that have been instituted by successive governments in Bangladesh to address the need for land reform.

### Laws

#### East Bengal State Acquisition and Tenancy Act (EBSATA) of 1950

- Aimed to make peasants direct tenants of the Government, with rights to transfer, inherit, and cultivate their land as they saw fit;
- Sought to eliminate rent-seeking interests and absentee landownership, by prohibiting the subletting of land;
- Fixed a ceiling of 13.3 hectares of cultivable land per family. (This ceiling was raised to 50 hectares per family in 1961); and
- Guaranteed the rights of tenants and of their successors to land lost to erosion during the period when the land is flooded or under water, but not exceeding 20 years (Sec.86).

#### Land Reform Policy of 1972

- Restored the ceiling of 13.3 hectares of cultivable land per family;
- Gave government the mandate to acquire surplus land and to distribute it to landless peasants;
- Authorized the government to acquire flooded and accreted land, and to treat these as *khas* land; and
- Exempted landowners holding less than 3.33 hectares from paying land tax.

#### Land Reform Ordinance of 1984

- Reduced the ceiling for landholdings from 13.3 hectares to 8 hectares;
- Prohibited the purchase or transfer of land in the name of another person to conceal the identity of the true landowner;
- Fixed the minimum wage of agricultural laborers at equal the value of 3 kilograms of rice;
- Prohibited the eviction of peasants from their *paternal* homestead;
- Instituted a three-way sharing of farm produce:  $\frac{1}{3}$  to the landowner;  $\frac{1}{3}$  to the sharecropper; and the remaining third to be divided proportionately between the landowner and the sharecropper on the basis of expenses incurred by each one;
- Weaknesses/problems in implementation:
  - > Despite lowering the ceiling for landholdings, the government failed to recover surplus land, estimated at 1 million hectares, because of the lack of political will.
  - > The sharing of the produce proved to be inequitable. Sharecroppers bore all the costs, including input, while the produce was divided 50/50 between the landowner and the sharecropper, with the former taking most of the by-products.
  - > The minimum wage (equivalent to the price of 3 kilograms of rice) could not support the needs of an average family of five members.

#### *Khas* Land Management and Distribution Policy

- Grants joint ownership of *khas* land to husband and wife.

#### Laws Related to Alluvion and Diluvion (i.e., flooded/inundated) Land

##### 1. EBSATA, Sec. 86

Guaranteed the land rights of tenants and their successors to land lost to erosion during the period when the land is flooded or under water, but not exceeding 20 years.

## 2. Presidential Order No. 135 (1972)

Amended the EBSATA by authorizing the government to lay claim to alluvion and diluvion land when such resurfaces, and to redistribute such to landless families.

## 3. 1994 Amendment to the EBSATA

Mandated that in the case of landholdings lost to erosion, the right, title, and interest of the tenant or his/her successor in interest are retained during the period of loss through erosion, but not exceeding 30 years.

### Vested Property Restoration Act of 2001

- Abolished the Vested Property Act (VPA)—formerly the Enemy Property Act (EPA)—which dispossessed the Hindu population of their ancestral land during the war between Pakistan (of which Bangladesh used to be part) and India in 1965. Even after Bangladesh had declared its independence from Pakistan in 1971, the EPA was retained—renamed as VPA—and resulted in the confiscation of some 800,000 hectares of Hindu property. Around 0.75 million Hindu households were reportedly victimized by this law.
- Weakness/problems in implementation:
  - > Even after the abolition of the VPA in 2001, the situation of Bangladesh's Hindu population remains unchanged. Studies show that over a third of Hindu households have become landless and/or marginal landowners. Statistics also show a marked decline in the size of the Hindu population in Bangladesh: from 18.4% in 1961 to just 9.2% in 2001.

### Land Rights and Land Management Projects Cluster Village Program (1988)

- Aimed to rehabilitate landless families by providing them with homesteads on state land and by improving their socio-economic status. In some cases, plots of land were awarded to families, under the name of both the husband and wife. During the periods 1988–1997 and 2000–2007, European financing helped to resettle more than 50,000 households on public land with 65% of these receiving land titles.

### Char Development and Settlement Project (1987)

- Started in 1987 in the *char* areas in southeastern Bangladesh;
- Aimed to settle landless persons on newly accreted land by providing support to the settled households. The project distributed some 40,000 hectares of *khas* land to 50,000 landless families in the greater *Noakhali districts*.

### Computerization of Land Records Project

- Implemented as a pilot project to computerize land records in particular areas in Dhaka.

### Modernization of Land Administration Project (1995–2003)

- Implemented through technical assistance from the Asian Development Bank (ADB);
- Aimed to (1) identify the technological and human resource constraints to efficient land administration; (2) computerize property records; (3) improve the speed and quality of the production of printed maps; and (4) automate the administration of the land development tax;
- The project showed that technical solutions alone are not enough to create a modern, transparent and efficient land administration system and that fundamental legal and institutional changes are necessary to operationalize the desired system.

## Access to Land of Marginalized Groups

### Ethnic Groups

Some 1.2% of the country's population is composed of ethnic minority populations (GoB 1994a). According to government records, there are 27 ethnic or indigenous communities in Bangladesh; but different sources, including the leaders of the ethnic groups, estimate the number at 45 and above.

The ethnic minorities whom the Bangladesh government does not regard as indigenous to the country are classified into two groups, according to their geographic location—the *plains ethnic people* and the *hill ethnic people*. There are 21 distinct ethnic communities in the plains who live along the borders of the northwest, north, northeast and the north-central region of the country. The hill ethnic people live in the Chittagong Hill Tracts (CHT), which is divided into three districts—Rangamati, Khagrachari, and Bandarban.

### Access of Minority Groups to Land in the CHT

Laws passed in 1865, 1875, and 1878 gave the state monopoly rights to different types of land and resources. In particular, a law passed in 1875 created two types of forest in the CHT, namely, Reserved forest (RF) and District Forest (DF). As a result of this law, 24% of the CHT was designated as RFs and off-limits to the hill people. However, at the start of the 20<sup>th</sup> century, hill people



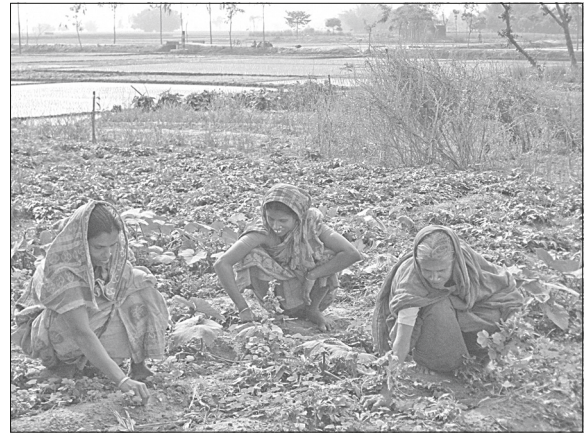
began to acquire private rights to land, especially after they had abandoned their practice of slash-and-burn farming. Later, private freehold rights (rights in perpetuity) and leasehold rights (rights for a specified period) were awarded to hill people operating timber plantations. The Regulation of 1900 defined the terms and conditions for these private and usufruct rights. The CHT Manual issued by the government conferred user rights to CHT land to hill and non-hill people. Rule 50-1 of this Manual specifically reserved the hill people the right to occupy CHT land. Amendments to this 1900 regulation allow—at certain times—the allocation of large-size lands to the non-residents for the cultivation of rubber and for other business purposes.

In the 1970s and 1980s, however, the Government settled nearly one-half million Bengali people from the plains. In their attempt to resist the Bengali settlement in the CHT, hill communities, with the latent support of neighboring India, formed a guerilla force called Shanti Bahini. As a result of this resistance movement, successive governments turned the CHT into a militarized zone. The Bangladesh military and settlers have been accused of committing genocides against the hill people with silent support from the law enforcers. Following years of unrest, an agreement was reached between the Government of Bangladesh and the hill tribe leaders which granted a limited level of autonomy to the elected council of the three hill districts. A Peace Treaty was signed in 1997 between the then Sheikh Hasina Government and the Shanti Bahini, but this has not improved the lot of the hill tribes. The Land Commission, which the government promised to establish as part of the Peace Accord, and through which land disputes in the CHT could be resolved, has yet to be created.

As a result, the hill tribe population in the CHT has plummeted from 75% in the 1950s to less than 40% today. The construction of the *Kaptai Dam* and hydroelectricity projects have submerged 21,600 hectares of land (or 40% of all cultivable land in the CHT) under water, and displaced over 85,000 people. Thousands of acres of cultivable land were distributed to settlers from the plain districts.

#### Access of Minority Groups to Land in the Plain Districts

Plains land ethnic minority groups have been losing their access to land at an even faster rate than the hill people. This is due to widespread land grabbing in the plain districts. Three out of four households belonging to plain-land minority groups are landless. Twenty-eight (28) percent of them have no (agricultural) land and 48% have less than 0.2 hectare. A 2004 study showed that the



*Santals*, an indigenous group living in northeastern Bangladesh, are rapidly losing their lands; 70% of rural based Santals are landless.

The tea plantation workers most of whom are lower caste Hindus (considered untouchables or *Dalits* in India) literally have no access to land. They live in labor line and all the land in the tea zone belongs to the companies.

#### Women

Women's right to inherit land is determined by religion: *Sharia*, for Muslim women; and *Daibhag*, for Hindu women.

Sharia Law grants Muslim women limited rights to inherit property. In practice, however, the patriarchal nature of Muslim society prevents women from claiming this limited entitlement. A woman, being "a good sister," is expected to surrender her claim to paternal property to her brothers.

With few exceptions, *Daibhag* does not provide for inheritance rights for Hindu women. A Hindu woman benefits from the fruits of the land only insofar as she is taken care of by the males in her family while she is unmarried, and then by her husband, until her death.

The Government *Khas* Land Management and Distribution Policy confers joint ownership of *khas* land to husband and wife. The government Cluster Village Program also issues titles to homesteads to both husband and wife. However, the sexual discrimination in regard to land inheritance prevails.

#### Char Dwellers

Five (5) percent of the country's population lives in *char lands*, or lands accreted from rivers and the sea. Government owned



char lands cover about 170,000 hectares. Ideally, char households should get an average of 1.88 hectares each. However, as much as 60% of char households are absolutely landless.

## Fisherfolk

Over 13.2 million people in Bangladesh (10% of the population numbering 130 million) are employed in the fisheries sector—1.2 million are employed directly, full-time; and 12 million work only part-time or on a seasonal basis.

Counting family members, an estimated 38 million people (about 30% of the population) are involved in fishery activities.

Many fisherfolk communities have limited access to water bodies. The Ministry of Land in each district auctions off lease rights (lasting 1 to 3 years) to water bodies. But while fishermen's cooperatives are supposed to be prioritized in such auctions, elite groups generally win the bidding, through a cooperative fronting for them. The fisherfolk therefore end up paying rent to the leaseholder, while the latter racks up profits of up to 1000% of the auction price.

Poor fisherfolk are likewise unable to obtain lease rights to *khas* water bodies. Of the total 332,142 hectares of *khas* water bodies in the country, only 5% has been leased out to the poor under the Khas Land Distribution Program. A program for single-year leasing of open water bodies has also failed to benefit the poor. The annual lease amount is Tk.100,000 (or US\$1497, in 2008 prices), and this increases by 10% every year. Also, by the time the lease expires, the leaseholder usually will have exhausted the resource.

## Actors Facilitating or Impeding Access to Land and Tenurial Security

### Government

#### Ministry of Land

The Ministry of Land has overall responsibility for the management and administration of land, collection of Land Development Taxes (LDTs), maintenance of land records, formulation of policies on land management, land use planning, land reform implementation, and various development programs related to land. Land management functions at the field level are carried out by the commissioner and deputy commissioner at the dis-

trict level, the sub-district executive officer, the assistant commissioner (for land) at the sub-district level, and the assistant land officer at the union level.

Under the Ministry of Land are several offices that deal with land access concerns. The Land Reform Board operates at the *upazila land offices* and the *union tehsil offices*. It administers *khas* land and manages abandoned and vested property; updates maps and land records between surveys; sets and collects the LDT; and is responsible for the implementation of land reform laws and tenants' rights.

The Land Appeal Board is the highest revenue court in the country. It serves as final arbiter in matters relating to *khas* land, changes in records, plot demarcation, and taxation, which cannot be resolved at lower levels; and rules on appeals of decisions of District Commissioners.

The Directorate of Land Records and Surveys carries out cadastral surveys, from which it produces maps showing individual plots of land and *khatian*, which is used to prepare and maintain the record of rights (ROR) concerning every parcel of land in Bangladesh.

#### Ministry of Law, Justice and Parliamentary Affairs

Under the Ministry of Law, Justice and Parliamentary Affairs is the Office of the Inspector General of Registration, which registers ownership arising from the sale and other forms of land transfer; reports changes to the Ministry of Land; and collects the Immovable Property Transfer Tax.

### Non-Government Organizations

There are around 200 NGOs working to promote the land rights of landless people in the country. The Association for Land Reform and Development (ALRD), a national civil society network, is an offshoot of the NGO Coordination Council for Land Reform Program (NCCLRP). The Council was formed in 1987 to support the Government *khas* land distribution program by raising people's awareness of government regulations, policies and guidelines and by ensuring NGO participation in the *khas* land distribution program. ALRD has 260 local and national NGO partners, which mobilize the principal actors of agrarian reform, namely, policy makers, public representatives, politicians, and the media, to initiate positive pro-poor policy formulation and effective implementation initiatives. The ALRD is credited with the formulation of the National Khas Land Management and



Distribution Policy, the Khas Water Bodies Management Policy, the enactment of the Vested Property Restoration Act 2001, the amendment of the Registration Act, and the development of the Citizen Charter for the Directorate of Land Records and Surveys.

*Nijera Kori* works on issues related to land tenure, agricultural wages, *khas* land distribution, *khas* water body distribution, shrimp farming, etc.; engages in awareness-building, training, provision of legal aid, and lobbying with the government; and focuses on mobilizing the grassroots with a view to influencing field, local and national level implementation.

*Samata* works in Northwest Bangladesh, primarily to assist landless people to gain access to *khas* land and *khas* water bodies. With its Land and Agrarian Network for Development (LAND), *Samata* engages in social mobilization around land rights and related local administrative reform, focusing on *khas* land and *khas* water bodies. *Samata* and its LAND network NGO members come from the extreme poor, comprising 40% of the population living below the poverty line, including the rural landless, day laborers, and fisherfolk. *Samata* and its Network NGO partners help the landless poor to form groups and committees, and engage them in awareness building and training. These groups identify land and, with support from *Samata* and partner NGOs, put together the documentation necessary to apply to various local officials responsible for verifying and distributing *khas* land. *Samata* and its partners have been able to mobilize 500,000 landless men and women, and to recover and redistribute around 40,000 hectares of *khas* land and *khas* water bodies to 200,000 rural landless families.

Other NGOs include Caritas Bangladesh, RDRS, Sagarika, Dwip Unnayan Sangstha, CDA, LDO, ARBAN, SEHD, Banchte Chai, Karbala, RULFAO, Manab Mukti Sangstha, Dulai Jono Kallayan Sangstha, Sromojibi, Jamuna, COAST Trust, RFS, BFF, CNRS, SDS, FDA, SWALLOS, PPL, Gram Bikash Kendra, SHARP, Shusilan, and Sustain. These groups apply a rights-based approach to land advocacy, which includes activities such as: (1) group formation, committee formation, and mobilization of landless men and women; (2) strengthening organizations that represent the landless poor or advocate for land rights on behalf of the poor; (3) Land Rights information and awareness campaigns and Land Literacy Programs; (4) Identification, information collection, information verification, recovery and redistribution of *khas* land and *khas* water bodies; (5) Training for those involved in service delivery, including government land administration agencies and

NGOs; (6) Promotion of participatory research and consultations in relation to laws and policy formulation and reformation to strengthen the rights of the poor, the landless, women, and other disadvantaged and marginalized groups; (7) Provision of legal representation for the poor to enable them to claim their land rights; (8) Instituting local arrangements for land administration and systems for resolving land disputes in ways that are accessible and transparent to the poor; (9) Involvement of civil society groups and community representatives in assessing and monitoring the performance of government in relation to land and agrarian reform; (10) Representation of civil society groups and communities in land management committees, land boards, and land commissions; (11) Investigation, fact-finding, video documentation and research on how development projects in forestry, fisheries, and infrastructure projects funded by international financial institutions (IFIs), among others, affect the marginalized communities; and (12) Sharing and customization of knowledge.

## Opportunities, Challenges and Strategies to Advance Access to Land and Tenurial Security

### Lessons from Past Interventions and Initiatives on Land and Tenurial Security

- **Importance of Patience and Commitment**

Land rights involve complex issues, whose solutions require radical (i.e., long-term) structural changes in the country. Many of the movements that have succeeded in Nepal, such as the Ranisnkail Movement, and the Ghughudah Movement, took over a decade to bring to fruition. Therefore, land activists and landless communities should engage in the land rights movement with a long-term strategy and action plan.

- **Strong Participation of Landless Communities**

The involvement of landless communities in the planning and reflection process helps to promote their sense of ownership of the movement, whether or not it succeeds. It also helps to enhance the movement's sustainability.

- **Mobilization and Coalition-building**

Coalition-building enhances the movement's chances of success and its potential to take on a life of its own. The coalition must have a broad base of support, and must be able to accommodate many opinions within the consensus framework.



- **Little Attention to Generation of Knowledge**  
Research for generating original and relevant information base is very limited. The knowledge that already exists is not sufficiently customized.

## Risks and Challenges

- **Lack of Political Will**  
Successive governments in Bangladesh have not prioritized land reform policies, primarily because government and political party leaders come from rich, landed families, which may or may not have had a hand in grabbing state-owned land and water bodies. But even if the leaders may not themselves have been involved in such activities, they are reluctant to prosecute the land-grabbers, who are usually loyal and generous supporters.
- **Shrinking Space for Land Rights Advocacy**  
Due to political instability and the "state of emergency" currently imposed on the country, the activities of land rights activists and other social movements have been seriously restricted. Changes in government and the attendant changes in policies and programs have also made it difficult to sustain a dialogue with government.
- **Insufficient Capacity of Land Rights Organizations and NGOs**  
Organizations working on land rights and other NGOs are still ill-equipped to clearly articulate their objectives and strategies, mobilize resources, engage in participatory planning, and communicate effectively with government. This lack of capacity has hindered the progress of the land rights movement in the country. These groups also have limited ability to analyze the issues related to land rights, and have therefore failed to communicate with other stakeholders. Pro-poor land reform advocates must have the ability to think strategically and to form strong alliances among other groups.
- **Lack of Livelihood Support for the Landless**  
One of the challenges facing the land rights movement is the need to provide for and sustain the families involved in the movement. The land rights struggle is protracted; at the same time, the needs of the affected families are immediate. The challenge therefore is how to strike a balance between meeting the immediate needs of the people and their strategic (i.e., long-term) goals.

- **Unsupportive Donor Policies**  
Donor policies and priorities sometimes change so quickly that land rights organizations find their funding source drying up all of a sudden. Moreover, many donors support project based activities following an inflexible timeframe, which is inappropriate for conducting movements. The neo-liberal and market-oriented policies adhered to by many donors also work against the interests of tenants and landless farmers.

## Strategies for Advancing Access to Land and Tenurial Security

- **Confirmation of Tenurial Security**  
There is a need to confirm the tenurial security of land users. A variety of methods may be used, such as formal titling programs; formal recognition and registration of customary and other informal rights to land and occupancy; and tenure registration, which involves updating land records and clarifying the tenurial status of land users and claimants. Government has tended to ignore the need to confirm the tenurial status of land users, or has approached the task by attempting to implement comprehensive land registration and titling programs. The process of tenure formalization requires careful planning, customization and integration into local contexts.
- **Redistributive Land Reform**  
Redistributive land reform is relevant in highly unequal societies and in countries undergoing political and economic transition, such as Bangladesh. But it tends to take time, linked as it is to the processes of economic development and de-colonization. Bangladesh has almost 2 million hectares of state owned land which it could recover from their illegal occupants and redistribute to the landless poor in the country. The government could also strictly enforce the agricultural land ceiling, expropriate the surplus, and distribute this to the landless. The government, in partnership with other stakeholders, must also provide for basic infrastructure and social and agricultural support services, if land reform efforts are to succeed.
- **Improving the Capacity of Public Sector Land Institutions**  
Capacity-building of public sector land institutions and the use of information technology are essential to the success of land registration and titling programs.



- **Targeting Assistance to Civil Society Groups and NGOs Involved in the Agrarian Reform Debate**

Development partners can promote partnerships by targeting assistance to civil society groups and NGOs involved in the debate and implementation of agrarian reform. In Bangladesh, this is necessary because the government is either unwilling to make a commitment to implementing agrarian reform, or has its hands tied because of its ties to the landed elite.

- **Improving the Governance of Land Resources**

The governance of land resources not only determines access to land, livelihood, and economic opportunities, in the short-term, but also plays a critical role in resolving social conflicts between groups and in ensuring environmentally sustainable development in the longer term.

- **Research, Knowledge Management and Lessons Learned from Pro-Poor Land Reform**

There is a need to promote the effective use of the knowledge that research generates in operationalizing land policies for pro-poor development. It is important to discuss and communicate the findings from research and operational practice with policy and decision-makers at all levels. A combination of high quality, focused research and a capacity to work within the policy formulation process are essential if land rights advocates are to make a contribution toward the improvement of land policies and their implementation. Research and networking activities must be conducted such that contact and feedback are established between and among a range of actors operating at various levels of decision-making in the country, as well as at the regional and international levels.

- **Transparent Monitoring and Evaluation Systems and Process for Land and Agrarian Reform Programs**

The key topics for evaluation and learning are: (1) the impact of different approaches and ongoing programs for land distribution and agrarian reform; (2) formalization or regulation of land rights; design of land institutions and linkages of land policy and land reform; (3) land administration programs; and (4) wider development strategies and poverty reduction, including questions of prioritization, cross-sectoral coordination, sequencing, and phasing.

## Recommendations for Country, Regional, and International Level Advocacy and Campaign

### At Country Level:

1. Representatives of peasants and landless groups should have a strong presence in the national *Khas* Land Management Committee, and the Distribution Committee at the district level;
2. A legal support system needs to be institutionalized to ensure the speedy resolution of problems concerning the landownership rights of the poor, and their choice of crops to cultivate. Existing legal aid support from NGOs and other institutions needs to be strengthened;
3. The Vested Property Repeal Act of 2002 should be implemented immediately in order to protect the land rights of religious minorities;
4. All vested property under the government's custody should be leased out to the real owners or to their legal heirs who are permanent residents of Bangladesh, pending the final settlement of individual cases;
5. The law of inheritance should be amended to make provisions for women's equal right to own land;
6. Efforts should be made to implement the Peace Accord (signed between the Government and the indigenous peoples of the CHT in December 1997) in a comprehensive manner, paying special attention to critical provisions that have been left unimplemented, such as the activation of the Land Commission;
7. In order to resolve the deep-rooted problem of forcible occupation of Hills lands, these issues must be addressed by an effective and empowered Land Commission, as stipulated in the Peace Accord of 1997;
8. Separate laws must be enacted and implemented to promote and protect the customary land rights of indigenous peoples;
9. The tea plantation worker should be given special attention;
10. To maximize and rationalize the utilization of land, a National Land Use Policy needs to be developed;
11. Social movements and a social land watch platform needs to be created to campaign against land related corruption and the non-implementation of pro-poor and pro-women laws and policies regarding land rights and agrarian reform.
12. Research and customization of knowledge that already exists need to be scaled up.

### At the Regional and International Levels:

1. Best practices in different countries in the region must be used for the campaign;

2. The campaign to recognize the customary land rights of indigenous communities has to be stepped up at the country, and regional levels;
3. The campaign against encroachment and violation of the land and human rights of indigenous peoples has to be developed and conducted both at the country and the regional/international levels;
4. Networking among civil society actors and NGOs on issues concerning land, water, and forest rights needs to be strengthened at the national and regional levels;
5. Capacity-building of civil society organizations, community based organizations, and relevant government agencies has to be addressed;
6. Interactions among inter-governmental organizations on land and agrarian reform issues need to be enhanced, and the implementation of their programs monitored at the country and regional/international levels; and
7. Advocacy and lobbying on land and agrarian reform issues should be done with governments at country level, and collectively, through forums, such as South Asian Association for Regional Cooperation (SAARC), Association of Southeast Asian Nations (ASEAN), etc., at the regional/international levels.

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## Endnote

- <sup>1</sup> Access to land in the narrow sense of the term can be defined as ownership and/or access to khas land; in the broader sense it includes ownership and/or use (usufructory right) and/or proportionate to population size right of entry, use or accrual of benefits.

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