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# **Access to Land and Other Natural Resources by the Rural Poor: The Case of Bangladesh<sup>1</sup>**

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**June 2009**

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## **Abstract**

Access to land refers to the ability to use land and other natural resources, to control the resources and to transfer the rights to the land and take advantage of other opportunities. Rural poor people depend on agriculture and related activities for their livelihoods, but the majority have limited access to land. This makes agriculture a difficult solution to poverty for people who have few assets and limited alternative ways of making an income. There are compelling reasons for ensuring that rural poor people have secure access to land. It makes possible greater agricultural productivity and food security, economic growth in rural areas, increased family incomes and more-sustainable land use. It also contributes to conflict prevention and helps reduce migration to urban centres. Access to land also empowers rural poor people, strengthens networks that give them a voice and contributes to a more participatory political culture. Access to land and land tenure security are at the heart of all rural societies and agricultural economies. Having land, controlling it and using it are critical dimensions of rural livelihoods, and determine rural wealth and rural poverty. Bangladesh is one of the low-income economies in the world, and poverty is a major challenge in the country. Despite the fact that, over the years, poverty in Bangladesh has been reduced, the extent and depth of poverty remain to be very acute in Bangladesh. In particular, rural poverty remains to be very high. Access to land has often been considered to be a major determinant of poverty in many developing countries. The objective of this research is to conduct a detailed in-depth country assessment and analysis of the land related issues in Bangladesh, addressing poor people's access to land and other natural resources, including common property resources, and tenurial security, particularly that of vulnerable and indigenous groups.

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# **Access to Land and Other Natural Resources by the Rural Poor: The Case of Bangladesh**

*Selim Raihan, Sohani Fatehin and Ifthekhrul Haque*

## **I. Introduction**

Access to land refers to the ability to use land and other natural resources, to control the resources and to transfer the rights to the land and take advantage of other opportunities. Enhanced access to land includes three main aspects: (i) strengthening land tenure security and land rights, (ii) increasing the amount of land that people have access to, and (iii) improving the productivity of land. Alternatives to enhancing access to land for agriculture include promoting non-farm activities and urbanization.

Land tenure refers to the rules, authorities, institutions, rights and norms that govern access to and control over land and related resources. It defines the rules and rights that govern the appropriation, cultivation and use of natural resources in a given space or piece of land. It governs who can use what resources, for how long and under what conditions. Strictly speaking, it is not the land itself that is owned but the rights and duties related to it.

Land tenure systems are highly complex. At national and local levels they include a multiplicity of overlapping (and at times contradictory) rules, laws, customs, traditions, perceptions and regulations that determine how people use, control and transfer land. This has significant implications for the analysis of land tenure issues and their significance in poverty reduction. Land tenure security refers to people's rights to control and manage a parcel of land, using it, disposing of its produce and engaging in transactions, including transfers. Land tenure security has three main characteristics: (i) duration – how long will different land rights last? (ii) protection – will land rights be protected if they are challenged or threatened? (iii) robustness – are the holders of land rights able to use the land and dispose of the rights without interference from others?

Rural poor people depend on agriculture and related activities for their livelihoods, but the majority have limited access to land. This makes agriculture a difficult solution to poverty for people who have few assets and limited alternative ways of making an income. There are compelling reasons for ensuring that rural poor people have secure access to land. It makes possible greater agricultural productivity and food security, economic growth in rural areas, increased family incomes and more-sustainable land use. It also contributes to conflict prevention and helps reduce migration to urban centres. Access to land also empowers rural poor people, strengthens networks that give them a voice and contributes to a more participatory political culture. Access to land and land tenure security are at the heart of all rural societies and agricultural economies. Having land, controlling it and using it are critical dimensions of rural livelihoods, and determine rural wealth and rural poverty.

Land is not simply an economic resource. It is an important factor in the formation of social and cultural identity and in the organization of religious life. It is also an enormous political resource, defining power relations between and among individuals, families and communities under established systems of governance. In rural societies, landless or near-landless people and people with insecure tenure rights often constitute the poorest and most vulnerable groups. Poorer and marginalized groups tend to have secondary rights that rarely extend

beyond use rights. And what rights they have are often unprotected and weak, especially in the case of women.

Land issues have an impact on the everyday choices and prospects of poor rural people. For example, issues of land access and security of land tenure strongly influence decisions on the nature of crops grown, whether for subsistence or commercial purposes. Such issues also influence the extent to which farmers are prepared to invest (both financially and in terms of labour) in improvements in production, in sustainable natural resources management, and in the adoption of new technologies and promising innovations. They also have an impact on people's access to financial services and on their capacity to interact and take advantage of markets. The structure and functioning of land tenure systems are important factors in determining how the benefits of agriculture-based activities are divided among various individuals and groups within households and communities.

Bangladesh is one of the low-income economies in the world, and poverty is a major challenge in the country. Despite the fact that, over the years, poverty in Bangladesh has been reduced, the extent and depth of poverty remain to be very acute in Bangladesh. In particular, rural poverty remains to be very high. Access to land has often been considered to be a major determinant of poverty in many developing countries. The objective of this research is to conduct a detailed in-depth country assessment and analysis of the land related issues in Bangladesh, addressing poor people's access to land and other natural resources, including common property resources, and tenurial security, particularly that of vulnerable and indigenous groups.

## **II. Methodology of the Study**

This study has adopted both quantitative and qualitative techniques to achieve the objectives of the study. The techniques include:

- Review and analysis of relevant policies, laws, programmes related to land distribution and rights.
- Review of previous studies, land survey, agricultural census report, newspapers and articles.
- Collecting secondary data from Ministry of land, Bangladesh Bureau of Statistics ( e.g The Agriculture Census Report 1960, 1983/84, 1996 and Agriculture Sample Survey of Bangladesh 2005, Household Income and Expenditure Survey), Association for land reform and development (ALRD), Samata and several case studies.
- Descriptive statistics
  - Trend analysis
  - Percentage distribution analysis
  - Pattern of land inequality (over the years)
  - Extent of tenancy
- Econometrics Analysis to relate access to land to poverty in rural Bangladesh.
- Field Survey for Case Studies



### III. Overview of Land Policies and Law in Bangladesh

Agrarian reform refers to the changes in the agrarian structure through changes in ownership relations in order to accelerate development in production. Land reform is a vital part of agrarian reform where land ownership is the central element. Social scientists define land reform as the distribution of land to small landholders especially to the landless peasants. It also includes consolidation of land, reclamation, improvement of land, state and co-operative farming, providing various inputs credits etc. In this section, we give an emphasis on the past policies and laws related to land reform in Bangladesh.

#### 3.1. Mughal Period

During the Mughal period, the Mughals did not interfere with the land system rather they were involved in assessment and collection of land revenue. At that time, revenue, justice and security were maintained under distinct entities where the officials were the *amil*, *the kazi* and *the faijdar*. Like the pre Mughal period, land revenue collection was left to Zamindars.<sup>5</sup> With the decline of Mughal power, the farmers were allowed on payment of the predetermined sum to appropriate the revenue for their own use (Hussain, 1995). Box 1 demonstrates the phases of land tenure system in Bengal from 1765 to 1980.

##### Box 1: Phases of Land Tenure System for Two Centuries

- 1765-1793: The period of different frameworks for settlement of land
- 1793-1859: The protection of the rights of Zamindar
- 1859-1885: The beginning of the protection of the rights of tenants
- 1885-1938: The protection of tenants was strengthened
- 1938-1950: Acquisition of rent receiving interest was in recommendation
- 1950-1980: Legal and administrative difficulties failed distributive land reform system

Source: Alamgir (1991)

In 1765, the East India Company acquired the Zamindari rights in Bengal. In 1769, the East India Company assigned European Officers known as Supervisors to oversee revenue administration. Leasing out land to the highest bidder for a period of five years was taken which was harmful for the tenants. Later on in 1790, it was reinstated by 10-year settlement but still had the problem of open auctioning. The controversy carried on up to 1793 when the Permanent Settlement Act was enacted (Hussain, 1995).

#### 3.2. Permanent Settlement Act 1793

Lord Cornwallis ordered the Permanent Settlement Act where the main provisions are given below<sup>6</sup>:

<sup>5</sup> Alamgir, k (1981): Land Reform in Bangladesh, 1981, p. 147

<sup>6</sup> Alim, A, “ Land Reforms in Bangladesh: Social Changes, Agricultural Development and Eradication of Poverty”, 1979, p. 28

- a) The Zamindars were asserted as proprietors of the soil and became the administrator of all property rights.
- b) According to a customary *pargana* rate (ten eleventh of the assets), the Zamindars used to accumulate fixed revenue from the tenants
- c) Extension of any future augment of assets resulting from additional assessment of revenue was treated as the benefit for the Zamindars.
- d) The revenue was inevitably fixed in perpetuity. But Zamindars were accountable to sell their assets for amount overdue of revenue in case of any default in payment of revenue by the sun set of the last day fixed for each installment as per the Revenue Sales Act (more popularly recognized as the Sun-set law).
- e) According to customary *pargana* rate (entered in a document called the patta), the judgment of rent from them was carried on.
- f) For the general well-being of their tenants, it was expected that the Zaminders would invest to improve and also take beneficial steps.
- g) The Government kept the rights to legislate at any time for the security and wellbeing of the tenants.

With this system, peasant proprietorship of land was eliminated. The main motive of East India Company was to create safeguard receipts of land revenue. Records of that period show that about half of the estates in Bengal were sold in auction and most of the original Zamindars were impoverished (as for first two of three decades, land revenue was fixed as high as ten-eleven of the assets). At that time, there were only two classes of tenants, viz, *Khudkasht raiyats* (self cultivating) and *Paikash raiyats* (non-self cultivating). The position of the tenants was set aside unclear. Due to the non-existence of any clear provision of their status and rights, the landlords made arbitrary assessment of rent by taking benefit of the fluctuating *pargana* rates.

At that situation, to lessen the hardships of tenants, in 1830 the House of Commons set up a Select Committee to find out land tenure system and formulate appropriate recommendations. The committee however suggested legal and administrative reforms, which were not approved. By the middle of the 19<sup>th</sup> century revulsion of feeling developed against the regulatory authorities.

Act X of 1859 (known as rent act) contained a definition of tenancy which sought to protect the interests of the tenants. But in that act, there was two serious shortcomings a) there was absence of the definition of fair and equitable rent, and b) in the lack of proper records, the tenants had complexity to establish twelve year's continuous possession. This resulted in agrarian disputes.<sup>7</sup> Act XI of 1859 was entitled as "The Bengal Land revenue Sales Act, 1859" which again secured the rights of the Zamindars. In particular, this law repeated the right of auction purchaser to be 1) free from all encumbrances, 2) the right to enhance rents, and 3) the right to eject tenants.<sup>8</sup> But, these exceptions could not improve the condition of the tenant. In 1876, with proposal of fixation of rent a Bill was set up which was never carried through. A commission (appointed in 1878) prepared a Bill for recognition of definite arrears of rent and suggested to undertake a complete modification of the tenancy law. In 1878, the Commission presented a draft bill and The Bengal tenancy act 1885 was based on that bill.<sup>9</sup>

<sup>7</sup> Alamgir, k (1981): Land Reform in Bangladesh, 1981, p. 151

<sup>8</sup> Ali, Shakhwat. (1986), " Politics and Land System in Bangladesh", 1986, p. 77, 90

<sup>9</sup> Government of Bengal: The Bengal Rent law Commission, 1880, Bengal Secretariat Press, Calcutta, 1880.

### **3.3. The Bengal Tenancy Act, 1885**

Due to the rise of agrarian disputes, the question of modification of rent law in East Bengal reached a stage at which it was certain that some new legislative measures would be initiated. The tenancy act 1885 was thus introduced on the principles of fixity of tenure at legal rents. The three main objectives of this act were:

- a) to give the settled raiyats the same protection like the old customary law;
- b) to guarantee to the landlord of a fair share of the increased value of the products of the soil; and
- c) to set rules by which the questions of disputes between the landlord and the tenants could be decided upon equitable principles.

Restricting the power of entering into contracts in violation of its basic principles protected the principles of the act. The act of 1885 was imperfect due to complexities of the tenural system that had developed for nearly hundreds years or so with its unbearable effect upon the agro based society that was born into numerous divisions and classes of various grades and shades of concern. It rested on the premise that a middle class based on the interest in land would develop and this class would constitute a stabilizing element in the socio-political system.

### **3.4. Land Reform during the 20<sup>th</sup> Century**

A first attack on Zamindar was started from 1902. After disparaging the Permanent Settlement System, the Memorandum on Revenue Policy of the Government of India declared in unequivocal terms that the system could not be acknowledged as a public model and on behalf of the cultivating class, the government must interfere.<sup>10</sup>

With the rise of public opinion in favour of the tenants, the Act gradually underwent several important Amendments in 1928, 1938 and 1940. Since the working of the Permanent Settlement Regulation and the subsequent supporting Regulations and Acts were becoming inactive, a Land Revenue Enquiry Commission known as the Flood Commission was formed in 1938 with the main objective of going into the questions of abolition of the Zamindari system. In 1940, after comprehensive enquiries the commission recommended the elimination of the Zamindari system and all grades of rent receivers on payment of suitable compensation. As this system ceased to serve national interest, the Bengal Administrative Enquiry Committee of 1944 approved majority of the recommendations of Flood Commission. The result was draft of Bengal State Acquisition and Tenancy Bill, 1947. But there was huge difference in the opinion among different stakeholders. The East Bengal Legislative Assembly, in its fourth session formally approved the Bill on February 1950.

It was known as the East Bengal State Acquisition and Tenancy Act (EBSATA), 1951. The main provisions of the 1951 Act were three fold:

- a) Abolition of all rent receiving interests
- b) Prevention of future subletting and
- c) Place a ceiling on land holdings per family beyond 100 standard bighas (33.3 acres).

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<sup>10</sup> Alamgir, k (1981): Land Reform in Bangladesh, 1981, p. 153

In 1961, Ayub regime elevated the land ceiling to 129.9 acres under the East Pakistan Tenancy Act of 1961 leaving only insignificant fraction of land for redistribution (i.e. 163,741 acres, measuring only on estimated 0.07 acre to each landless labour after redistribution).

### **3.5. Reform after 1971**

The Government of Bangladesh made several attempts to protect land right of the peasantry. Through the Residential Order No. 98 of 1972, the retainable ceiling of land per family was brought down to 33.3 acres. But it was relaxed in case of cooperative society of farmers, cultivation of tea, rubber and coffee and for production of raw materials. The committee for land reform felt that revision settlement operation would cost Tk 10 million without which the ownership pattern could not be determined.<sup>11</sup> The Awami League Government formed another Land Revenue Committee in 1974, which failed to address the issues concerning land system.

In 1972, the State Acquisition and Tenancy Order 1972 was enacted. Under this amendment, raiyats having 25 bighas of land or less per family were exempted from paying any rent. As a result, the government lost revenue of Tk. 68 million (Bangladesh Progress, 1972, P.12). All char lands would thus be at the disposal of the government and would be available for settlement by the poorer classes of agriculturists in accordance with government policy and the provisions of the law.

The 1977 land occupancy survey found that 9.67 percent families in the rural areas owned 50.68 percent of total agricultural land. At the other end 77.67 percent of families owned 25.17 percent of land. The landless families constituted 28.10 percent of total rural families in 1960 and in 1977, it stood at 32.79 percent indicating enhancement of skewed land ownership. Main findings from this survey were:

- There are many owners who own land in excess of the prescribed ceiling of 100 bighas
- It was difficult to have a number of owners exceeding the ceiling amount with their type of modernization.

Land Reforms Ordinance 1984 was promulgated based on the recommendation of Land Reform Committee formed in 1982 in order to improve the production relations in the agricultural sector. There were mainly five sections of the ordinance:

1. The ownership ceiling on land
2. Protection of the rights of the sharecroppers
3. Legally establishing the minimum wages for agricultural labourers
4. Formalizing a decentralized and strengthened survey and
5. Establishing a settlement administration.

The ownership ceiling was retained at 33.3 acres, and the sharecropping practices were revised to safeguard rights of the tillers and sharecroppers. It also provided prohibition on

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<sup>11</sup> Ali Shakawat.(1986), “ Politics and land system in Bangladesh”, 1986, p. 255

acquisition of new agricultural land by a family beyond 60 bighas (near about 20 acres), prohibition of benami transaction and enforcements of rights of sharecroppers of “bargadars” in the land area under barga cultivation. In this new law, the division of barga land is prescribed as follows:

1. One third shall be received by the owner of the land
2. One third shall be received by the bargadar for his labour
3. One third shall be received by the owner or the bargadar or by both in proportion to the cost of cultivation other than the cost of labour borne by them<sup>12</sup>

As mentioned in Barkat et al (2001), the Land Reform Action Program 1987 included the following as khas land:

- All lands (eligible for settlement) included in part II of Register VIII;
- All lands which have changed their character and included in part I of Register VIII;
- Agriculture land included in part V of Register VIII;
- All lands, fallow or cultivated under different government or semi government bodies if found either unutilized or acquired in excess of requirement subject to return;
- Lands where ownership has been extinguished or the land is not claimed by any body;
- Surrendered lands under P.O.98/72 (Bangladesh Land Holding Limitation Order 1972);
- Lands thrown up from the bed of the river or sea;
- Land resumed by the government (section 92 of EBSATA);
- Any land surrendered to the Government under any law for the time being in force.

From the above, it can be said that sources of khas land include diluviated land, newly accreted char land, land excess of ceiling, land due to cancellation of ownership, government procured land through auction, some categories of land in register VIII, unutilized pond of different government and semi government bodies among others.<sup>13</sup>

In 1988 a “cluster village development” programme was undertaken to relocate the landless people on Government lands, but only 800 such villages could be formed for 32,000 household’s by 1996. Act 1972 was restored in 1991. In 1996, a new agricultural Khas Land Management and Resettlement Policy was introduced again with limited impacts on settling the landless poor.

In 2001, the government introduced a land use policy. Major focus was on:

- reforming the present land administration system;
- updating different laws for land administration;
- establishing a data bank for khas, fallow, char land and others;
- introducing certificate of land ownership (CLO)<sup>14</sup>;
- distributing agriculture and non-agricultural khas land<sup>15</sup>;
- emphasising on project approach, as landless people were not organized<sup>16</sup>;
- adopting a jalmahal policy to establish the rights of poor fishermen;
- adopting and implementing unified rules with the aim of alleviate poverty by way of providing income support to marginal farmers and land less farmers.

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<sup>12</sup> Section 12 of the Land Reform Ordinance, 1984

<sup>13</sup> Barkat et al. (2001), “ Political Economy of khas land in Bangladesh”, 2001

<sup>14</sup> Instead of family based land record, a plot based land record would be introduced.

<sup>15</sup> 93196 acres of khas land have been distributed among 181495 families since 1997.

<sup>16</sup> These projects would provide basic housing facilities and land titles and create dynamic villages.

So far, we have discussed on various policy reforms that were taken by the authority to reform land policies. Now various laws regarding ownership of land are analysed below.

### **3.6. Inheritance law**

The inheritance law for the Muslims in Bangladesh is defined by the principles of Sharia through Muslim Personal Law along with the general law which is non-religious and secular in its character. The Muslim personal law covers the field of marriage, divorce, maintenance, guardianship of children and inheritance whereas the general law covers the rights under the Constitution, penal codes, the civil and criminal procedure codes, evidence act etc. Muslim law of inheritance has two distinct elements, namely, the customs of ancient Arabia and the rules laid down by the Quran and prophet Mohammad. Under the customary law of pre-Islamic Arabia the women in whatever capacity were excluded from inheritance. The Quran made quite a considerable change of the position. According to the Muslim Law there are three kinds of heirs (i) "sharers" who are entitled to a prescribed share of the inheritance, (ii) "residuaries" who take on prescribed share, but succeed to the residue left after satisfying the claims of the sharers, and (iii) "distant kindreds" who are blood relations other than the sharers and residuaries, and succeed generally in the absence of sharers and residuaries. In the classification of the heirs, it is important to note that though the son's son and son's daughter have been made residuary and sharer respectively, daughter's children have been made distant kindreds. The principles of succession among the sharers and residuaries are two-fold: (i) the nearest in blood relationship excluded the remote one, and (ii) whoever is related to the deceased through any person shall not inherit while the person is living.

Under the Muslim Law, the wife (or wives taken together) get one-eighth if there is child, and one fourth if there be no child from the estate of her husband, though the husband gets exactly double. Mother gets from the estate of her sons one-sixth when there is child of her son or when there are two or more brothers or sisters or one brother and one sister of her son, and one third when there is no child and not more than one brother or sister of her son. On the other hand, the father gets from the estate of his son one-sixth if there be child of his son and in the absence of any child of his son, he gets the entire residue after satisfying other sharers claim, and so on and so forth. It is significant that the Quran has provided that daughter, mother and wife would under all circumstances be entitled to some share in the inheritance and are not liable to exclusion from inheritance, but they are not treated at par with their male counterparts, i.e. son, father and husband and, to this extent, rules of inheritance are discriminatory.

Women in fact were not given parity in the matter of their shares, and, as a general rule, the female is given one-half the share of the male. The case of sister's inheritance is equally discriminatory. According to the rule of nearer in relationship excluding the remoter in relationship, children of a pre-deceased son or daughter would not inherit if a person died leaving another son. This often rendered the child or child of pre-deceased child destitute. This inequity, however, has been removed by Muslim Family Laws ordinance, 1961 which provides that the children of the predeceased child would inherit the share which the pre-deceased children would have inherited had he or she been alive. But the widow of a predeceased son remains as helpless as before as she does not inherit anything of this ordinance.

According to Bangladesh Law Hindu women only get a limited share. They inherit life interest in the property. There are five female Sapindas according to the Dayabagha law, namely the widow, the daughter, the mother, the father's mother and the mother of father's father. No other female relation is recognised as heir by the said school. Moreover a daughter cannot receive any property, even she cannot get life interest in the presence of son, grand son and great grand son. Although in neighbouring India laws in this regard have been updated since independence in 1947, in Bangladesh the pre-1947 laws are still prevailing. In India laws have been framed and amended those have established women's rights on the property of father and husband. A wife's right to her husband's property is elaborately mentioned in Article 8 of Indian Succession Act. It is stated that if a Hindu man fails to distribute his property through a deed or testament, the inheritance will be determined based on Article 8 of the Hindu Inheritance Law and according to the list described in that law. In this way, a Hindu widow can demand the property of her husband under this law.

### **3.7. Enemy Property Act 1965<sup>17</sup>**

During the Pakistan period, the vested property was known as 'enemy property' after the 1965 Indo-Pak war. On 6 September 1965, at the outbreak of war, the Central Government of Pakistan promulgated the Defence of Pakistan Ordinance in order to ensure public safety. Under this, the Governor of East Pakistan declared an Order on 3 December 1965 in which the property of the minorities was declared "Enemy Property".

With the emergence of Bangladesh, the law relating to the administration of Enemy Property remained in force of the Laws Continuance Enforcement Order 1971. The Government of Bangladesh enforced an order on 26 March, 1972 known as the Bangladesh Vesting of Property and Assets Order, 1972. Since then various ordinances, amendments, circulars, memos, and committees have been formed but have failed to solve the problem of minority.

"Depeasantization and victimization are active elements in the process of migration in more than one way. Not only the Muslim peasants depeasantized, pauperized on their arrival in India, the Hindu peasantry of Bangladesh is cynically and most systematically robbed of land on communal considerations in the villages of Bangladesh and the peasants are thus forced to flee. The catalyst in this case is the enemy (vested) property law".<sup>18</sup>

In a report named "The Legacy of Enemy Turned Vested Property Act in Bangladesh" by Ravindra Trivedi, it was mentioned that with the promulgation of the Vested and Non-resident Property (Repeal) Ordinance by President A. M. Sayem during the rule of General Ziaur Rahman, many government officials became the owners of lands earlier held by the Hindus. With this process of expulsion of the Hindu peasantry from the villages, a new class of land grabbers has appeared. The gradual disappearance of the Hindu peasantry from the Bangladesh countryside has empowered the Tehsildars to find out the lands suitable for enlisting as enemy property. They felt encouraged to bring many undisputed properties of the Hindus under this list due to provision for rewarding. Like the tehsildar, the additional deputy commissioner, the sub-divisional officer, or the circle officer were similarly promised reward.

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<sup>17</sup> This section is benefited from Trevedi, R (2007), Ghosh, R (2000), Barkat et al (1997).

<sup>18</sup> The documentation of the National Seminar on Enemy (Vested) Property Act, 6-7 May 1994, Dhaka by Samprodadaik Samprity Parishad (pp35-65).

In fact, the process had started by taking over the properties in land and building left by the Hindus, the Garos and the Oraons as per the East Pakistan Government under sub-rule (4) of Rule 169 of Defense of Pakistan Rules. Though this was withdrawn in 1969, the Enemy Property Continuance of Emergency Provision Ordinance No.1 of 1969 was promulgated, to be followed by Vested and Non-resident property. Management Committee at the sub-divisional level could transfer any vested or non-resident property with the written permission of its owner in a prescribed manner. In 1975, the Sayem government, abolished it.

During early 1980s, the government of President Ershad passed an order for selling the vested land and buildings, 'the dilapidated and kutcha houses' not required by the government, to the existing lessees and if the lessees were unable to purchase, through public auction. Subsequently, President Ershad passed an order for selling all vested properties by December 1983 and offered that vested properties would be governed according to the Hindu law of inheritance. During early 1990s, the policy of the government was to sell vested properties to those occupants who could pay 10 per cent higher than the prevailing market price. Moreover, the government of BNP passed an order for the release of vested property in land up to eight bighas outside the 'Pourasabha'

"On the devastating effects of the vested property Act on the material and psychological conditions of the Hindus it was calculated that from 1964 each day on an average 538 Hindus have 'vanished'." <sup>19</sup> The same report said that the vanishing rate has not been uniform over periods; in 1964-71 it averaged 703 per day, between 1971 and 1981 it was 537, and in 1981-91 the figure stood at 439. The report further said: "The sample survey, on the basis of which the report was prepared, showed that out of the 161 dispossessed, 13 per cent were near landless, whereas 40 per cent became landless through dispossession, and 15 per cent of the surveyed persons were rich before dispossession but the figure came down to 6 per cent later". The report traced four ways of dispossession, and consequent migration: forced occupation, leasing-out by the government of the said property to third party, nominal occupation but legal alienation and the extreme feeling of insecurity regarding loss of property.

### **3.8. Vested Property Return Act 2001<sup>20</sup>**

To improve the situation, the government had passed the vested property repeal act in 2001. But, due to politically influential encroachment and legal complication, it was never implemented.

According to a report of the Land Ministry in October 2004, submitted to a parliamentary standing committee 445,726 acres of vested property out of 643,140 acres ended up in encroachment across the country. "Grabbers gabbled up more than two thirds of vested property as the government lost control over the lands as the custodian and its long-line dithering blocked anti-encroachment efforts," the report said.<sup>21</sup> It may be recalled that "Transfer of Property Act" is ignored in case of the Hindus by keeping the Enemy Property Act as The Vested Property Act. So the property based crisis deepened and disturbed society at the root.

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<sup>19</sup> Abul Barkat and Shafiquzzaman,(2008) " Bangladeshher Grameen Samaje Arpito Sampattite Ainer Probbab: Ekti Anusandhan," National Seminar of Association for Land Reform And Development, 13 April 1996, pp-7.

<sup>20</sup> This section is befitting from Barkat (2008)

<sup>21</sup> The Daily Star, 15 October 2004.



It is needless to say that Vested Property Act is a law against the spirit of the Constitution of Bangladesh. The Act has violated the fundamental rights of a class of people guaranteed in the Constitution of Bangladesh.

Another unfortunate fact is that the presence or absence of democratic government can not make any significant difference in this case. It should be mentioned here that along with the Islamization process the operation of the Enemy (Vested) Property Laws have continued to disturb the normal life of the people belonging to the religious minorities of Bangladesh.

Political elements, locally powerful people in collaboration with the land administration, trickery by land officials and employees themselves, use of force and crookedness, fake documentation, contracted farmers and death or exile of original owners have contributed to the phenomenon. More than 60 per cent of the owners and the successors of 'vested properties' are either dead or have left the country. The problem highlights the 'inability' and 'weakness' of the majority people to raise protests though they are non-communal".

To solve the residual problems of the Vested Property Act, Barkat (2008) has come up with a number of recommendations such as identification and listing of such cases and lands, amendments to certain provisions of the 2001 law that hinders its implementation, cancellation of leases of such land to different people for 99 years. According to Barkat , scrapping of the Vested Property Act in 2001 has not smooth the way for its implementation to end deprivation of the Hindu community due to conscious delay and criminalization of the political economy. The vested property act incapacitated Hindu people in serving the nation, depriving the country of their more valuable contribution. Also the inability to raise protests against the repression by a tiny class of looters implies the weakness of the majority people who are though non-communal. As a result the minority community, a very much-advanced component of our population, is unable to contribute to country's development activities.

### **3.9. What do we learn from the land reform policies in Bangladesh?**

Though various laws and reform measures have been undertaken, those in many cases have been far from being effectively implemented. The way in which land is currently administered remains firmly rooted in practices established during the colonial era. The British, from the outset, gave high priority to the organisation of a centrally controlled management system that was designed to maintain political control and secure a steady source of state finance. Relatively little has changed in the post-independence era.

Attempts at re-distributive reform through the establishment of land ceilings have been a feature of both the Pakistan and Bangladesh periods. But whilst ostensibly designed to place land in the hands of the tiller and to return water bodies to those who fish them, these have largely been circumvented by the wealthy and powerful. High population densities and increasing fragmentation of holdings mean, in any case, that the scope for re-distribution declines as time passes.

Tenants' rights, including security of tenure, are enshrined in legislation. These are currently almost invariably ignored in practice, and should offer some scope for effective intervention.

## IV. Review of Macro Trends and Implications for Access to land

### 4.1. Pattern of Landownership

Bangladesh is a land scarce country. With growing urbanization and infrastructure development taking land away from agriculture use, as well as continuing population growth, arable land on a per capita basis is declining. In 2000 (among the poorest of the poor or 20 percent of the population) four out of five owned less than half an acre of land. This is making it harder to achieve significant reduction of poverty, especially in rural areas.

Bangladesh is still an agro-based country with 16 percent of GDP and 60 percent of employment generation by agriculture sector. In total of 37.4 acres of land, around 60 percent are under agricultural use. Table 1 shows that per household's availability of land is 0.88 acres. The government became the caretaker of 2.1 million acres of land under the Vested Property Act (Barkat et al, 2000) and 1.0 million acres under the abandoned property Act. Recently the number of non-farm households has increased. But still farm households have dominated in rural economy (Table 2).

**Table 1: Basic features of land in Bangladesh**

Types of land	(Amount in million acres)
Total Land	37.4
Household (in million) (Population Census 2001)	25.3
Land under agriculture	22.2
Privately Owned	21.0
Land under Government use	10.0
Khas land and water bodies	3.3
Vested Property Act	2.1
Abandoned	1.0

Source: Barkat (2004)

**Table 2: Number of holdings and type (in 000)**

Year	1983-84	1996	2005
Number of holdings	13848	17828	24564
Number of total farm holdings	10045 (72.70)	11798 (66.18)	14700 (59.84)
Number of non farm households	3772 (27.30)	6030 (33.82)	9865 (40.16)

Note: Figures in the parenthesis indicates percentage. All data are for rural sector.

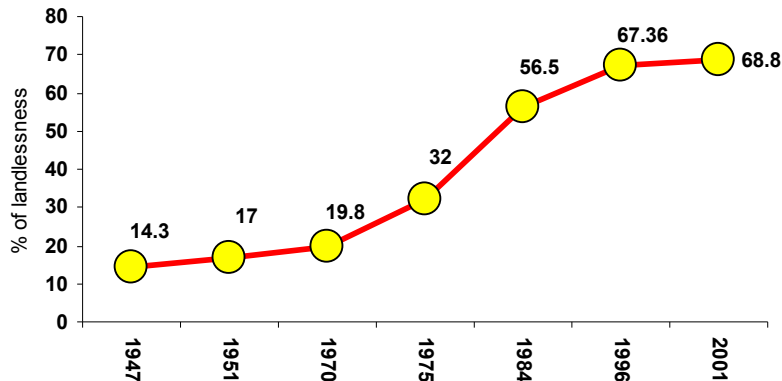
Source: Agriculture Sample Survey of Bangladesh-2005, National Volume 1.

Most of the rural people are cultivators and scarcity of land leads them to the status of marginal farmers, tenants farmers including sharecroppers and landless agricultural labour and wage labourers. Immense inequality in land ownership among these rural households is evident, which shows a rising trends. The declining share of ownership of land by the landless and marginal groups and the increasing share of the same by the few big owner groups indicate the accumulation of resources, depriving the real producers-the poor and marginalized farmers.

In Bangladesh, absolute landless (household not owning any land) has increased. It has increased by 3.07 percent per year (from 8.76 percent in 1983/84 to 14.03 percent in 2005).

The concentration of landless or near landless stood at 17 percent in 1951. When landlessness is defined as households having no land, household with homestead land but no cultivated land and household with homestead land and cultivated area up to 0.5 acres (according to Land Reform and Action Program, 1987), according to the Agriculture Census Report, landlessness rose up to 56.5 percent of rural households in 1983/84 and 68.8 percent in 2001 indicating an increasing trend over the years (Figure 1). It is alarming particularly in the context of the scarcity of alternative employment opportunities in the rural farm and non-farm sectors. In the recent past landlessness has increased at almost at the same rate as the growth of population of Bangladesh (Farid, 1998).

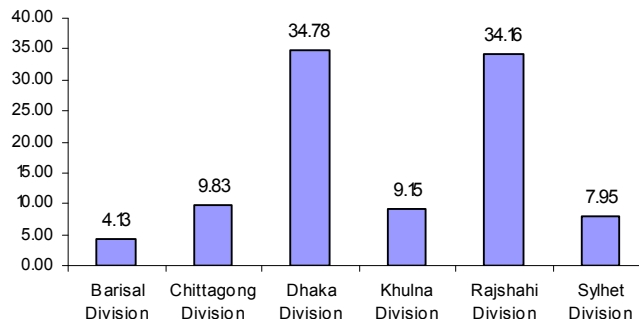
**Figure 1: Trend in Landlessness in Bangladesh**



Source: Various Survey Report and Agricultural Census Report

Figure 2 suggests that percentage of households owning absolutely no land in the rural areas is the highest in the Dhaka division followed by Rajshahi division.

**Figure 2: Percentage of holdings own no land 2005 (rural)**



Source: Agriculture Sample Survey 2005

## 4.2. Tenural Arrangements

The tenural arrangements can be expected to solve the problem of access to land of these rural poor. Some interesting pattern has been found in with respect to the tenural arrangements. Table 3 suggests that among the farm holding population in 1983/84 about 62.78 percent were estimated to be owner cultivation, another 35.83 percent owner cum tenants and the remaining 1.39 percent was pure tenant. The corresponding numbers for 2005 are 69.76, 23.73 and 6.51 percent. Compared to the number of owner cultivation, the relative number of tenant was on decline (from 1960's to 1980's) while it is on rise in 2005. This again confirms that overall the landless poor do not gain much access to land through pure tenancy. The average size of farms is getting reduced for all types of tenure. Average size of owner-cum-tenant holdings is higher than that of owner holdings in both 1983/84 and 1996 census. This was however slightly higher for owner (1.06 acre) than that for owner-cum-tenant holdings (1.02 acre) in 2005. Area under tenant holdings has increased due to increase in rapid rural urban migration of rural population along with the increase of absentee land owners and the abandonment of some farms in favour of taking up rural non farm occupation.

**Table 3: Distribution of farm holdings according to type of tenancies**

Year	Owner farm			Owner cum tenant			Tenants		
	% of farm holdings	% of area holdings	Average size in acres	% of farm holdings	% of area holdings	Average size in acres	% of farm holdings	% of area holdings	Average size in acres
1960	60.81	53.61	3.12	37	45.2	4.26	1.6	1.1	2.48
1983/84	62.78	58.76	2.13	36	40.69	2.58	1.39	0.55	0.89
1996	61.66	58.51	1.61	34.9	39.6	1.9	3.5	1.9	0.88
2005	69.76	73.32	1.06	23.73	24.08	1.02	6.51	2.6	0.4

Source: Agriculture census report 1960, 1983/84, 2005 and Land Occupancy Survey of rural Bangladesh Tenants 1978.

Table 4 indicates that peasants' households are becoming marginalized as percentage of farm household (from 0.05 -0.49 acres) has increased to 38.63 percent in 2005 from 24.3 percent in 1960. Huge decline has been observed in medium and large farms (especially in medium farms). The Agriculture census sample survey 2005 shows that an overwhelmingly large number of farm households, 38.63 percent of farm had less than 0.5 acres of land, 88.49 percent of farm households had less than 2.5 acres of land, 10 percent had been 2.5 acres to less than 7.5 and the remaining (1.17 percent) was above 7.5 acres of land. The extraction of surplus land by the superior landowners and moneylenders was hastening the process of their pauperization (Hossain, 1991).

**Table 4: Distribution of farm holdings according to size (in thousands)**

Size classification holdings	1960	1983-84	1996 rural	2005
Number of holdings owning no land or absolute landless		1201 (8.67)	1815 (10.18)	3950 (14.03)
Number of marginal farmers (0.05-0.49 acres)	(24.3)	2417 (24.06)	3356 (28.45)	5829 (38.63)
Number of small farm holdings (0.50-2.49 acres)	(27.3)	4649 (46.28)	6066 (51.42)	7523 (49.86)
Number of medium farm holdings (2.50-7.49 acres)	(37.68)	2483 (24.72)	2078 (17.61)	1561 (10.34)
Number of large farm holdings (7.50 acres -above)	(10.69)	496 (4.94)	298 (2.52)	177 (1.17)

Note: Figures in the parenthesis indicates percentage

Source: Agricultural Sample Survey of Bangladesh, 2005 and BBS

Land tenure is an important indicator in monitoring agrarian reforms and this item of information (land ownership and operation) was considered in every module of census and survey conducted in Bangladesh. The agriculture of Bangladesh is characterized by very unfavourable land-man ratio and predominance of landless, functionally landless, poor, marginal and small farm households. In the rural areas there exists a tough competition to own a piece of land on rental basis or on sharecropping basis. The bargaining power of the tenants is very low. If they fail to get a piece of land on cash rent or on share-crop basis from the land owners they become reduced to the rank of agricultural labours which prove to be a social degradation for them. Moreover the landlord remains in a position to exercise influence on him. The sharecroppers are often used to support their landlords in politics and in social conflicts. In the recent past, through the intervention of some NGOs and policy advocacy by donor agencies, the situation is changing. The share cropping arrangements are gradually giving ways to fixed rent tenancy and medium term leasing arrangements in some parts of the country.

Table 5 shows the changes in area under various contractual arrangements during 1983-94 and 1997. Sharecropping remains the dominant form of tenancy arrangement, accounting for about 12 percent of area in 1983-84 and 13 percent in 1997. Sharecropping is the most common form of tenurial system for the poor (among landless and smallholders) to gain access to land. The proportion of sharecropping has not changed much despite the fact that there has been a 10 percentage point increase in landlessness. Other arrangements have become correspondingly more frequent over the same period. Not surprisingly, sharecropping is lowest in importance on larger farms, and by 1997 other forms of tenancy accounted for nearly as much area as sharecropping. All size classes have seen pronounced growth in alternative arrangements; especially noteworthy is the taking of land on mortgage amongst the smallholdings.

**Table 5: Percentage Area under Various Contractual Arrangements (as percentage of total land operated), 1983-84 and 1997**

	All		Small		Medium		Large	
	1983-84	1997	1983-84	1997	1983-84	1997	1983-84	1997
Sharecropping	12.4	13.4	15.3	15.4	13.9	13.6	6.7	7.5
Total Other	4.9	8.2	7.1	10.1	4.1	7.3	3.2	6.1
Fixed rent	1.7	2.5	2.3	2.8	1.6	2.4	1.2	2.0
Lease	0.2	0.6	0.2	0.5	0.2	0.7	0.2	0.8
Mortgage	2.0	4.4	3.0	5.9	1.8	3.6	1.2	2.7
Others	1.0	0.7	1.5	0.9	0.6	0.5	0.6	0.5

Source: Agriculture census report 1960, 1983/84, 1997

Table 6 shows the change in the extent of tenancy during 1983-94 and 1996. The proportion of area under tenancy is observed to increase from about 17 percent of operated area in 1983-84 to about 22 per cent in 1996. This change may be due to the rapid rural-urban migration of rural population along with increase of absentee landowners and the abandonment of some farms in favour of taking up rural non-farm occupations. The extent of tenancy is observed to be higher for small and middle farms than for marginal and large farms in both the censuses. This may be due to the reason that small and middle farms have more opportunity to make better utilization of their farm resources, if they can enlarge their land by renting-in some more. Due to managerial constraints imposed upon them, marginal and large farms may not

be inclined to the practice of renting-in. It can be seen that for all farms except the large farm (5 acres and above), rented-in land increases, rates of growth being higher for the smaller farms (marginal and small) than the middle farms.

**Table 6: Extent of tenancy (for 1983/84 and 1996)**

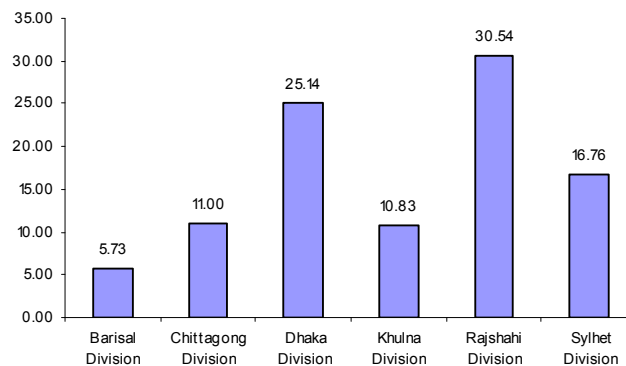
Farm-Size (Acre)	1983/84				1996			
	Operated Land (000)	Rented in Land (000)	%	Extent of Tenancy*	Operated Land (000)	Rented in Land (000)	%	Extent of Tenancy*
0.05-0.49	622	90	2.37	14.47	869	172	3.94	19.79
0.50-0.99	1152	258	6.79	22.4	1685	480	11	28.49
1.00-2.50	4800	1056	27.79	22	5752	1467	33.64	25.5
2.51-4.99	5879	1251	32.92	21.28	5638	1272	29.17	22.56
5.00 & Above	10226	1145	30.13	11.2	6264	970	22.24	15.49
All	22679	3800	100	16.79	20208	4361	100	21.58

Note: Extent in tenancy is calculated by rented in land (000) divided by operated land.

Source: Agriculture Census Report.

Figure 3 shows the division-wise percentage of tenant holding, and it appears that tenancy is much prominent in the Rajshahi division followed by the Dhaka division.

**Figure 3: Division-wise percentage of tenant holdings 2005**



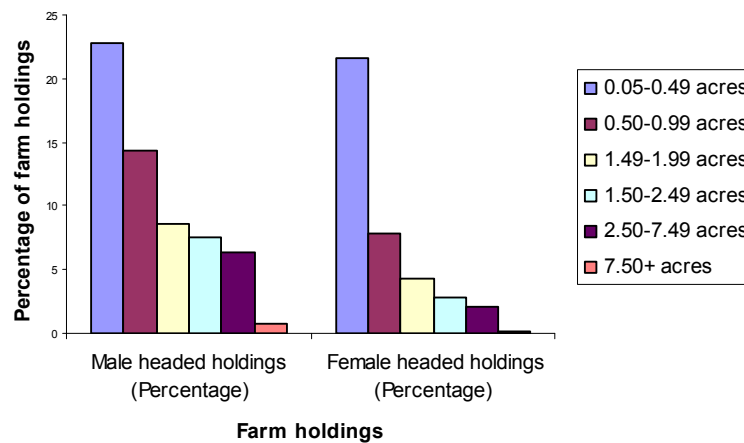
Source: Agriculture Sample Survey of Bangladesh-2005

One of the core problems Bangladesh is facing is the scarcity of land. With a high and increasing rural population, farm sizes are declining rapidly. However, because of increased landlessness, poor households in the agricultural sector rely on tenancy. Among the various tenancy arrangements, sharecropping has been the most prevalent, under which the tenant agrees to bear all costs and pay 50 percent (and in some cases two-thirds) of the gross produce to the landowner. Owing to the insecurity of tenure for most farmers, however, there is little incentive for farmers to think in terms of long-term sustainability of the land. As a result, investments in the long-term productivity of the land are not made.

### 4.3. Gender Dimension of Land Ownership

In case of gender dimension of land ownership, like many other countries, women are less likely to own and control asset due to social norms, inheritance laws and traditions. In 2005, only 2.5 percent of farm holdings were under female headed holding which was 3.48 percent in 1996. Figure 4 indicates that the inequality is severe in case of farm holdings above two acre (in 2005, female headed holdings accounted only 1.66 percent of 2.50 to 7.49 acre of farm holdings whereas male headed holdings accounted for 6.72 percent). In rural areas only 0.18 percent of female-headed households own land above 7.50 acres.

**Figure 4: Percentage of Male and Female Headed Holdings in Rural Bangladesh**



Source: Agriculture Sample Survey 2005

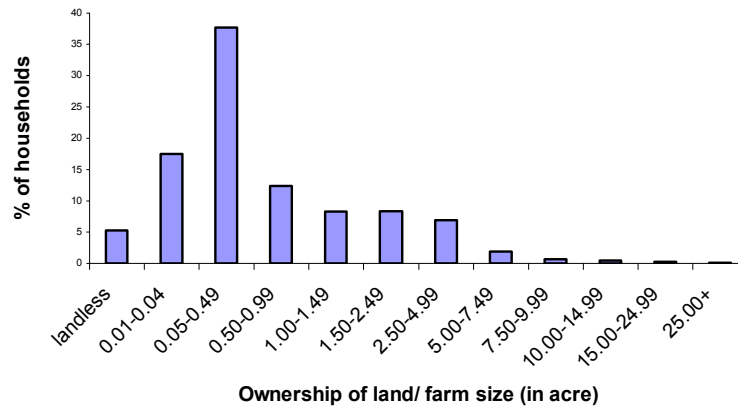
In rural areas, female headed holdings share lower percentage of farm holdings from 0.50 acres and above (compared with male headed households).

### 4.4. Landlessness and Poverty in Rural Areas

#### 4.4.1. Households According to Land Size

There is a close connection between land ownership and poverty especially in case of rural households. In rural areas, nearly 38 percent of households fall within the range of marginal farmers (0.05-0.49 acres of land). Interestingly more than 605 households own less than one acre of land (shown in Figure 5). Among the different size of land holdings, head count ratio was higher for landless and marginal farmers in both cases (using the lower poverty line and upper poverty line). In addition, head count ratio was higher for rural people. On average in Bangladesh, top 20 percent holds 60 percent of cultivable land showing inequality in land ownership pattern.

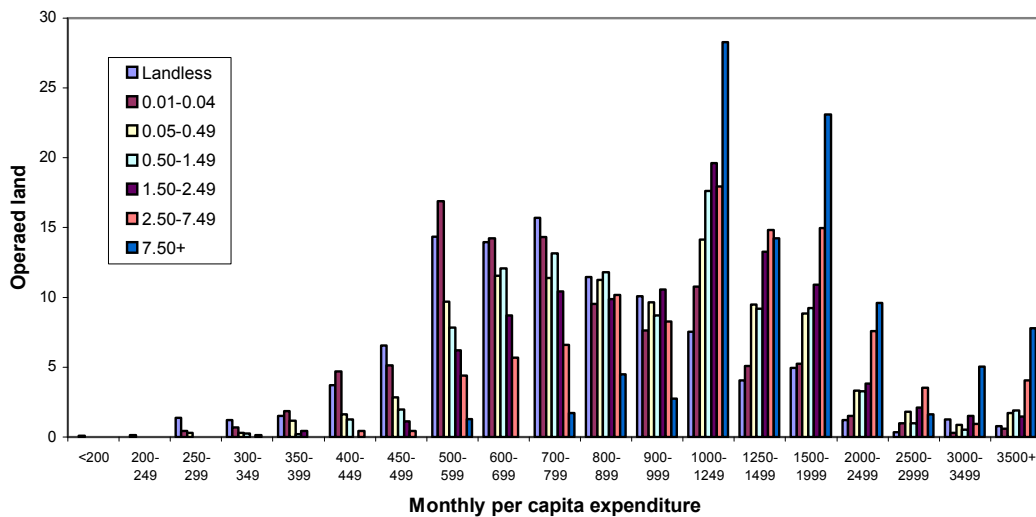
**Figure 5: Distribution of Households in rural Areas**



Source: HIES (2005)

Figure 6 shows percentage distribution of households according to monthly per capita expenditure by operated land. It appears that as we move towards higher expenditure categories the percentage of households being landless or functionally landless declines.

**Figure 6: Distribution of households according to Operated land**

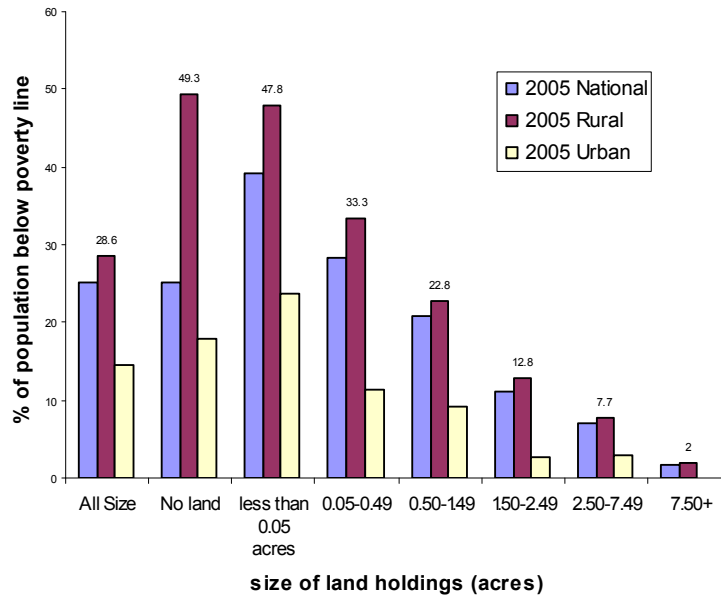


Source: HIES (2005)

Figure 7 suggest that among the different size of land holdings, head-count poverty rate was higher for marginal farmers. In addition, head-count poverty rate was higher for rural people.



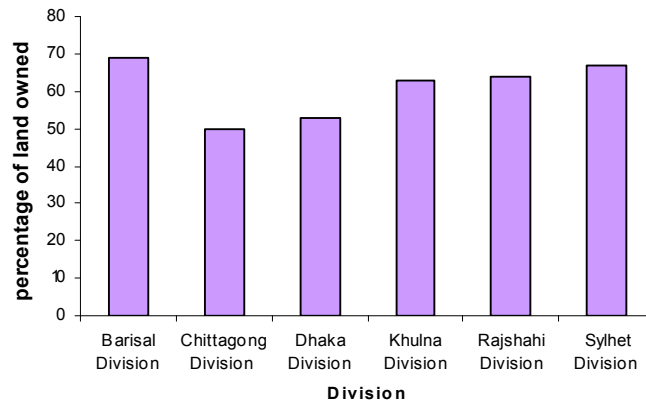
**Figure 7: Incidence of Poverty by Land ownership (Using the lower poverty line)**



Source: HIES (2005)

Figure 8 suggests that on average in Bangladesh, top 20 percent households hold 60 percent of cultivable land.

**Figure 8: Percentage of Land Owned by Top 20% of Households**



Source: Agriculture Sample survey 2005 and BBS 2005

#### ***4.4.2. Access to Land and Poverty: An Econometric Exercise***

This section analyses the questions of how land holding affects poverty status especially in rural areas in Bangladesh. Several variables such as land holding, education of head of households, gender dimension, employment situation etc are important determinants of

poverty status. All these factors may help us construct a simple logit model. We determine the model using the data of Household Income and Expenditure Survey (HIES 2005). The function is as follows

$$\text{Poverty Status of rural households} = F(\text{size of land, education of head of households, gender of head of households, employment e.g. agriculture vs. non agriculture})$$

The logit model includes a dichotomous variable which is equal to one if a person is below poverty line and zero otherwise.

The analysis includes individual rural households from HIES 2005. For the poverty status we measure poverty in CBN method (suggested by BBS) where we divide poverty status into two categories: households below the poverty line income are considered as poor and households above the poverty line income are considered non-poor. This varies with the region e.g. for Barisal region, lower poverty line per capita income is 753 tk whereas for Sylhet region, it is much higher. The categories of poverty status are as follows:

For the present study, the set of explanatory variables are chosen as:

LNDH = Total holdings of operated land  
EDNHH = education of the head of households  
EAGNAG = Employment of the member of households (1 if in agriculture and 0 otherwise)  
SHH = Sex of the head of households ( 1 if female , 0 otherwise)

Land ownership is measured by holdings of operated land. In the HIES questionnaires land holdings includes total cultivable agricultural land owned, total cultivable agricultural land rented / sharecropped / mortgaged in, total cultivable agricultural land rented / sharecropped / mortgaged out, total dwelling-homestead land owned. All these refer to land owned by the household.

To measure the impact of education of head of households, we take years of schooling of head of households. Questionnaires 3A give us this information. Several other dummy variables are taken into account. Such as for gender impact, we take 0 for female headed household and 1 for male headed household. Similarly for employment indicators, we take one dummy variable, whether the household head is employed in agricultural or non agricultural sector. Finally per capita income of households is taken to determine the poverty status.

For determining the influence of various variables on poverty status, a logit model is estimated. The variable for the final model is selected with backward elimination of the least significant variables. Results from likelihood Ratio test,  $R^2$  were also consulted. The likelihood ratio test indicates that the variation in  $Y_i$  is explained by the model. In our model, we use Cox and Snell and Nagel Kerk  $R^2$ . This value can be interpreted as the proportion of the total variation in  $Y_i$  explained by the model. Cox and Snell  $R^2$  is an attempt to imitate the interpretation of  $R^2$  based on the likelihood, but its maximum can be less than 1. It creates difficulty in interpretation. Therefore it is preferable to use Nagel Kerk's  $R^2$  (modification of

Cox and Snell) with the assurance that it can vary from 0 to 1. Table 7 shows regression results.

**Table 7: Results of the Logit Regression Model**

	<b>Estimated Coefficients</b>	<b>Standard Error</b>	<b>Sig</b>
Constant	-0.121	215	0.575
LNDH	-0.487	0.04	0
EDNHH	-0.132	0.01	0
EAGNAG	0.857	0.085	0
SHH	0.379	0.219	0.083
Nagel Kerk R2	0.207		
Cox and Snell R2	0.153		

The results suggest that total amount of land holdings and education significantly and negatively influence the poverty status. Both of the variables are significant at 5 percent level.

Also the two dummy variables are found to be significant with positive relation. The constant term is negative but insignificant. From the model, the coefficient tells us that lower years of schooling, small land holdings of rural female households with employment in agricultural sector increase the likelihood to fall in the category of poverty as opposed to non poor category.

The interpretation of the logit model for variables other than dummy variables requires the estimation of marginal effects. And the dummy variables are used to estimate the impact effects. In our model, two continuous and two dummy variables are found to be significant. It appears that with average land holdings of 0.50 acre of land, the marginal effect is -0.1124 or -11.24 percentage points. This implies that a unit increase in the land holding for a household with possession of 0.5 acre of land declines the probability of being included in the poor category. In addition, with average years of schooling of 12 years, we find the marginal effect of -3.12 percentage point indicating a negative probability to fall in the poor category. On the other hand, the impact effect shows that a female headed household with average size of land has a probability of 7.01 percentage point to fall in the poverty compared to the male headed households.

All the empirical findings indicate that larger land holding reduces the probability of being in the poor group. Land holding, education and employment of head of households play an important role for reducing poverty.

#### **4.4.3. Khas Land**

In the context of land reform policies, distribution of khas land is vital. Two major land reform legislations such as The East Bengal State Acquisition and Tenancy Act (EBSATA) 1950, and a collection of Presidential Order in 1972 failed to achieve this objective (Siddique *et al* 1988; Momen 1996). The result was the acquisition of most of the land by the powerful elites (Siddique *et al* 1988). Jansen (1987) pointed out that the competition to get control over the allocation process engendered a new entrepreneurial group (who were deployed by elite

groups to collect information on the status of khas land). In addition, the distribution of khas land policies cannot be divorced from the hands of national and local elites. Attempts therefore to wrestle control of land reform initiatives from the hands of local elites invariably failed for as Hossain and Jones (1983) pointed out: “National politicians and bureaucrats are often themselves large landowners and even if they are not, they depend on rich peasants both for political support and to ensure that the countryside remains reasonably tranquil. To attack the interests of this dominant class would be political suicide for any of the political parties” (Barkat, et al , 2001).

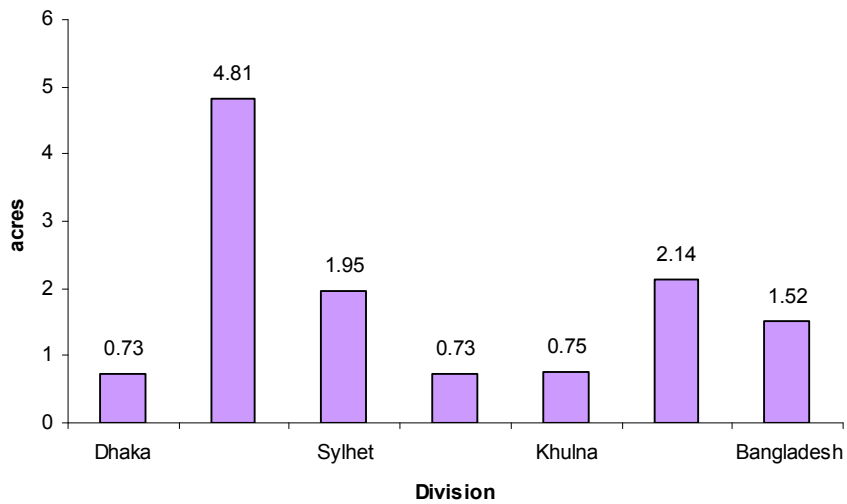
The Land Reform Action Programme (LRAP) 1984 declared to distribute khas land on permanent basis to landless families. In this programme Land Reform Cell (LRC) was established involving staffs from various NGO’s particularly engaged in agrarian reform issues. The responsibility of LRC was to oversee LRAP process. Rahman *et al* (1991) revealed that 40 percent of identified khas land had been distributed to landless households over a period of two and half years. It is still misleading as it reflects only the amount of khas land for which a decision to allocate had been taken and not the actual amount of khas land distributed. Due to difficulty in identifying unutilized public land, lack of updated and reliable maps, large amount of falsified land deeds and low level of technical support and capacity, the intention of LRAP was never successful. There was another programme inaugurated by the Ministry named “Operation Thikana” aimed to distribute both khas land and agricultural inputs to landless families. With the change of political government in 1991, “Operation Thikana” was replaced by the new name of “Adarshagram” involving 55 NGO’s. According to Barkat, Zaman and Raihan (2001) there are about 3.3 million acres of khas land in Bangladesh of which 0.8 million acres are agricultural land (Table 8). Out of the total amount of identified khas land only a tiny portion has so far been distributed.

**Table 8: Khas land in Bangladesh**

Division	Agricultural khas land (acres)	Non Agricultural Khas land (acres)	Khas water bodies		Total amount of khas land and khas water bodies in Bangladesh
			Closed (acres)	Open (acres)	
Dhaka	207,135.97	62,282.00	17,146.53	110,801.15	397,365.65
Chittagong	156,734.31	1,339,115.43	11,279.48	31,429.13	1,538,558.20
Sylhet	129,764.12	120,491.82	72,746.94	26,196.49	349,199.37
Rajshahi	163,007.96	125,945.72	212,321.53	71,727.45	573,002.66
Khulna	51,714.01	36,728.04	27,407.00	33,626.49	149,475.54
Barisal	94,952.45	1,790.92	4,834.33	210,838.67	312,416.37
<i>Bangladesh</i>	803,308.80	1,686,354.00	245,736.00	484,619.38	3,320,017.50

Figure 9 indicates that Khas land and khas water bodies per landless households is, on average, found to be 1.52 acres which is lower than the subsistence level (2.54 acres).

**Figure 9: Khas land and khas water bodies per landless households (acres)**

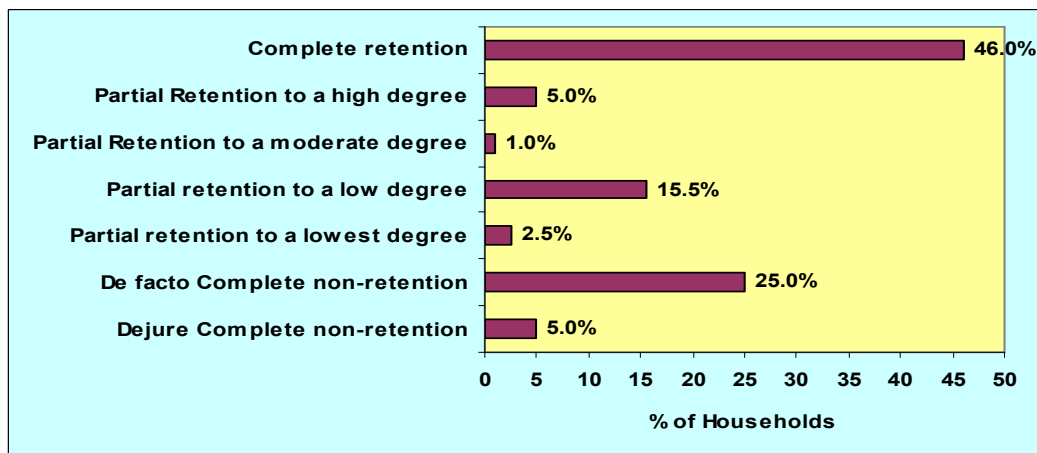


Source: Barkat, Zaman and Raihan (2001)

Out of the total amount of identified khas land only a tiny portion has so far been distributed. The authors argue that:

- The landless people own only 11.5 percent of agriculture khas land and the rest are occupied by the rich and powerful.
- A one in three landless poor beneficiary was not able to retain even the minimum possible benefit of khas land distributed to them.
- About one-fourth did have partial retention over khas land but with different digress (Figure 10).
- 15.5 percent have partial retention to a low degree (partial control over both land and crop) ((Figure 10).
- Only 5 percent have partial retention to a high degree (partial or full control over land but partial control over crop) (Figure 10).

**Figure 10: Retention of Khas land**



Source: Barkat, Zaman and Raihan (2001)

#### **4.4.4. Char Land**

In the processes of erosion and accretion of rivers, bars are created. Medial bars emerge in braided rivers as islands within the river channel. Point bars emerge as land attached to the riverbanks in both braided and meandering rivers. These emerging lands are generally known as 'chars' in Bangladesh; they create opportunities for establishing human settlement and for pursuing agricultural activities.

Although the riverine chars in Bangladesh offer, on a continuous basis, significant areas of new land for settlement and cultivation, living and working conditions on these newly emerging lands are harsh. The chars are poorly connected to the mainland and are prone to acute erosion and flooding which make the inhabitants feel vulnerable. In spite of these physical problems, a significant number of people live there, enduring the difficult and uncertain conditions. It is to be noted, however, that the population density on chars is less than half the national average in Bangladesh. One can therefore surmise that the high demographic pressure in the country forces people to establish their settlements on chars, although the harsh livelihood conditions therein makes them less attractive for living than the mainland. The typical patterns of physical development and human use of land and other resources in the chars differ among the different river systems in Bangladesh and also among the different reaches of the same river.

Char people are vulnerable to several natural hazards. Of these, the crucial ones are flood and erosion. They affect the lives of the char dwellers so much more frequently and intensely than the people in other parts of the country, that these hazards dominate the social and economic life of the char dwellers. The continuing vulnerability of char households to floods renders most families unable to make significant improvements to their lives as they find it necessary to allocate available resources to recover from the adverse effects of flood.

Settlement and ownership right over the accreted land in the chars have always been complicated by the difficulty in ascertaining ownership of new land, whether it should belong to the state or to some other riparian proprietor upstream or even to somebody on the other side of the river. Although, the Ordinance of 1975, an amendment of the Act of 1950 brought about by a Presidential Order (No. 135) in 1972, provides that 'all newly emergent lands previously lost by dilution should be restored not to the original owner but only to the government', the people of the chars find it very hard to accept that their land would not be turned back to them if and when it resurfaces. While the purpose of the law might have been to 'recover' land from the powerful 'jotedars' and redistribute it among the land less and marginal farmers, in reality it has not worked in that way. Locally powerful 'jotedars' get control over accreted land through means of power and violence (Haque, 1997). This way of taking over control of the land often creates violent clashes.

As in other parts of rural Bangladesh, the main occupation of most people in the chars relates to crop agriculture. The intensity with which agriculture can be pursued on a char depends very much on the stage of its development. Some of the chars may be cultivated without having human settlements on them, particularly in their early stages. Farming occupations include owner cultivation as well as sharecropping. Wage labour is also used in various agricultural operations. Absentee ownership of land is common on some chars. In certain areas, the absentee landowners have control over cultivable khas (public) land as well. Under such circumstances, relatively higher dependence is observed on tenant farming. Those who

are involved in agriculture may cultivate their own land part of the time and supplement their income with day labour or other activities. In some chars, fishing is the primary occupation for many households. Rearing of cattle is an important source of income for many char households. The occupational pattern of people living on chars is influenced by the nature of the labour market in other parts of the country. Wage labouring in agriculture does not necessarily mean that one has to be confined to one's immediate neighbourhood. Many people from numerous chars migrate seasonally to other areas in search of agricultural work.

Occupations of char people are affected by the cycle of emigration and immigration triggered by events of erosion. Frequent migrations may entail unemployment for some people and can result in quick occupational changes. Much depends upon the options that are available. Options available to erosion-affected households vary quite significantly with their socio-economic standing. A char household prefers to own land on more than one char in the hope of having a place of its own to move to in the event of its homestead, located on one specific char, becoming victim to erosion. Many households, however, cannot afford such 'portfolio-diversification'. Therefore, erosion may turn a land-owning farmer into a landless day labourer, causing him to move to some other char or some part of the mainland in search of employment as wage labourer.

#### **4.4.5. Water bodies**

In Bangladesh, more than 13 million people are engaged in fisheries. Lack of access to water bodies is a vital problem for Bangladesh. The Bangladesh Water Development Board has estimated that about 1200 KM of riverbank in the major rivers is actively eroding and more than 500 KM face severe problems associated with erosion. By the State Acquisition and Tenancy Act 1950, open water fisheries are considered public property. State managed or leased water bodies are managed with the main objective of revenue generation. In the case of Jalmahal Lease Contract, fisheries cooperatives are supposed to get advantage on this contract. However, among 1.2 million acre water bodies, only 5 percent are leased to the poor.

In case of open water fisheries, fishers (approximately 10 percent of poor people in Bangladesh) are rapidly losing their livelihoods due to depletion of fish habitats (Atiq *et al* 2002). The fisheries sub-sector contributes about 10 per cent to agriculture GDP and three per cent to total GDP. The main two divisions of the Bangladesh Fisheries sub-sector are the inland and marine fisheries. Of the total inland waters of 4.3 million hectares, 65.3 percent are flood plain, 3.8 per cent are ponds and 3.2 percent are coastal farms. The three great rivers Ganga/Padma, Jamuna/Brahmaputra and the Meghna along with 7,000 rivers and streams cover 22,155 km length. In addition to the regular inland waters, a large part of the country remains seasonally submerged for 3-4 months during monsoon. Millions of rural poor and marginal people gain their partial livelihood support from fisheries sector while over one million are full time fishers who maintain their livelihood from the already depleted open water fisheries resources.

#### **4.4.6. Coastal Zones**

The coastal areas are less heavily populated. The area is vulnerable to cyclones and tidal waves. Landholdings are generally large and small-scale agriculture is not much practiced. Apart from some small coastal islands, accessibility is not a problem. Fishing and agriculture are main sources of income. Forest resources (Sundarbans) are also important. Two main ports (Chittagong and Mongla) provide much economic activity to the region, as does the production of salt and shrimp cultivation. The latter, however, has also negative impacts by creating scarcity of cultivable paddy land and increased salinization of the soils. (BIDS, 2001).

#### **4.4.7. Chittagong Hill Tracts**

This area is the homeland to various ethnic groups. Landownership issues between immigrant Bangladeshis and the indigenous population of the Hill Tracts triggered a conflict situation. As a result, many indigenous people were displaced. A peace agreement was signed in 1996 but security and political considerations still hold back the engagement of many NGOs and international organizations in this area. Pockets of extreme food insecurity can be found. There is limited infrastructure and the accessibility to some areas is extremely difficult. Agriculture, forestry and fishery are the main sectors of employment.

#### **4.4.8. Forestry**

Bangladesh is a forest-poor country and the forest cover has shrunk to merely six per cent today from about 18 percent in 1927 (Gain, 2002). This has serious consequences on local environment and the forest dwelling communities. As a sub-sector of agriculture in Bangladesh, forestry makes a contribution to the national economy and is supposed to contribute to ecological stability. A section of very poor and tribal in Chittagong Hill Tracts, greater Khulna district, greater Sylhet district, Dhaka, Mymensingh and Tangail districts take livelihood supports from forest resources. Homestead gardening and street site plantation is an emerging practice and many poor households collect cooking fuel from the forest resources.

The basic difference between the reserved and the protected forests is that the inhabitants in the reserved forest areas have no rights over the forest produces but in the protected forests they have far more rights. In many cases the protected forest is an intermediate category, which eventually turns into reserved forest. Population pressure is the main reason for encroachment of forest areas and conversion of it to crop lands. Some traditional practices of the indigenous people have been lost and a more commercial approach to forest exploitation has led to large-scale deforestation in Bangladesh over the last several decades. Natural forests throughout the country are being depleted. Various types of development activity, such as dikes, highway, road construction, and other infrastructure development have further intensified deforestation, and destruction of natural forests in Bangladesh. Briefly, the other causes of deforestation, as reported in the State of the Environment report of Bangladesh (2001) are listed below:

- Shifting cultivation (*Jhum*), and inappropriate utilization of forest resources,
- Overgrazing, illegal felling, and fuel wood collection,



- Uncontrolled and wasteful commercial exploitation of forest resources,
- Monoculture and commercial plantation,
- High population pressure on forestlands,
- Conversion of forests and wetlands for agricultural use,
- Poverty and unemployment in the rural areas, and
- Encroachment into forestland.

## **V. Land Administration System in Bangladesh**

### **5.1. History of Land Administration in Bangladesh<sup>22</sup>**

In 1765, the East India Company got the right to collect revenue (known as Diwani) from the Mughal Emperor on payment of annual revenue of 2.6 million rupees. In 1772, a board of revenue was formed in order to control and oversee the work of revenue collectors and administrators. Later it was reformed under the Bengal Board of Revenue Act 1850 and under Bengal Board of Revenue Act 1913.

During Pakistan period, under the Provincial Government of Pakistan, a Revenue Department (as chief authority) was formed to control the Board of Revenue and Offices. Major functions were to supervise land settlement operations under the director of Land Records and Surveys, control land administration and land management through divisional commissioners, deputy commissioners and additional deputy commissioners (revenue), administer land reform implementation measures and over see interstate boundary demarcation work in the border. In addition, it was the “Court of Wards” and investigated all final appeals against the orders of commissioner, collectors and other authorities.

In 1971, after the independence of Bangladesh, the Revenue Department of East Pakistan was reformed into Land Administration and Land Reforms Division. It was under Ministry of Law and Land Reform and was given the status of Full-fledged ministry. By the order of the government (issues under No. IM-10/72/115(5) RI dated 3 March 1973), the office of the Board of Revenue was abolished and all of its functions were taken over by the ministry. The ministry was mainly involved in policy decisions, land acquisition proceedings, management of “enemy property” and revenue matter. But it was unable to supervise land reform measures including revisional settlement, settlement of khas land, inter state boundary demarcation work and settlement of quasi-judicial cases. The Board of Land Administration was established under the Board of Land Administration Act 1980 (Act XIII of 1981). Under Section 3 (3) of the act, the board was to exercise such powers and perform such functions as might be entrusted to it by the government or by or under any law. Mainly it was entitled to decide all statutory appeals, supervise land administration offices in the field, advice the government on policy matters, deal with collection of land development tax, creation of new tahsil offices, settlement of khas land, control of the internal audit organization, Court of Wards, management and supervision of vested properties (lands and buildings) and management and disposal of properties involved in exchange cases by migrants.

In 1987, the Ministry of Land Administration and Land Reforms was renamed as the Ministry of Land. Major concern was on policymaking, supervision and monitoring of land

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<sup>22</sup> Source: Banglapedia

reforms. Due to lack of the effective supervision of field offices, and quick disposal of quasi-judicial cases, the ministry decided to abolish the Board of Land Administration and form two new bodies, the Land Appeal Board and the Land Reforms Board. 1989) Under section 4 of the Land Appeal Board Act 1989 (Act XXIV of 1989), the government constituted the Land Appeal Board consisting a chairman and two other members and Under section 8 of this act, the Board of Land Administration Act 1980 was repealed.

Under the Land Reforms Board Act 1989 (Act XXIII of 1989), a separate body, the Land Reform Board was established. The board consists of a chairman and two other members. Several posts were abolished such as land reform commissioners and the deputy land reforms commissioners and the post of a deputy land reforms commissioner was created for each division for supervision of the land reform measures. Under Section 5 of the Land Reforms Board Act 1989, the board may carry out such functions and discharge such duties in respect of land reforms and land management as the government may assign to it.

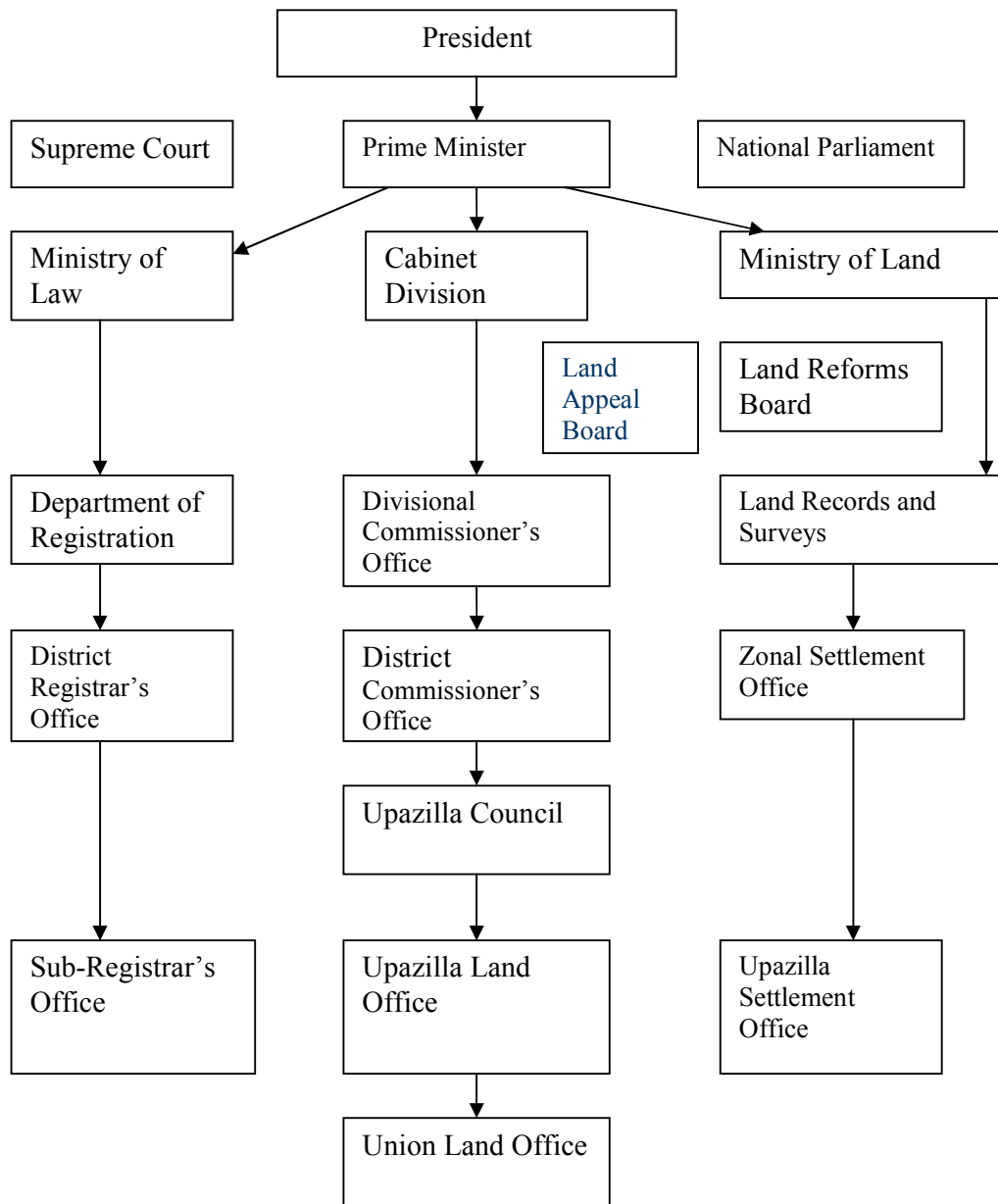
## **5.2. Structure of Land Administration in Bangladesh<sup>23</sup>**

Land administration system in Bangladesh is built upon three core functions- record keeping, registration and settlement. Each of these functions is handled by a different category of offices (Rahman 1994). There are offices to perform land related activities from Union Parishad Level to National level.

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<sup>23</sup> Benefited from Rahman (1994).

**Figure 11: Land Related Organizational Structure of the Government of Bangladesh**



Source: 'Bangladesher Jomir Office Adalat'-'Land Related Offices in Bangladesh', RIB 2008, Bangladesh

### **5.2.1. Union Land Office or Tahshil Office**

Union Land Office or *Tahshil* office is at the bottom tier of the land administration in Bangladesh. In 1988, Government of Bangladesh decided to establish land offices at all Union Parishads (UPs) of Bangladesh. However that decision has been realized partially so far. Union Land Offices could be established in all the unions of some districts however in

many districts a union land office is responsible for some UPs. Union Land Office performs number of activities as follows:

- Collecting Land Development Tax (*Khajna* in local language) and issuing receipts (Dakhila in Local language).
- Determining the amount of land Development Tax.
- Filing certificate case to collect defaulted Land Development Tax.
- Opening new files for the successors of a deceased person.
- Updating the records according the order of the mutation cases.
- Keeping the accounts of leas money collected from hat (weekly village market) and bazaar (daily village market).
- Reporting Investigation information to Assistant Commissioner (Land) about the application of mutation.

### ***5.2.2. Upazilla Land Office or Office of the Assistant Commissioner (Land)***

There is a Upazilla land office at every upazila in Bangladesh. Assistant Commissioner (Land) or AC (Land) in short is the in charge of this office. He is supported by some staffs including surveyor. Upazilla land office performs the following responsibilities:

- Distribution of Khas land according to priority.
- Coordination between survey and management division.
- Supervising the collection process of Land Development Tax.
- Recovering of the grabbed governmental land.
- Overseeing the activities of the *tahsildars* (In-Charge of Union Land Office)
- Updating the registrars of mutation and records.
- Sending recommendation to the District Commissioner about the distribution of Khas land.
- Implementation of Tenancy act.
- Campaigning for collection of land Development tax.
- Arrangement of special survey of *char* land.

### ***5.2.3. Sub-Registrar's Office***

There is a sub-registrar's office in every Upazilla. This office is responsible for registering properties. Though this offices is dedicated to land related activities however it works under the ministry of Law, Justice and parliamentary affairs. Any land transaction must be registered in this office within one month of period. Sub-registrar's office publishes an approximate value of land property of he concerned area.

### ***5.2.4. Collector's Office or District Commissioner's Office***

Every district has a District Commissioner's office (DC Office) in Bangladesh according to the public administration system. There are some land related divisions such as State Acquisition (SA), Land Acquisition (LA), Revenue Munshi Khana, Record room and Vested Property division in every DC office. The district commissioner is called *collector* when

performs his responsibilities related to land. An Additional District Commissioner (Revenue) works under DC to deal with the responsibilities related to land.

#### **5.2.5. Zonal Settlement Office**

Ten zonal settlement offices in ten greater districts work under the Directorate of Land Records and Surveys. This office was established to finalize mapping of *Mouzas* and preparation of *khatians* (a kind of document that specifies the land plot based on survey). In addition to these four zonal settlement office there are also four revisional settlement offices.

#### **5.2.6. Land Reforms Board**

Land Reforms Board was set up in 1989 to supervise the functions of the field offices and the implementation of land management and reform efforts. The Board also provides advice and recommendations to the Government on laws, orders and rules applicable to land when and asked to do so. A number of functions of the board is released through Upazila land offices and Union *Tahsil* offices. The main activities of the Land Reforms Board are listed below:

- Inspection, monitoring and supervision of district and upazilla level committees relating to demarcation & settlement of khas lands.
- Lease out of the inter-divisional fisheries.
- Supervision of the offices of Deputy Land Reforms commissioners at the division level.
- Inspection, supervision and monitoring of all land offices from district to union level.
- Enquiry by order of the ministry against various allegations arising out of matters relating to land management of the field administration.
- Supervision of all audit objections of District, Upzilla & Union land offices.
- Budget preparation & release of fund to all field level land offices.
- Assesment of the actual demands of Land development Tax, taking necessary measures to increase realisation of the L.D Tax and making proper assesment of the demands L.D Tax of organizations/bodies under different Ministries/ Division and realisation of it.
- Submission of monthly reports of L.D.Tax and other land related information to the Ministry of Land, I R D & other related departments
- Management and supervision of the Coart of Wards Estates and sending reports thereof to the Ministry of land.
- All related actions necessary to perform and execute the above mentioned responsibilities

#### **5.2.7. The Directorate of Land Records and Surveys**

The Directorate of Land Records and Surveys undertakes periodic surveys to update records of land ownership and use. No special provision is made to survey urban areas compared to rural areas, even though the former change more rapidly. Ten zonal settlement offices and four revisional settlement offices work under this directorate there. According to the Ministry

of land, Government of Bangladesh The Directorate of Land Records and Surveys perform the following responsibilities:

- To initiate and prepare schemes with time frame and estimate of expenditure for survey and preparation/revision of maps and record of rights of districts or part of a district for the whole country by rotation.
- To survey and prepare/revise map and record of rights on mauza basis for every parcel/plot of land numbering about 80 million in the country by rotation.
- To print and reprint mauza maps numbering 96,402 sheets covering the whole country and to prepare, print and re-print Upazilla, District and country maps.
- To print record of rights of each and holders in the country.
- To undertake Theodolite Traverse to provide basic control point for preparation of mauza maps.
- To demarcate and pelay more than 2200 miles of International boundary and to prepare and print boundary strip maps thereof.
- To provide technical assistance to the district administration for relaying inter-district and inter-thana boundaries.
- To examine and vet all proposals of the Government for reorganisation of Thana and District Jurisdictions from technical and geographical point of view.
- To advise the Govt. in the matter of land reforms and cadastral survey international and inter-district boundaries.

#### ***5.2.8. Land Appeal Board***

Land Appeal Board was established to act as per provision of the Land Appeal Board Act 1989 and Land Appeal Board (Amendment) Act 1990. All the activities of the Land Appeal Board are being performed under the provisions of the Land Appeal Board Rules, 1990. The Board conducts its functions as per provisions of the said Act and Rules and Circulars of the Ministry of Land. The Board acts as appellate authority of the Divisional Commissioners and accordingly disposes of the cases (Appeal, Revision, Review etc.). The following matters are disposed of by the Board

- All Revenue Cases relating to Land.
- Mutation Cases.
- Cases relating to Sairatmahal and Jalmahal.
- Cases relating to Land Records.
- Certificate Cases relating to Land Development Tax.
- Permanent Lease of Khas Land.
- Cases under P.D.R Act.
- Cases of the Exchange, Abandoned and Vested property.
- Cases relating to Wakf and Debtor property
- Duties assigned by the Government from time to time.
- Supervision, Monitoring and Evaluation of the Sub-ordinate Revenue Courts.
- Advise and comment on Act, Rules, Regulations and Circulars relating to Land Revenue of the Government.

### ***5.2.9. Need for reform in land administration***

A reform programme on land administration in Bangladesh should focus on:

- Streamlining and strengthening the information basis of land transactions. In this case merger of land registration and land management under one ministry is very important.
- Reducing corruption associated with the process of land acquisition
- Reducing public suffering which arise from the archaic and dysfunctional land administration process
- Cutting out much of criminal and civil cases in the courts most of which originate in land disputes fostered by tempered or outdated land records
- Improving the efficiency of reform programmes in khas land distribution, water rights, forest rights and land-use policy.

## **VI. Changing Pattern of Land Leasing Practices in Bangladesh: A Field Study from Rangpur**

Historically, sharecropping, a system of cultivation with an arrangement between landowner and cultivator to share the product, was essentially the dominant system of land leasing in Bangladesh. The most common sharecropping practice had been to surrender half of the harvest to the land owners. Remarkable disparity in ownership of agricultural land was the main reason for the continuation of this practice. History shows the cultivators have revolted several times under various names, such as Tebhaga, Nankar, Tonk etc to keep two-thirds of crops produced by them instead of existing one-half. These struggles have enacted some changes in the land leasing and tenancy act, and the Land Reforms Ordinance of 1984 had finally made some changes in this system (see section 3.5 of this report). However, government did not take any measure to publicize this law among sharecroppers and thus failed to implement the law effectively. As a result, the land leasing system had been operating according to local practices and competition from sharecroppers.

Since the early 1990s, this sharecropping institution started to get reshaped because of rapid population growth, introduction of cash crop cultivation, landowners' migration to cities, and most importantly rise in prices of agricultural produces. Market forces soon replaced a great part of the local practice and capitalist development emerged strongly in agrarian relations. However, the terms and conditions of the new systems vary depending on various factors which will be explained later. The new systems have been contributing significantly in the income and economic growth of the rural economy. However, the sharecropping practice was not entirely replaced as there still exists significant demand of lands among the landless population.

With a view to understand the dynamics of land leasing practices in Bangladesh, we conducted two FGDs and several personal interviews in the outskirts of Rangpur Sadar Upazila. The first FGD was conducted with cultivators who rent in lands and cultivates. A total of 22 cultivators participated in the first FGD. The second one was conducted with the land renters. Total 9 landowners participated in that FGD. In the second FGD, there were, however, some participants who were both farmers and land renters.

## 6.1. Dominant Land Leasing Practices

Currently, a variety of land leasing arrangements are being practiced which can be broadly summarized into the following four systems:

**a) Contract System:** In this system, the cultivator agrees with the landowner to pay a fixed amount of the produce after harvesting. The rest of the produce is kept by the cultivator. So, the more the cultivators produce, the more they can keep for themselves. According to the cultivators, this system provides them enough incentive to invest heavily in increasing production.

Discussion with the cultivators and landowners reveal that because of this system the agriculture productivity have increased considerably in last several years. With the increase in productivity, landowners have also increased the amount of produce to be paid. For example – in case of Rangpur, in 2004 a cultivator had to pay on average 5 mounds of *Aman* rice to landowner for 25 decimals of land while the average total production at that time was 16 mounds of rice. By 2007, the rice productivity increased to around 20 mounds per 25 decimals of land and subsequently the landowners increased the amount of produce to be paid from 5 to 6 mounds of rice.

In the contract system, the amount of produce to be paid differs heavily depending on the type of crop and the fertility of the land. The amount to be paid is fixed through a competitive system where the landowner asks a pool of cultivators how much of the produce they want to pay and the highest bidder is awarded the right to cultivate.

However, under this system, since the landowner does not contribute in the investment, the risk of crop failure is entirely borne by the cultivator. In case of significantly lower production for climatic reasons like cyclone or excessive raining, the cultivator tries to renegotiate the amount of produce to be paid but mostly fail to do so. However, in case of flood, the contract system becomes invalid.

**b) Cash Lease System:** Cash lease system is basically a monetary transformation of the contract system and is widely practiced in case of cash crops like potato, maize, spice and vegetables. This system started to emerge with the introduction of commercial vegetable farming. In the beginning, the landowners provided land to vegetable cultivators under the contract system but soon the landowners found that the price of vegetables fluctuates too much and they were not getting the desired amount of money by selling their share of vegetables. So, some landowners started to ask cultivators to pay a fixed amount of money rather than a fixed amount of produce. Some cultivators agreed and the cash lease system emerged. Soon most of the landowners embraced this cash lease practice to reduce their risk from falling prices for other cash crops – potato, maize and spice.

Another key reason of the emergence of cash lease system is migration of land owners to distant cities. It is painstaking for these landowners to visit villages in time of harvesting, collect their amount of produce and sell it to a local market. So, they swiftly shift into the cash lease system.

Earlier, under the cash lease system the cultivators had to pay the agreed amount after harvesting the crop, but now the cultivators have to pay first and then they get the permission to cultivate. This shift in the time of payment has a significant implication. Earlier the small



cultivators could take a land under cash lease system and could pay the agreed amount after harvesting the crop, but now they cannot take the same land as they do not have the money to pay before cultivation. Thus medium and large cultivators have been replacing small cultivators with the emergence of cash lease system.

There are two types of cash lease system: Yearly and Seasonal. The landowners who live in distant cities prefer the Yearly system, while the landowners who live in villages or close distances practice the seasonal system. In the yearly system the cultivator decides what to produce while in the seasonal system the landowner usually dictates what crop is to be cultivated based on the fertility and crop cycle as the crop must not hurt the production of next crop.

In Rangpur, landowners, on average, charged 3,000 taka per 25 decimals of land for two consecutive crops – potato and maize (duration: 7 months) in 2007. The cash lease price of same amount of land in 2005 and 2006 was 2,400. The bumper harvest of potato and maize and concurrently high market price in 2005 and 2006 encouraged the landowners to raise the price of land. The cultivators also agreed as they were happy with the increased return. However, yearly (for 12 months) cash lease price for 25 decimal of land was BDT 4500 in 2007.

One big problem of this system is that, in case of flood or crop failure, due to any uncontrolled factor, the cultivators do not get their money back from landowners.

**c) Sharecropping or ‘Bargaa’:** The study finds that in Rangpur this system only practiced for three crops: rice, wheat and tobacco. There are two types of *Bargaa*:

(i) One-half system – the total produce is distributed between the landowner and the cultivator by a 50:50 ratio. In this case, the landowners share around 20 percent of the investment, mostly the cost of seeds and part of the land preparation cost. The rest 80 percent of the cost – irrigation, fertilizer, pesticide, mowing, harvesting – is borne by the cultivator. Discussion with the cultivators reveals that financially solvent cultivators never take land under this system. Only the landless farmers are forced to embrace this system. As the number of landless people is increasing in Rangpur because of river bank erosion, one-half system is getting importance in some part of the district. However, as a whole this system is on decline.

(ii) Two-third system – the cultivators get two-thirds of the total produce while the landowner gets one-third of the total produce. In this case, the landowner does not contribute in the investment but in most cases keep their control on the variety of crop to be cultivated. The higher share for the cultivators results into higher investment from cultivators and consequently generates higher land productivity. According to cultivators, this system is at least 15% - 20% more productive than one-half system. This higher productivity means the land owner do not lose much by shifting to two-third system from one-half system and also saves his investment that he has to pay under one-half system. Many landowners therefore have been shifting into two-third system.

Cultivators have expressed that when compared to the contract system, land productivity is around 20 percent less under two-third system and more than 30 percent less under one-half-system. One interesting finding from Rangpur is that the religious leaders are now taking

stance against the one-half system saying it is unjust and not accepted by Islamic law. This is also inspiring many landowners to shift into two-third system.

**d) Collateral or 'Bandhoki':** In this system, the landowner borrows money from a cultivator cum lender by providing the land as collateral. Depending on the amount of money taken and conditions applied, the *Bandhoki* system of Rangpur can be divided into two types:

(i) Interest-free collateral: In this case, the landowner borrows more than half of the price of the land that is given as collateral. In return, the lender cultivates the land as long as the landowner does not pay back the borrowed money. As the cultivator cum lender is cultivating the land, he does not charge any interest on the borrowed amount. In the interim period, the cultivator cannot make any physical change to the land but he is sovereign to take decisions what to cultivate. Currently, the interest-free collateral price for per 25 decimal of land varies from BDT 80,000 to BDT 120,000 depending on their fertility.

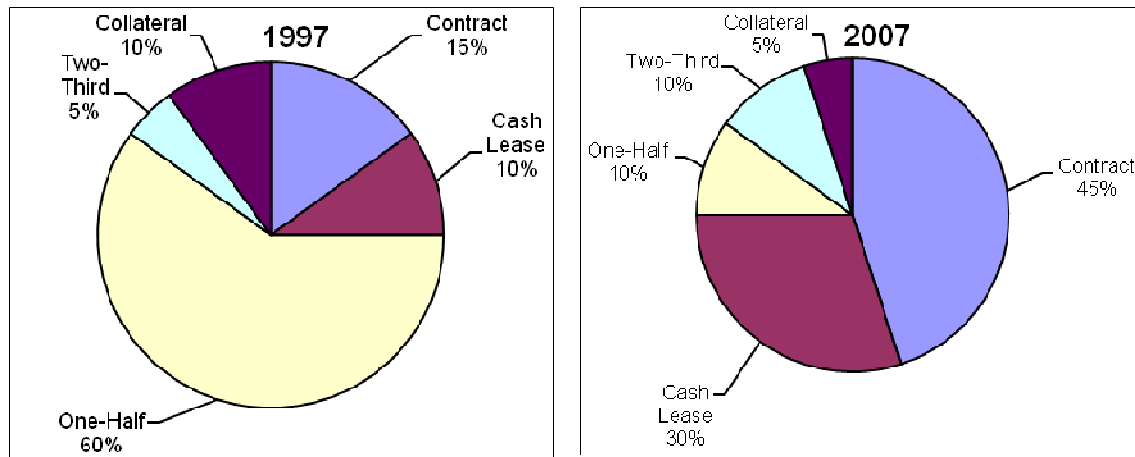
(ii) *Khai-khalasi* or long-term lease: The landowners borrow money equivalent to at least four to five years of cash lease price from cultivators and the cultivators in return cultivate the land as long as the amount borrowed is not appropriated by the lender. The occupancy time is calculated based on the current cash lease value. Once the occupancy time is over, the landowner takes the land under his possession. However, there is a critical factor in the calculation – if there is flood or crop failure, the lender will increase his tenancy for an additional season. Currently, the average long-term lease price for per 25 decimal of land is BDT 30,000 for five years. The medium to large cultivators usually act as lenders in this case. Many landowners who have their children studying in Dhaka or other metropolitan cities have been increasingly taking opportunity of this system to bear the educational expense.

## 6.2. Share of Various Land Lease Practices

Discussion with the cultivators and landowners revealed that currently (in 2007) around 40 percent of the leased land is given under contract system, 35 percent of the leased land under cash lease system, each of the one-half and two-third sharecropping covers 10 percent of the leased land and the rest 5 percent is cultivated under collateral system.

Around 10 years earlier, the land leased system composition was almost upside down with 60 percent of the leased land was cultivated under one-half sharecropping system, 5 percent under two-third sharecropping, 15 percent covered under contract system, 10 percent under cash leasing system and the rest 10 percent under collateral system.

**Figure 12: Changing pattern of Various Land Lease Practices in Bangladesh**



Source: Field Study in Rangpur

### 6.3. Providers of Land Lease

Even about a decade earlier, the large landowners of Rangpur were the main source of leased lands (Table 9). The rest was provided by landowners who pursued any profession in the village other than farming for living. This scenario has changed rapidly in last few years. Now the largest share of leased land is provided by absentee landowners who live in distant cities and are employed in service. These absentee landowners usually visit the villages once a year, mostly during Eid, and renegotiate or renew the cash lease price or select the sharecropper at that time. The large landowners are the next most important land lease providers. In most cases, they live on the income from the land. So, they always try to maximize their income by resorting sharecropping or/and seasonal cash lease system. The rest of the leased land is provided by the villagers who live on other professions. These landowners are particularly sensitive to the rice production to ensure their food security and overwhelmingly follow one-third sharecropping system. In other season, like during potato or maize, they popularly follow contract system. A small part of the leased land is provided by large farmers who mostly follow one-half system. They argue that as large farmers they help the sharecropper on how to cultivate crops and thereby increase productivity and minimize the risk of crop failure, therefore, it is more logical to claim one-half of the produce. However, the sharecroppers do not feel in the same way and expressed that they are practicing one-half system finding no other alternative. The total amount of land provided leased in 2007 is almost doubled than it was in 1997.

**Table 9: Contribution in the total leased land**

	1997 (in percent)	2007 (in percent)
Large Landowners	60	30
Absentee Landowners	10	40
Other Professions	30	30

Source: Field Study in Rangpur

## 6.4. Recipient of Land Lease

According to landowners, they select the cultivators by observing three key criteria: (i) whether the cultivator is a good farmer (in terms of land productivity), (ii) whether the farmer is a solvent farmer/ able to invest independently for crop production, and (iii) whether he is a neighbor or poor relative or political associates.

The first two criteria are crucial factors to decide for any landowner to provide land under contract and sharecropping system. This is because they want to ensure their share of produce. In case of cash lease system, the landowner does not care about these factors as he gets his money before the beginning of cultivation. And for the collateral system, the cultivator cum lender not the landowner decides whether to take the land considering its fertility and location. The last criterion is considered mostly for cash lease system and one-half system. Though the influence of the last of the three criteria is diminishing with time, as per the cultivators' estimation still it accounts around 10 percent of total leased lands.

The classification of cultivators taking lease under various systems has been defined in terms of the amount of ownership of lands is presented in Table 10.<sup>24</sup>

**Table 10: Share of farmers (in terms of leased land size) in each land lease system (%)**

	Contract System	Cash Lease System	Sharecropping System		Collateral System
			One-half	Two-third	
Landless farmers	10	2	80	30	-
Small farmers	65	18	20	60	-
Medium farmers	20	40	-	10	40
Large Farmers	5	40	-	-	60

Source: Field Study in Rangpur

## 6.5. Factors Affecting Land Leasing Practices

The factors affecting the land leasing practices have three different directions: First, the status of landowners based on their location of residence, income dependence of land and profession; second, price of rice and the food security; and third, long term price trend and profitability of cash crops like maize, potato, spice and vegetables.

Increasingly people had been migrating to cities to find jobs in factories, offices and also sending their children to city schools so that they can get better education. This leads many lands to come under land lease system which earlier was cultivated or supervised by their fathers. This trend is increasing as the industry sector's contribution in GDP is increasing at a faster rate than agriculture sector and the income disparity between the urban and rural area is increasing. This is the single most contributing factor in the increase of cash lease system and contract system.

Introduction of cash crops and commercial agriculture practice have played the next most significant role in this change. The high profitability of these crops attracted medium and

<sup>24</sup> The sizes of the ownership of lands of landless, small, medium and large farmers are same with GoB definition.

large farmers to enter into the land lease market which earlier were dominated by landless and small farmers. It had two effects – (i) it increased the lease price of land as more customers are looking for land, and (ii) the medium and large farmers offered guaranteed return, cash or a fixed amount of produce, which immediately attracted the landowners as it protected them from climatic vulnerability and price volatility. Ironically, it did happen with the cost of some landless and small farmers. However, as more people have migrated in the meantime and more land has become available for leasing, the landless and small farmers have not been affected that much in the long run. Rather some landless and small farmers had taken risk of cultivating cash crop, earned a good amount of money and entered in the contract or cash lease system.

Almost all the people in the FGDs prefer that they eat rice cultivated in their land. This is a cultural practice with profound implications for food security. Each landowner reserves a part of their leased land to provide under either sharecropping or contract system for rice cultivation. However, the most landowners are now shifting to contract system from sharecropping system as contract system ensures a specific amount of rice.

### 6.6. Linkage between crops and land leasing practices

The study finds that a significant relation exists among the crops to be cultivated and the preferable land leasing practices by landowners which are depicted in the Table 11:

**Table 11: Linkages between crops and land leasing practice**

	Contract System	Cash Lease System	Sharecropping System	
			One-half	Two-third
Rice	MP	LP	P	MP
Wheat	LP	LP	MP	P
Potato	P	MP	-	-
Maize	P	MP	-	P
Vegetable & spice	P	MP	-	-
Tobacco	LP	P	MP	P

Code: MP = Most preferred, P=Preferred, LP=Least Preferred  
Source: Field Study in Rangpur

### 6.7. The future of the land leasing practices

- Except the case for rice, the cash lease system will supersede the contract system within the next decade as more lands enter into land lease market and commercial farming is increasing tremendously.
- Only landless farmers now participate in the one-half sharecropping system. So, the future population size of these landless farmers will define whether it will increase or decrease.
- Two-third sharecropping system will be replaced by contract system even in case of rice as people are becoming more concerned about guaranteed amount of rice availability.

- As contract and cash lease system increases, it will increase the lease price and thus snatch some lands from one-half sharecropping and two-third sharecropping – this will force some landless and small farmer to get away from this market and ultimately employ themselves as agriculture laborers or in non-farm activity.
- An interesting finding is that one-half sharecropping system is increasing among small farmers who earlier used to do two-third sharecropping. The reason is that the prices of seeds, fertilizers, pesticides and irrigation have now gone beyond their reach. So, they are asking the landowner to share some investment and shift into one-half system. It shows that price of fertilizer and other inputs will also play a significant role in shaping the future land leasing system.
- Farmers unanimously supported the contract system as the best method to be pursued by all landowners. According to them, under this system, the cultivator becomes most productive and as they had not to pay the price before starting cultivation they can invest sufficiently in the production of crops. The landowners, on the other hand, preferred cash lease system as it gives them security from crop failure and price volatility. Part of them also strongly advocates two-third system but agrees that with more commercialization of agriculture this system will diminish in near future.

## **VII. Access to Land and Natural Resources by Vulnerable Groups: Case Studies**

### **7.1. Community Based Fisheries Management (CBFM): An Example of Managing Common Property Resources**

Community Based Fisheries Management project has been formally implemented in Bangladesh since 1995 to develop alternative fisheries management regime that will ensure efficient production, equitable distribution and sustainable management of the fisheries resources. The intention of CBFM was to empower fishers (to a greater or lesser extent) both as an end in itself and in the expectation of better management. The latter would be through appropriate rules being set based jointly on fishers and scientific knowledge and then complied with by the users. “Empowering co-management” requires major changes in institutions and organisations, in information bases, in attitudes among fishers and government. The requirements of the institutional arrangements of the local level have received a great deal of attention in community based management. Institutional arrangements are being made to avoid the tragedy of the commons feature prominently in the common property literature

The Community Based Fisheries Management-2 covered around 116 water bodies and involved 9 field-based partner NGOs in CBO identification, establishment, training and capacity development (BRAC, Proshika, Caritas, Banchte Shekha, CNRS, CRED, SDC, GHARONI and SHISUK). Two other partner NGOs were involved in media activities (FemCom) and legal support to the CBOs (BELA). The water bodies included 14 closed beels, 28 open *beels*, 8 small *beels*, 38 river sections and 28 areas of floodplain. The arrangements of CBFM-2 in building the institutions were different by the type of fishery.

### ***7.1.1. Community Based Fisheries Management- the case of Chapandaha Beel***

This case highlights the issues related to the access to an important resource, a water body. It also shows how it was possible to improve access by poor fishermen in the area.

Chapandha beel, a closed beel, is located at Pirganj Upa Zila under Rangpur District. Before the Community Based Fisheries Management-2 (CBFM-2) project the poor fishermen did not have any access to the beel (water body). The local elites used to capture the beel. The bidding process of this water body is done at the District commissioner's office. Usually local elites and influential persons had the absolute privilege to get the lease of the water body. Original fishermen generally worked as the wage labourer during the months of fishing. However no lessee ever took initiative to culture fish in the beel. And the water body was not taken care of. As a result, the water body became abandoned and fishing became impossible. From 1998 to 2000, no one bid for the water body because of its status.

CBFM-2 project started its intervention at Chapandaha beel from 2001. This project was managed by the World Fish Center (WFC), Department of fisheries (DoF) of the Government of Bangladesh and BRAC as a local partner NGO. At the beginning of 2001, the WFC conducted a census in the villages adjacent to the beel to identify the real fishermen. From the census, they listed 151 poor landless (or very small land holder) fishermen. Then the local partner NGO of the project, BRAC, went to door to door of the identified fishermen, briefed them about the project and tried to convince them to get involved into their project. However, only 49 of them agreed to get involved into the project. With these 49 fishermen a community based organization was built for the better management of the chapandaha beel under the supervision and the direction of the World Fish Center, Department of Fisheries of the Government of Bangladesh and BRAC. This apex body managed to lease the beel to the CBO. After getting the lease, the members of the CBO started to clean the beel. It was a rigorous task and it took months to make the beel usable for fishing.

After cleaning the beel many people (both fishermen and non-fishermen) of the adjacent villages came forward to get involved into the project. However, the CBO did not allow any other people to get involved. As a result, other people became hostile to the CBO members. Moreover, the local Union Parishad Chairmen also supported other people outside the CBO as they were larger in numbers. But, the CBO was firm in their stance as they cleaned up the beel voluntarily with much physical effort. Officials of the WFC, DoF and BRAC came forward to negotiate between the two conflicting groups. Ultimately the problem was solved after series of discussions and the CBO got the full access right to the beel.

Currently, the CBO is composed of 49 members. A nine member executive body is formed to represent the CBO. The executive body is formed through the selection process with the consensus of the CBO members. The officials of the Department of Fisheries, The World Fish Center and BRAC usually attend as observers in the selection process. The members of the CBO opined that they had very cordial relationships with the executive members. In their view, the executive members were competent enough in bargaining for their demands and solving their problems. The executive committee of the CBO meets regularly and the attendance in the meeting is quite satisfactory. Every decision is taken through the consensus of the members. In the beginning, the officials from the World Fish Center, DoF and BRAC helped them to take decision. However now they themselves are able to take decisions.

The CBO had to face some conflict with the community people during the inception period. The community people other than the CBO members used to capture fishes without any permission. They were backed by the local elites. Even the Union Parishad chairman was against the CBO at the beginning. However the CBO could manage to end the conflict with the community and now the UP chairman is with the CBO and he also monitors the CBO activities for the betterment of the organization.

The CBO divided the fishermen into three groups each consisting of fifteen members. These three groups are engaged in fishing and the remaining four members do the official jobs like accounting, record keeping, managing the office etc. The profitability of fishing in this beel is very much satisfactory. After the fishing a portion of the profit is kept in the bank account and the rest of the profit is divided equally among the members. This CBO could accumulate a handsome amount of money (more than BDT 2,00,000) in the bank. With this money they pay the lease fee to the government and invest for the fisheries. Other than the regular activities related to the fisheries this CBO is engaged in some innovative income generating activities. They bought fifty three rickshaw vans and gave it to the CBO members and community people to drive those. Each day a member has to pay Tk. 10 for driving the van. After ten months the van is handed over to the member. Each van was bought at the price Tk. 2500. And in ten months they receive Tk. 3000 for a van. So from each van they make Tk. 500 as profit.

The social status of the CBO members increased in the last few years significantly. They were not considered important in their community previously. However they are now treated with much importance in the community. Nobody can try to exploit them any more. Rather they have become a pressure group to bargain for their demands. The executive members of the CBO are called by the local elites in solving any problem in the community. Their views are now considered with much more importance than before.

A community centre was built beside the beel with the assistance of the CBFM project. In building the community centre the CBO itself also contributed a significant amount of money.

The services of the Government and the NGOs increased over the years after the formation of the CBO: They can now bargain for more VGD and VGF cards for the destitute of the community. Almost 100 percent of the households have got the sanitary latrines. Seeing their growing income the NGOs are also interested in giving micro credit to them in the recent years.

The CBO has a number of future innovative plans. They want to buy buses or trucks and want to rent those to generate income in future. They are also trying to establish a primary school in their locality. And they have started to bargain for the electricity in their village.

In short, achievement of the CBO of the Chapandaha beel is mainly accelerated by a number of factors. Factors such as management efficiency of the CBO, social cooperation among the community people, resource characteristics, supportive attitude from the local government leaders, intervention by the Government, World Fish and the NGO (BRAC) are mainly behind the success story of the CBO in this water body. A study (Ahmad and Haque 2007) shows that the management performance of the CBO of the Chapandaha beel was one of the best among the CBOs of the different water bodies under CBFM-2 project. The CBO of Chapandaha beel showed very high efficiency in all the indicators of management efficiency



such as Indicators of Financial Management, Legal Status, Management and Daily Administration of Activities, Human Resource Development, Indicators of Democratic practice and participation, Indicators of communication with external bodies and Long term goals of fisheries development and policy formulation. The CBO also received a very proactive support from the local administration (office of the Upazila Nirbahi Officer and Assistant Commissioner, Land). It was found that a nearby khas water body called *Barobila* was under Fourth Fisheries Project of the Department of Fisheries (DOF) of the Government of Bangladesh (GOB) is left abandoned and community based fisheries was not successful in that water body. From the discussion with the community people it was revealed that the management efficiency of the CBO of that water body was very poor. It could not mobilize the real fishermen to opt for community based fisheries management. That was one of the main reasons of their failure.

### ***7.1.2. Community Based Fisheries Management- the case of Kafrikhal Beel***

Kafrikhal beel is situated at Mitha Pukur, Rangpur. The CBO of the Kafrikhal beel is composed of people from three villages surrounding the beel. There are ten groups from the three villages. Each group has a group leader. The executive committee of the CBO is composed of all these group leaders.

Before the introduction of the CBFM project at Kafrikhal beel there were fierce conflicts among the people of the three villages surrounding the beel. The bone of contention was the access right to the beel. They engaged in fighting in every year during the season of fishing. There were some cases also running in the court which were filed by the villagers accusing each other.

When Caritas started to work under the CBFM project at Kafrikhal Beel the main hurdle they had to overcome was the conflict among the people of the three villages. Initially they were not all interested in solving the conflict. They wanted to continue it. However rapid advocacy was done by the NGOs to bring the conflict groups in the discussion table. The officials of the World Fish Center, DoF and Caritas motivated them to resolve the conflict and ultimately they became successful. The conflict groups withdrew the cases filed by them. And finally the CBO was formed with the people related to fishing of these three villages. Now they are working together without any conflict.

However, still there exist some conflicts in this beel. The CBO got the lease of 72 acres of water body officially. However, they can access only 40 acres approximately. Other 32 acres are illegally captured by some powerful elites living in the other side of the beel. The poor fishermen are paying the tax for 72 acres but can access only 40 acres. They reported that they complained to the District Commissioner (DC) for seven times and the DC also issued letters addressing the Upzila Nirbahi Officer (UNO) and the Assistant Commissioner (AC) Land instructing them to take necessary steps to assure the full access of the beel by the CBO. However, still they did not get any solution from them.

Kafrikhal beel is situated at such a place that there was no direct road to the beel. Only paddy and vegetable fields were on the way to the beel. The CBO could lobby in the Union Parishad and could manage the land owners to build a road to the beel. It is certainly a remarkable success of the CBOs. After the construction of the road they will be able to carry fishes from the beel directly through the rickshaws.

The CBO of the Kafrikhal beel faces a problem during the flood. Fishes go away through a passage during the flood season. So the CBO is planning to build a dam to protect the fish from going out of the beel. They are now bargaining for electricity to their villages. And with the accumulated fund they have also planned to buy rickshaw vans to generate income of the members of the CBOs. In the recent future they aim to conduct their own micro credit program among the members.

Unlike the CBO of Chapandaha Beel, the CBO of Kafrikhal beel was deprived of supports from the different government agencies. Rather they received negative treatment from some government officials which was discouraging for the fishermen. Moreover social cooperation and trust among the people of the villages adjacent to the water body is also absent. These factors are responsible for failure to achieve the expected success.

## **7.2. Land Related Issues of Indigenous People**

Bangladesh is endowed with a rich cultural heritage. About 1.2 percent of the total households in the country are comprised of different tribal community population (ALRD, 2008). Tribal communities are found in most of the districts of Bangladesh however their concentration is much higher in the hilly areas of Chittagong Hill Tracts (CHT), in the districts of Dinajpur, Rajshahi, Sylhet and the plains forests in Dhaka, Tangail, Mymensingh and Jamalpur (Odhikar, 2002).

Problem related to land is a major concern irrespective of ethnicity. However ethnic minorities throughout the country are the most vulnerable to land related dispute Land grabbing is one of the main problems faced by the tribal people in Bangladesh. Due to lack of education and ignorance of the law it is easier for the land grabbers to grasp the land properties of this section of marginalized people.

There are confusions about the number of ethnic minority groups in Bangladesh. *State Acquisition and Tenancy Act 1950* considered following twenty two groups as tribal community in Bangladesh: 1) *Santals*, 2) *Banais*, 3) *Bhuiyas*, 4) *Bhumijes*, 5) *Dalus*, 6) *Garos*, 7) *Gonds*, 8) *Hadis*, 9) *Hajangs*, 10) *Hos*, 11) *Kharias*, 12) *Kharwars*, 13) *Kochs* (Dhaka Division), 14) *Koras*, 15) *Maghs* (Bakerganj District), 16) *Mal and Sauria Paharias*, 18) *Maches*, 19) *Mundas*, 20) *Mundais*, 21) *Oraons* and 22) *Turis*.

*State Acquisition and Tenancy Act 1950* is not applicable for three hill tracts districts- Rangamati, Khagrachari and Bandarban. *Jatya Adivasi Parishad* claims that there are 45 indigenous groups consisting two million of population are residing in Bangladesh. As a result, they are deprived of the facilities and protections provided in this act. Table 12 shows the list of the indigenous people and their location in Bangladesh.

**Table 12: Indigenous Groups out of the scope of *State Acquisition and Tenancy Act 1950***

Indigenous Groups	Location
Garo	Mymensingh, Tangail, Sherpur, Netrokona, Gazipur, Rangpur, Sylhet, Sunamganj, Moulvi bazaar,
Tripura	Rangamati, Bandarban, Khagrachhari, Sylhet, Rajbari, Chandpur, Comilla, Chittagong
Khiang, Pankhu, Khumi, Mro	Bandarban
Rajbangshi	Mymensingh, Rajshahi, Gazipur, Dinajpur, Tangail, Khulna, Jessore, Faridpur, Kushtia, Dhaka and Sherpur
Malo, Oraon	Dinajpur, Rajshahi, Naogaon, Bogra, Chapainobaganj, Rangpur, Panchagar, Natore, Thakurgaon and Pabna
Chakma, Marma, Tongchonga	Rangamati, Khagrachhari and Bandarban
Lusai	Rangamati and Bandarban
Chak	Bandarban, Cox's Bazar
Rakhain	Cox's Bazar, Barguna, Patuakhali
Khasi	Moulvi Bazar, Sylhet and Sunamganj
Bagdi	Kushtia, Natore, Jhineda, Khulna and Jessore
Mahato	Rajshahi, Dinajpur, Pabna, Sirajganj, Bogra and Jaipurhat
Hajong	Mymensingh, Sherpur, Netrokona, Sylhet and Sunamganj
Banai, Dalu	Mymensingh, Sherpur and Jamalpur
Mahali	Rajshahi, Dinajpur, Bogra
Khatriya Barman	Rajshahi, Dinajpur and Gazipur
Monipuri	Moulvi Bazar and Sylhet
Mushar, Rai, Turi and Muriar	Rajshahi and Dinajpur
Kol	Rajshahi and Sylhet
Bedia	Sirajgang and Chapainabaganj
Ahamia	Rangamati and Sylhet
Singh	Pabna
Khana, Patro	Sylhet
Gorkha	Rangamati
Pahan, Rajuar	Rajshahi

Source: Islam (2008), *Bhumi Ainer Shahaj Path*, Dhaka: RIB

Patterns of land related problems among the ethnic minorities throughout the country are not uniform. Issues are different according to geographical locations. The ethnic communities of the plains received the rights of individual ownership of land during the British period while the communal ownership system was not changed in hill tracts. Tribal communities in plains face different types of land related problems compared to those in hill tracts. However, problems are also differentiated among the tribal communities living in plain land. Problems of the forest communities has a very distinct features compared to other areas (Gain and Moral, 1995).

### **7.2.1. Land Disputes in Chittagong Hill Tracts**

The Chittagong Hill Tracts (Rangamati, Khagrachhari and Bandarban districts), the South-eastern part of Bangladesh covers 13,295 square kilometers which is nearly 10 per cent of the surface of Bangladesh. About thirteen different indigenous ethnic groups, which collectively

call themselves *jumma* People, traditionally live in CHT. Different indigenous communities had the ownership of the sloping land used for *jum* cultivation. However individual rights to CHT land had never been established.

The British colonizers established supreme and unlimited authority over CHT land by exploiting the communal land use arrangement on the CHT. Thus the state took the direct control over the CHT land. The state levied a *jum* tax to discourage *jum* farming in CHT at that period and *jum* farming was officially banned in 800,000 acres in the CHT. As a result, the indigenous people became increasingly marginalized (ANGOC and ILC 2006).

Sine 1960s, land distribution and settlement started to change in CHT which further worsened and complicated the land related problems. The Kaptai dam and hydro-electric plant built between 1957-53 submerged 250 square miles of prime farming land in the CHT which accounts for 40 per cent of cultivable land of the hill people. This project caused a massive displacement of CHT people. The approximate number of displaced people was 85,300. However, the government could not compensate the same amount of land lost by the displaced population. According to the revenue department's 1959 memorandum estimates only 13000 acres of flat land suitable for cultivation were initially allotted for rehabilitation. However, when revised, it came down to 8700 acres allotted in paper in 1960. Before the development project, each family, on an average, held six acres of cultivable land while maximum amount of land offered to rehabilitated families was three acres (Gain and Moral, 1995).

In the late 1970s a state sponsored migration of Bengali settlers into the CHT took place. The government of Bangladesh provided land grants, cash and rations to the settlers. This migration further intensified the land related problems in CHT. By 1991, nearly half of the total population of the CHT was made up by Bengali settlers. The land problem that intensified before with the construction of *kaptai* dam became more acute with the Bengalis coming from the plain land.

The Bangladeshi peasants who moved up to the Chittagong Hill were mainly from the plains districts of Chittagong, Noakhali, Sylhet and Comilla, and had no experience of hill slope cultivation. As a result, they started to encroach the wet rice land remain in the hand off their *jumma* neighbours (ANGOC and ILC 2006).

Land is the root cause of the CHT problems. The CHT peace accord of 1997 addressed the land issue specifically. The accord provides for a Land Commission with a minimum tenure of three years to resolve the land disputes in accordance with the law, custom and practice in the CHT.

### ***7.2.2. Land Related Problems of the Indigenous People living in Plains***

The land related problems of the indigenous people living in CHT received an international dimension due to its nature. However, land problems of the indigenous population living in plains rather remain neglected. It has already been discussed that, land related problems of the plains ethnic minorities are not the same in all geographic areas.

Generally the indigenous people living in the plains have little concern about the title deeds of lands in their possessions. They are also less concerned about the economic value of their

land. The “*Chhoto Nagpur Tenancy Act 1908*” provided the protection of their land as this act prohibits the transfer of tribal land to non-tribal people without the permission of the district commissioner. However, this act is often violated and the tribal people in the Northern districts sell their land at much cheaper rate to non-tribals when they are in hardship.

The indigenous people usually lost their land due to lack of awareness of rights, lack of proper legal information, unfair means, tricks, development activities by government and above all poverty. As the indigenous people are very simple, they are the victims of many forms of fraudulent practices. Forged documents are used by the non-tribal people to grab the tribal land. Such example is also available that the non-tribal people marry the *Garo* (*Garo* society is Matrilineal) girls to capture their land (Gain and Moral, 1995). Evidences are also available for the practices like taking signature in blank papers when a loan is given to helpless tribals with an intention to take over their land.

A Focused Group Discussion was done at a *santals* village named Sultanpur of Parbatipur Upazila under Dinajpur district. The deprivation process of the indigenous people in terms of land property was revealed from that discussion.

Sultanpur village is resided by the *santals* families. Before 1971, most of land of this village was owned by *santals*. However, in course of time *santals* families lost most of their land in many ways. They informed that they were not used to use their land for agricultural production by themselves. Many of them rented out their land to others. They also mortgaged their land to other people. But most of the *santals* were illiterate. As a result, in most of the cases they were victimized by fraudulent practices by non-tribal people. Their land was grabbed by forged document and false cases filed by others. Their land properties were also recorded by others during the periods of land records. However, it was found that *Santals* were not used to deal with official activities. As a result, very few of them tried to complain about their deprivation to the official bodies. *Santals* also lost their land under the vested property act. In short, main problems faced by *santals* regarding land are-

- Forged document,
- Vested property act (an act that limits the land rights of religious minorities),
- Grabbing land by forestry department,
- Forceful grabbing,
- Excluding *advasis* from land survey etc.

They also informed that during the liberation war in 1971, sub registrars’ offices of Fulbari, Parbatipur and Palashbari of greater Dinajpur districts were burnt and many documents of Indigenous property were destroyed. After the independence, many non-tribal people grabbed land of indigenous people by producing forged documents.

According to the *State Acquisition and Tenancy Act 1950*, permission from District Commissioner is a prerequisite of selling of *Adivasis*’ land. However, most of the *advasi* community was ignorant about this act and in most cases this act was violated.

According to *Jatya Adivasi Parishad (2008)*, 1983 adivasi families of ten districts of North Bengal were victimized by the land grabbers and 1748.36 acres of land were grabbed. According to their survey, 521 families (356.7 acre) lost their land because of the false document produced by others, 466 families (1185.76 acre) were affected by the accusation of

land by the department of forestry, 160 families were affected by vested property act and 241 families were victim of forceful grabbing (Jatya Adivasi Parishad 2008).

### **VIII. Land and other natural resources: Data Gaps**

There are considerable data gaps in Bangladesh with respect to poor people's access to land and other natural resources. Some of these gaps are reported below:

- Agriculture census methodology has changed in every year. So it is difficult to have a comparable picture from it. For example, Agriculture Census Report 1996 covered rural areas only, whereas for 2005 report, all municipalities except city corporation and municipalities at zila head quarters were included in rural areas.
- Most of the data on lands are collected at the household level rather than at the household member level. This leads to a partial understanding of land ownership, especially when gender dimension of land ownership is an issue.
- In Bangladesh, the trend data on access to land and natural resources by the indigenous people is not available.
- In case of amount of khas land, the official records suffer from underestimation due to problem in official record system, dispute between government and the owner.

### **IX. Conclusion**

Finding effective means to relieve poverty is a defining mission for development economics. To this end, a wide range of policy alternatives has been implemented. However, the benefits of many such efforts have been questioned. Some argue that political constraints on implementation deny the poor the benefits of redistributive efforts. Others suggest that benefits to the poor are undermined by disincentives to generate income. Worse still, these disincentives can afflict the non-poor who try to qualify for assistance. This in turn leads policy analysts to question the wisdom of implementing redistributive policies at all, focusing instead on policies that promote economic growth. Combating such pessimism requires empirical evidence that some redistributive policies have achieved their stated goals.

Throughout the postcolonial period, improvement in the asset base of the poor has been viewed as a central strategy to relieve endemic poverty (Chenery *et al.* 1970). In a poor agrarian economy, typical of those in many less developed countries, this implies improving the terms on which the poor have access to land. Significant political changes, such as decolonization, have sometimes afforded the opportunity to undertake far-reaching land reforms that transfer property rights to the poor. However, such instances are rare, and more incremental measures are common. This is the case in Bangladesh where land reforms have been on the policy agenda since independence. These reforms have involved only limited efforts at land redistribution, mostly through legislated ceilings on landholding. Legislation aimed at regulating tenancies, for example by improving tenurial security, and reducing the power of absentee landlords and intermediaries are more common. While the latter need not change the distribution of landholdings, they may improve tenants' claims to the returns from their land. This may also benefit the landless by raising agricultural wages.

Alesina and Rodrik (1994) and Persson and Tabellini (1995) have argued that initial inequality is bad for economic growth. The link is through the political system – greater inequality encourages redistributive activities that blunt accumulation incentives. However, Hoff and Lyon (1995) and Banerjee and Newman have emphasized that when markets are incomplete, then redistribution can alter the terms of agency problems in credit markets and foster accumulation decisions, thus undermining the standard equity efficiency trade-off. If accumulation is enhanced by redistribution along the growth path, then we would expect to find a positive relationship between redistributive efforts and economic growth. The existing literature has focused predominantly on fiscal redistributions. By affecting access to land, land reform may have a more lasting effect on poverty. This view is consistent with the literature that points to early redistributions of land leading to relatively egalitarian access as being an important precondition for high growth in East Asia (see, for example, Rodrik, 1995). Most existing empirical evidence on the links between redistribution and growth comes from cross-country data<sup>25</sup>. While informative, there are insurmountable problems of comparability of data across countries and dealing with concerns about endogeneity.

Strengthening poor people's land rights and easing barriers to land transactions can set in motion a wide range of social and economic benefits including improved governance, empowerment of women and other marginalized people, increased private investment, and more rapid economic growth and poverty reduction.

Development is fundamentally a process of change. Central to this is the increasing productivity and intensity of agriculture, of people shifting from farms to industry and services, and from the countryside to towns and cities. Secure land tenure, especially for poor people and for women, whose land rights are very often ignored, is a key precondition for this. Governments have an important role to play in providing the legal and regulatory support needed to strengthen poor people's land rights and reduce the cost of land transactions, such as boundary demarcation, conflict resolution mechanisms, and land registries. Effective land policy fosters investment and enhances productivity, and helps to empower poor people to participate in economic opportunities and in society more generally.

Lack of secure tenure undermines incentives for poor people to invest in their land, such as small farmers building terraces or irrigation, or slum dwellers laying a cement floor or putting on a new roof. In addition, poor people with insecure land tenure are often afraid to criticize corruption or other abuses of power because they fear that officials will take away their land access. Governments can address these problems by recognizing poor people's rights to the land that they legitimately occupy. In cases where the government itself owns the land, this requires giving secure leases or transferring ownership to the occupants. In other cases, it will mean clarifying the rules, granting legal rights and establishing ways to resolve conflicts and defend rights against challenges.

Increased tenure security increases the value of land and can greatly increase poor people's wealth. Poor people with secure land tenure are more likely to invest in the land. They are also more likely to speak out against corruption and to demand basic services, such as health, education, roads and water. Where credit markets function, formal land rights can make it easier for poor people to borrow money, such as for starting a new business.

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<sup>25</sup> See Perotti (1996) for a careful review.

While secure tenure and rentals overwhelmingly benefit poor people, sales rarely improve land access for the poor. Poor people faced with crop failures, a serious family illness, or other economic shock, are often unable to borrow and may be forced to sell their land at distress prices. This can result in speculators amassing large land holdings and depriving poor people of land access.

High levels of inequality inhibit growth and make it very difficult for poor people to share in whatever growth occurs. In this case, government intervention to redistribute assets, including but not limited to land, can be a worthwhile investment in a country's future. In order to be successful, reform efforts need to be backed by political commitment, integrated into a broader approach to development, and implemented transparently and in partnership with civil society.

Land reform is a part of a comprehensive agrarian reform and it is not simply land distribution. Poor farmers, used to the paternalistic ways of the old system, cannot afford to take the full risk of owning land. They have to be provided with a comprehensive (as in total) package of support services before access to land can be translated into productivity and growth, and into food security and freedom from poverty. Agrarian reform must involve the cooperation and participation of all sectors. Without involvement by other government line agencies, the civil society, the private sector, and the landowners agrarian reform cannot gain momentum; it will drag too slowly, and have little significant impact.

Access to land opens growth opportunities for farmer-beneficiaries, but does not necessarily translate into actual productivity. Beneficiaries must have access to other resources, such as credit, capital, technology, farm management skills, and marketing information. Access to land must translate into tangible improvements within a reasonably short period of time, or else there will be a great risk of so-called "beneficiary defection", in which farmer-beneficiaries abandon their stake in the land and mortgage or sell it. This could lead to the re-concentration of lands in the hands of new landowners and eventually in the conversion of these lands to other uses.



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