

Agrarian Relations of Bangladesh A Socio-economic Scenario

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Abstract: *Agrarian relations play vital role in the development of rural Bangladesh. Land tenure is the result of historical and traditional evolution of socio-political, economic and legal system. So, it is a combination of social values and norms, legal and socio-economic relations in the whole being of the society. In the pre-industrial world, the conquerors of Bengal frequently established their polities and ruled the country according to their own fashion. Since agriculture was the mainstay of people and land was the main source of state revenue, successive rulers tried to change existing land tenure according to their advantages. No great ruler entirely adopted old land tenure, nor did any ruler introduce an entirely a new one. Since land tenure is the inheritances of socio-political and traditional norms and values, it should be analyzed from the historical point of view that may not ventilate complete historical evolution of land tenancy system. However, emphasis has been given on socio-comic issues instead of historical assessment.*

Introduction:

Bangladesh has been an agricultural-dependent economy with growing population and one of the world's lowest per capita land areas. Land tenure means the holding or cultivating land of the state or of a proprietor on predetermined terms and conditions that convey the legal rights to tenant to cultivate land. So, the main objective of this article is to explore chronological steps of Land tenure taken by government as well as superior authorities in different stages. Land tenure system is discussed not only from historical point of view but also from socio-economic perspective that may ventilate complete historical evolution of land tenancy system. This article comprises following sections: First section describes the land tenure in the ancient period. Land tenure in the medieval is discussed in section two. In section three, land tenure in the East India Company and British period is discussed. Land tenure in the Pakistani rule is discussed in section four and in section five different government's steps after liberation towards land tenure is explored. The last and final section is endowed with summary and conclusion.

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1.0 Land Tenure in Ancient Period

Probably, the oldest laws were about land, which determined the land tenure in ancient period. Historians and social scientist support the view that land tenure was a combination of different sorts of rights in land of different classes of people. In ancient period, land was the common property of the community and belonged to settlers of the villages who cultivate it. The common features of ancient land tenure in Bangladesh (then Bengal) were as follows (Banglapedia, 2003);

- a) Payment of a share of the produce of land to the head clan;
- b) The right of a family to cultivate land in its possession; and
- c) The power of the head of a *panchayet* is to distribute land of the community to its families and to settle land disputes.

But many Indologists did not support the existence of this village community theory. They pointed out that Bengal village settlements developed in a highly scattered manner. Due to their dispersed nature, a well-knit social organization of village community did not develop in Bengal. While on the other hand, some believed that peasants owned land. Besides this view, some believed that the village community owned land.

The theory of peasant ownership may partially be accepted on the ground that peasants tilled the land hereditarily and cultivate without any interference on payment of dues fixed by custom or king's law. The landlordism of the king has been mixed with peasant proprietorship, signifying that both had rights on land, one as the sovereign, and other as the actual tiller. That is, the peasant enjoyed proprietary rights on land as an actual tiller and the king enjoyed it as a sovereign authority. The king had the right to impose tax and to expel a peasant from his holding. But the king's power to impose tax was limited by customs and injunctions of the *Dharmashastra*. The power of expulsion of a tenant from his holding was limited by religious sanctions or by king's law. Thus, entitlements on land were a combination of both the king and the peasants.

There were rent free and permanent tenure which were not normally be resumed by the king. This type of tenures were granted for maintenance of *Sangh* or *Vihar* and other charitable purposes. Prior to 8th century AD, copper-plate inscriptions indicate that there were 3 types of land, which

regulated the relation between the state and the peasantry. These were *vastu* (homestead land) *kestra* (plough land) and *khila* (cultivable wasteland) (Banglapedia, 2003). The rent structures of these lands were different. But in the inscription of land grants and sales, the prices appeared to be same for all types of land. This riddle can not be solved for the absence of proper evidence. Another type of land was *Gochara* or pastureland. This type of land was tax-free and considered as common holdings. It was always mentioned in the inscriptions and was as marks of village boundaries. So, it can be said that in ancient Bengal, there was no unique land tenure system.

2.0 Land Tenure in the Medieval Period

Land tenure during the medieval period had been endowed with a lot of changes and progresses. The agrarian system of the Sultans had borrowed its elements from the ancient system of the Hindus and Buddhists. During the Mughal period, land tenure took different shapes and changes significantly. The main features of tenurial relations of medieval period are as follows:

2.1 Land Tenure in Sultani Period

During the Sultani period land system was not changed enormously. But the Sultani rulers had introduced many new tenurial terms and conditions for the existing agrarian institutions. It seems that the Sultans collected land revenue mostly directly from the tenants as before. The provincial governors played vital role in this regard. There was an intermediate class *majumdars* who formed a rent receiving interest group as revenue farmers. They paid a fixed amount of revenue to the royal treasury from their collected land revenue. The Sultani rulers also made rent-free land grants to religious and charitable organizations.

2.2 Land Tenure in Mughal Period

The Mughal rulers substantially changed the land tenure system. In Mughal period, land belonged to the state under Mughal constitution; there had also some limited private ownership of land. But the ownership was exceptional. The government engaged revenue collectors called *Zamindars* and *Talukdars* who traditionally enjoyed revenue collecting right hereditarily. But, the government had always right to dispose such revenue collectors. (Banglapedia, 2003).

The *raiya*ts enjoyed hereditary customary rights on land, on the basis of the terms laid down in *Patta* and *Kabuliyat*. There were two groups of *raiya*ts: *khudkhasta* and *paikasta raiya*ts. The *khudkhasta raiya*ts were permanent residents of a village and they enjoyed rights in land permanently. They could use the land as they like so long as they adhere to terms of *kabuliyat* or agreement. *Paikasta raiya*ts were allowed to pay according to the *pargana* rate. This group of *raiya*ts was non-resident cultivators who moved from one village to another in search for cultivating land. They were basically migratory sort of peasants and they had no rights in land they cultivated.

An assigned land called *Jagir* for imperial officers was a remarkable feature of Mughal land tenure system. A *Jagir* comprised an area which was estimated to yield in revenue an amount equivalent to the pay sanctioned for them. There were two types of *Jagir* ; temporary and permanent. In addition to *Jagir*, the Mughal land tenure system provided for *lakhiraj* or rent-free grants. There were 3 types of *lakhiraj* (Banglapedia, 2003);

- a) *madad-I-ma'sh* (Aid for subsistence);
- b) *inam-i-altamagha* (Hereditary grants for official family); and
- c) *WAQF* (assigned to institutions like religious shrines, tombs and *madrashas*)

Madad-i-mash grants were made to learned men, who would not take any employment. The *madad-i-mash* grants were not transferable. The *lakhiraj* grants; *inam-i-altamagha* was made hereditary for official's family. Another kind of *lakhiraj* grants; *WAQF* was made for religious institutions, like tombs and *madrashas*. So, land tenure in Mughal period was a combination of private ownership and state ownership.

3.0 Land Tenure in the East India Company and British Period

Between 1765 and 1950, the land tenure system underwent major changes. During the company period, the British authority had taken various administrative measures concerning land tenure that may be viewed as trial and error period. On 12 August 1765, the East India Company was granted *Diwani* right by the Mughal emperor Shah Alam to collect revenue from Bengal, Bihar and Orissa.

3.1: Land Tenure during the Period 1765-1793 (Trial and Error Period)

At the early stages of company period, the East India Company realized that the intermediaries (*Zamindars*) were in fact the owners of land. They were 'revenue farmers' whose interests were distinctly different from the interests of those who themselves labored on land.

During the double government period (1765-1772), the Mughal system of revenue collection was retained almost same. The institutions of *Zamindars*, *Talukdars* and *lakhirajdars* were operating without significant changes, which were introduced during Mughal period. In 1770, the procedure for land administration involved leasing out land to the highest bidder for a period of 5 years. This procedure brings sufferings to landlords and to tenants. The old landlord had to bid for a higher amount to keep the estates in their possession, which in turn compelled the tenant to bear the burden of paying the additional amount. In 1772, the company decided to involve directly in land administration by employing collectors.

3.2: Permanent Settlement (1765-1793)

In fact, the British colonial state was founded for facilitating the company's trade and commerce and also for "remitting (home) the surplus of revenues the country" to quote Warren Hastings (Islam, 1997). Since land revenue was the biggest source of government revenue, agricultural production had to be increased for increasing the government revenue. But it was impossible to achieve within the existing traditional agrarian relations. The company came to realize that land tenure system should be such that would lead to the capitalist mode of production in agriculture sector. In this context, on March 1793, Lord Cornwallis, governor general of the company, declared Permanent Settlement that made *Zamindars* and *Talukdars* permanent proprietors of land under their respective control (Banglapedia, 2003). As a result, government revenue agents turned into landowners overnight. As a proprietor of land *Zamindar* could transfer their land freely in the form of sale, gift, lease and so on.

3.2.1 The Landed Property under Permanent Settlement

Under the rules of permanent settlement the *Zamindars* were declared absolute proprietors of land, and as proprietors they were made legally entitled to use their land as they like. The rights to collect revenue were heritable and alienable. This meant that the *Zamindars* could lease out

these rights to subordinate interest that could do the same with the rights thus obtained. In this way, a chain of intermediaries grew up between the government and the cultivators who were bearing full burden of rent and other extractions.

The execution of revenue sale law (Popularly known as "Sun-set Law") was thus likely to unsettle the existing landed class quite significantly, because the revenue assessment of the permanent settlement was not based on any survey of asset; and consequently government demanded was distributed highly unequal (Islam,1999). The Permanent Settlement did not eliminate the rights of raiyats in land though the existence of such subordinate rights ran counter to property rights of *Zamindars* (Cornwallis, 1793). Regulation No.17 of 1793 provided that on the failure of raiyats to pay increased rent, all their moveable, including standing crops were made liable to attachment and sale by the landlords without the intervention of the court (Banglapedia,2003). The company government remained silent about the status of raiyats under *Zamindars*. The concept of peasant proprietorship was totally abolished and the customary rights of tenants having no security of tenure.

3.2.2 Emergence of *Madhyasvatva* Tenure

Permanent Settlement was made a new form of property rights in land by the execution of revenue sale law (Sun-set law). In order to protect the estates from the operation of sun-set law, the *Zamindars* began to lease their holding to another class of perpetual renters and imposed the same terms and conditions on the lease holders as they themselves had agreed to perform under permanent settlement. This type of property rights was called *Madhyasvatvas* or intermediate rights. *Madhyasvatvas* as rights was made as easily transferable and inheritable as the *Zamindari svatva*. The main groups of *Madhyasvatvas* were; a) *Pattani Svatva* and b) *patitabad svatva*.

a) *Pattani Svatva*: It was entirely a rent-collecting device with out having any relation to productive management of land. The *Zamindars* divided their whole *Zamindary* into numerous lots. Every lot was settled with a tenure holder with the condition that he would enjoy a rent rate fixed perpetually, pay a cash in lieu of favor and that his tenure would be sold in auction in default of payment of rent in time. This type of tenure was called *pattani*. The *pattani* system saved the *Zamindar* from the Revenue Sale Law (sunset law) and also made them prosperous. Furthermore, *pattanidars*, again in search of security of tenure, created *sub-pattanis*

below them and the process had obviously ruinous effects on the actual tillers of land.

b) Patitabad Svata: It was guessed that on the eve of permanent settlement about one-third or more cultivable lands of Bengal lay under the sway of nature (Cornwallis, 1788). Under the pressure of permanent settlement *Zamindars* found in *Patitabad* a new source of income and safety. Tenurially and organizationally patitabad activities may be classified in four categories; noabad, char-abad, bill-abad and sundarban-abad.

Following the permanent settlement of 1793, the *Zamindars'* rights and prerogatives continued to grow. In Bangladesh region, they became de facto owners of land though they did not cultivate it. In fact, the *Zamindars* settle their land temporarily with tenant, the actual cultivators. The cultivator paid rent in cash or kind to the *Zamindars*. The *Zamindars* sent a fixed amount of this rent as land revenue to the ruling authority. The actual cultivators beared all the responsibilities and risk of cultivation. The period from 1793 to 1859 was marked by concern for defining in clear terms the landlord-tenant relationship and to provide security of the tenant (Sawkat Ali, 1981). Permanent Settlement ignored any right in land among the actual tillers of the soil, now classified as "tenants" of the *Zamindars*. The revenue paid to the state by the *Zamindars* was permanently fixed in amount; but rent paid to the *Zamindars* by tenants was not. Finally, the settlement conferred upon the *Zamindars* certain proprietary rights. As a result, this period may be called the protection of rights of *Zamindars* (1793-1859).

In this way, a chain of intermediaries grew up between the government and the cultivators who were bearing the full burden of rent and other extractions. Deprived of nearly every bit of surplus from land a cultivator was destined to live in perpetual poverty, which forced him into bondage of indebtedness. A rapacious money-lending class identical with some of the landed interest was emerged. A poor cultivator could ill afford to escape the claws of either of them.

The last observation is critical. Agrarian relations that evolved under permanent settlement were not only unjust but also entirely inefficient. The long chain of intermediaries extracted surplus from land but a very few of them were used for socio-economic development. Those who were with very big estates indulged in luxury and ostentatious consumption. The usurious money lending class carried less risk and was more rewarding than investment in any productive activity. Consequently,

production suffered. Agriculture remained backward and the demand for industrial goods from agricultural remained low and stagnant. There was little diversification in the economy.

3.3.3 Land Tenure during the Period 1859-1885 (Beginning of the Protection of tenant's Rights)

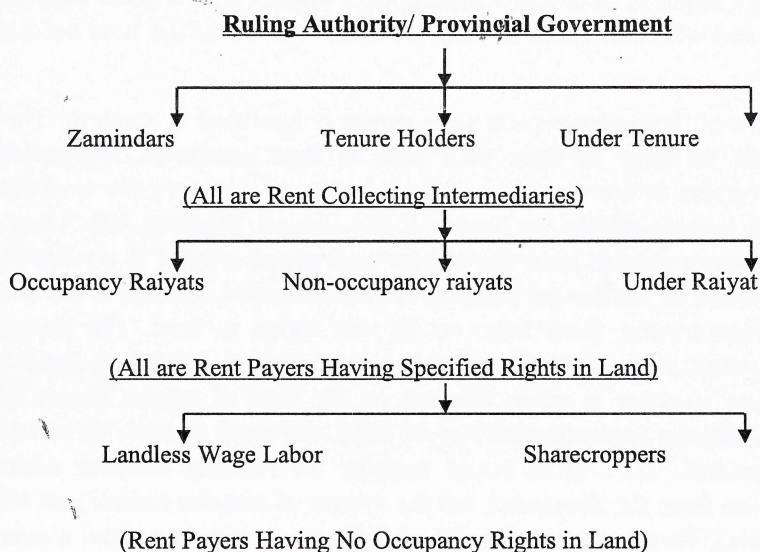
Tenurial Legislations during the period of 1859-1885 deal mainly with the statutory development of occupancy rights of tenants. This was first time that the tenants were given de jure rights on land for continuous occupation of land for 12 years. Act X of 1859 marked the beginning of a system, which sought to protect the interest of the tenants. So, this period is regarded as the beginning of the protection of the rights of tenants. In this Act, two serious defects were as (i) there was no definition or principle in the Act of what was fair and equitable and (ii) the tenant had great difficulty in providing 12 years continuous possessions due to the absence of proper records. This naturally led to a clash of interest between the tenants and the *Zamindars* resulting in agrarian disputes.

3.3.4 The Land System as Modified by the Bengal Tenancy Act of 1885

During the nineteenth century, British authority intervened to establish regulations designed to protect cultivators from the *Zamindars'* abuses of power. In 1878, the Bengal Rent Law Commission was formed. The Bengal Tenancy Act (Act of VIII of 1885) was based on this Bill. In 1885 the British made a major attempt to establish an improved basis for landlord-tenant relations in the region. In that year, the Bengal Tenancy Act came into force. The Act established principles concerning landlord-tenant relations which, had it been fully implemented, would have provided the subsequent basis for tenant farmers either to maintain or to establish their own rights in land.

The Bengal Tenancy Act of 1885 modified the Permanent Settlement of 1793 drastically and it provides de jure recognition to the rights of others besides *Zamindars* in the agrarian hierarchy. It gave legal, as well as responsibilities, of those whose status had not been recognized by the permanent settlement. This Act established the basis for all subsequent legislation (even in contemporary Bangladesh) governing the relationship of people to the land in this region. The Bengal Tenancy Act of 1885 presented a version of the intricately stratified system of rights in land in this region. At the apex of hierarchy was the ruling authority, the provincial government of Bengal. Below the provincial government,

there were *Zamindars*, tenure holders and under tenure-holders (those who had rent collecting powers). In descending order, those were occupancy raiyats, non-occupancy raiyats and under-raiyats (all of whom were rent payers having specified rights in land). At the base were sharecroppers and landless wage laborers (whose rights in land were either tenuous or non-existence). The following Figure represents in simplified form of hierarchy of interests in land in Bengal region.



Source: Jannuzi & Peach, 1980.

Figure 3.1: The Hierarchy of Interests in Land 1885-1950

Each holder of land in the agrarian hierarchy had specified rights and responsibilities in relation to his landholdings. The *raiya*s (i.e. tenants of landlords) could acquire a statutory right to land in their possession; even though this right to land was qualified and less complete than that of absolute owner.

By the Act of 1885, if a landlord sought to deny a tenant's potential claim to land by shifting him from plot to plot each year, breaking up continuity of possession, he could no longer do so. As long as, a tenant could claim successfully continuous possession for 12-years period, his status became as a 'settled raiyat' having occupancy rights in land was assured. His right to land was protected by law; he could till the land himself or with hired

labor; he could lease or even transfer his right in land by sale to another. In defining the rights of the *riayats* the act categorized them into two major groups: occupancy *raiayats* and non-occupancy *riayats*. The rights of the occupancy *raiayats* were declared not only hereditary but also transferable, on the condition of payment of transfer *salami* to the *Zamindars*. The non-occupancy *riayats* were those who till the land for less than 12 years. Below the non-occupancy *riayats* or under *riayats* there were landless labor and sharecroppers whose rights in land were not defined and who continued to remain tenants-at-will of the land holding interests.

The rights of the *under-riayats* were similarly qualified by custom. They held land so long as they paid rent to their landlords. *Bargadars* (sharecroppers in contemporary Bangladesh) did not have the qualified rights of tenants within the terms of the Bengal Tenancy Act. Thus a sharecropper's right to land was at best tenures and subject to conflicting interpretation of the Bengal Tenancy Act, as amended. That is, at the base of agrarian society there were no *de jure* rights in land. The Bengal Tenancy Act, even as latter amended, conferred no rights in land to cultivators working as wage laborers on the land of others. Under the Bengal Tenancy (amendment) Act of 1928, the right to transfer of land made general. The *riayat* could transfer his holding without taking permission from the *Zamindar*, but the system of transfer *salami* was still maintained. This Act (amendment) of 1939 made *raiayats* virtual owners of land and they now would transfer or use land in anyway as they like. The *Zamindars* were now left only with receiving right (Banglapedia, 2003). The Bengal Tenancy Act of 1885 thus revised the original constitution of the permanent settlement drastically.

3.3.5 Consideration of the Protection of Tenants (1885-1938)

The Bengal Tenancy Act 1885 removed the inadequacies of the Rent Act of 1859 and made the cultivating class a settled tenant with occupancy rights in land. Moreover, following guaranteed protections were as follows (Ali, 1981);

- i. Right of cultivating class or settled tenant could not be disturbed in the event of the superior landlord selling his land;
- ii. He could not mortgage his holdings;
- iii. Tenant could sublet his holding for a period not exceeding nine years;

- iv. He could not be evicted for arrears of rent only and the holding could be sold out in Civil Court.

The guaranteed protection measures of Bengal Tenancy Act were indicative of the government's awareness to prevent arbitrary harassment of the cultivating class. Moreover, the establishment of regular machinery of government and the taking over the functions of Revenue, Security and Justice are considered as massive development of protection measures of cultivating class.

So, land tenure system from 1793 till 1950 should confirm that the land system of that region were exceedingly complex. Though the Bengal Tenancy Act was many times amended after 1885, was seldom implemented rigorously in behalf of weaker sections of the cultivating peasantry and was repealed in 1950.

4.0 Land Tenure during Pakistani Rule

In the 1940s and afterwards, the issue of land tenure assumed a completely new dimension. The Land Revenue Commission under the chairmanship of Sir Francis Floud, submitted its report on 21 March, 1940, recommended the abolition of *Zamindari* system along with the tenurial rights of other intermediaries. The commission also prescribed its replacement by a direct settlement between the state and the cultivators. But the recommendations of the commission could not implement due to the continuation of Second World War and the political turmoil of then British India. The East Bengal legislative assembly, in its fourth session formally passed the East Bengal State Acquisition and Tenancy Act (EBSATA) 1950, on February 16, 1950, on the basis of the Floud Commission, and it was a landmark in the history of tenurial legislation.

At a glance, the EBSATA of 1950 seems not only to repeal the Bengal Tenancy Act 1885 but also to invalidate the permanent settlement of 1793. It abolished all *Zamindari* and intermediaries and the rights were declared *maliks* or owner of land. The Act brought the tenants directly under the government. That is, it abolished all revenue farming.

4.1 The Salient Features of the EBSATA of 1950

Some provisions of the East Bengal State Acquisition and Tenancy Act 1950 (GOEP, 1959); are described below:

- i. The Act abolished the *Zamindari* system and all intermediaries, so that actual owner of the land became the tenants under government. The

peasant became direct tenants under the government and got the proprietary rights on their lands. These rights were made permanent, heritable and transferable.

ii. Section 20 of the Act of 1950 contains the explicit provisions that have enabled landholding elite of Bangladesh to preserve their traditional rights and prerogatives in land. The former rent-receiving intermediaries were entitled to retain;

- a) Their homestead land (lands covered by homestead dwelling units)
- b) Land used for agricultural or horticultural purposes
- c) Land considered either cultivable or being capable of being cultivated following reclamation and
- d) The land area encompassed by water ponds.

iii. The government remained the lord superior and tenants or raiyats became holder of land under the government. All raiyats (to be called "maliks" hence-forth) were permanent and they could transfer their right to use their land in any way they like (Siddiqui, 1997).

iv. Most important change in the land tenure system was the imposition of a ceiling on the quantum of land to be owned or held by a family or body. The ceiling to landholding was fixed at 100 standard bighas of cultivable land per family or 10 bighas of such land per member of the family, whichever is larger, in addition to the homestead land up to a limit of 10 bigas per family. The ceiling was relaxable for plantation activities in tea, coffee, sugarcane and rubber, far cassia leaf gardens, orchards; large scale mechanized farming and large-scale dairy farming. The surplus or excess land would now be available for settlement with the landless or marginal farmers in accordance with the rules or policy of the government.

v. Rent receiving interests and power of the estates belonging to religious institutions ("*waqful-lillah*" and "*waqful-aulad*" in the case of Muslims and "debtor" in the case of Hindus) were not to be exempted from state acquisitions.

vi. To prevent reappearance of the intermediary interest subletting of agricultural land was strictly prohibited.

vii. For acquisition of rent interest, compensation was payable on a graduated scale.

viii. Compensation could be paid either in cash or in bond or both. The bonds would be non-negotiable and payable within forty annual installments would carry 3 per cent interest.

ix. To prevent conversion of agricultural land to non-agricultural uses the transfer of agricultural lands to persons who are not bonafide cultivators was prohibited.

x. Maximum rent would not exceed one-tenth of the annual gross produce of the land.

xi. The "bonded labor" system known as 'Nankar' in Sylhet district was prohibited or to be abolished¹.

xii. No holding could be subdivided to the extent that the rent of any portion would be less than TK. 1.00.

4.2 Tenurial Measures in the Sixties

Some significant amendments of Act of 1950 were made from time to time. In 1957, the Revenue Department issued an order to redistribute acquired land by the state to the non-cultivators like ex-military men with long glorious service, refugees and ex-rent receivers with no land for consideration. But these lands were not freely redistributed. An applicant would get his share of land on payment of "*salami*". In August, 1957, the *salami* was set equal to the amount of 5 to 10 times of annual rent. In August 1958, it was made equivalent to 50% of prevailing current market price of land. In 1962, it was enhanced to full market value of the land. Among the amendments, the revision of ceiling was to landholding from 100 bighas to 275 bighas per family by an Ordinance of 1964. Accordingly, some of the acquired land had to be given back to the previous owners after 1964.²

4.3 Impacts of EBSATA of 1950

It was irony of fate that the goal of distributive justice and productive efficiency of the Act 1950, suffered seriously in subsequent years. The process of acquisition of rent receiving interests was very slow and only 443 estates were acquired by March 1956, though the Act came into force in 1951 (Banglapedia, 2003). It took more than 8 years to complete the

¹ Under this system, in lieu of using land the Nankar had to provide corvee (free labor) to his landlord.

The ceiling was initially set at 100 standard bighas then raised to 375 bighas in 1961 by East Pakistan Ordinance No. 15 of 1961, and finally reduced to 100 bighas in 1972 by the government of the People's Republic of Bangladesh.

process and even today, some rent receiving interests such as 'waqf' and 'debtor' estates could not be taken. A little achievement was seen in redistribution of acquired land for following reasons;

- a) Only a small number of *Zamindars*, hardly two percent of the total were big landlords;
- b) Lands of *rai-yats* could not be taken over for redistribution;
- c) Lands could be redistributed among the family members through deeds showing each member as separate households or even by way of *benami* transaction;
- d) The large landowners had options to keep the superior plots to them and leave the inferior ones for government acquisition.

It is obtained from the available statistics that the total area acquired under the Act of 1950 came to 163741 acres. Moreover, total acquired land by 1959 was 234746 acres, of which 68% was waste land (Hossain, 1991). Abdullah (1976) calculates total arable land that the government could take over under 1950 no more than 65496 acres. The net farm area in Bangladesh today covers about 22.5 million acres. This means that the Act of 1950 could contribute to the acquisition of hardly 0.3% of the total cropped area in Bangladesh (Hossain, 1991).

Actually, the Act of 1950 denied sharecroppers any rights in land and any means of acquiring them. The former rent-receivers now became *maliks*, having permanent rights in land so long as they could pay rent to the state. They could continue to till their lands by subletting them to others and continue to realize the usufruct of the land while relying on sharecroppers to assume all risks and responsibilities associated with the production of crop.

The role of rent receiving land-holder (loosely classified as *Zamindars* but including others having property rights in land) was not in fact abolished; only the right act as an intermediary of state in the collection of land revenue was eliminated. These *zamindars*, tenure-holders and others having rent receiving power were converted in status to *maliks* (land holding tenant of the state). Clearly, the Act of 1950 had nothing to do with changing the basic relationships of the people to the land. The traditional hierarchy was intact; the old rent-receivers remained the primary land holding group. The provisions of the Act of 1950 did little to modify the traditional land system. So, the Act 1950 further

institutionalized the traditional agrarian system but not changed the agrarian structure of this region.

5.0 Land Tenure after Liberation

There was a revolutionary change in the settlement policy of the government after liberation of Bangladesh. After the independence in 1971, the new government tried to look into the problems of agrarian relations and to improve it.

5.1 Land Tenure in the 70s

To fulfill the expectations of sacrificed citizens of the nation and to pave the War-toned economy along with ambitious plan for forming a socialist structure of the government had tried to restructure the existing agrarian relations by modifying the EBSATA of 1950. So, new government promulgated several presidential orders relating to land reform.³ Main provisions of the land tenure measures were as follows:

- 1) All land revenues including arrears and interest due on agricultural land up to April 14, 1972, were being waived.
 - a) The State Acquisition and Tenancy (Third Amendment) order, 1972 (president's Order No. 96 of 1972);
 - b) The Bangladesh Land Holding (Limitation) Order 1972 (president's Order No. 98 of 1972;
 - c) The Alienation of land (Distressed circumstances) (Restoration) Ordinance 1976 (Ordinance No. 28 of 1976).
- 2) Agricultural families with land holding under 25 bighas were exempted from payment of land revenue from April 14, 1972 (P.O. 96 of 1972). But land development tax was introduced later.
- 3) Imposition of a ceiling of 100 bighas per family on agricultural land (P.O. 98 of 1972).

³ The presidential (Bangladesh) ordinances affecting rights in land include the following:

- a) The State Acquisition and Tenancy (Third Amendment) order, 1972(president's Order No. 96 of 1972);
- b) The Bangladesh Land Holding (Limitation) Order 1972(president's Order No. 98 of 1972;
- c) The Alienation of land (Distressed circumstances) (Restoration) Ordinance 1976(Ordinance No. 28 of 1976).

In redistributing government land salami would not be taken and distribution would be according to the following priority among the landless and near landless (i.e. owning less than 1.5 acres) agricultural families (The Bangladesh Observer, August 5, 1972);

- a) Agricultural families having no land;
 - b) Agricultural families having no land other than homestead;
 - c) Agricultural families having land including homestead but less than 1.5 acres;
 - d) Families whose lands have been diluviated;
 - e) Agricultural families dependent on freedom fighters that either lost their lives or were permanently disabled;
 - f) Agricultural refugee families undertaking cultivation themselves; and
 - g) Other agricultural families.
- 4) It was also decided that the recovered land accreted 'char' lands by the rivers would not go back to original claimants (P.O. 135 of 1972).
- 5) The land development tax ordinance 1976 was enacted to rationalize the revenue structure and to mobilize more domestic resources for development;
- 6) 'Ijaradari' with respect of management of 'sairat mahal' (government landed property, such as hats and bazaars, water bodies, ferries, minor minerals, etc) was abolished.
- 7) Agricultural land mortgage on exploitative terms was banned.
- 8) Another amendment provided that if there is a sale document in respect of a piece of agricultural land also on agreement to return the land to seller or refund of the price by a certain date, these two documents would constitute a completely usufructuary mortgage and the sold land would be retransfer able to the owner without payment on expiry of 7 years.
- 9) The new laws have classified landholders as mallks but it has not been designed to protect the right of tillers on land.

5.1.2 Impacts of Land Tenure in the 1970s

It is no doubt that all these measures were fully and effectively implemented. The government could acquire a little amount of land. In

that time, there were 5 million landless and marginal farmers. The government had only 4.5 lakh acres of total land for distribution (Hossain 1991). Failure of measures of 1972, the government, declared a series of drastic measures for evaluating the rural economy in 1975. According to them, the land ceiling was to be reduced to 70 bighas per family. The whole agriculture was sought to be brought under a system of compulsory cooperatives. The total output would have to be distributed according to the ratio of one-third for land, one-third for labor and another one-third for capital. But this policy could not be implemented owing to change in government in 1975. So, it could not have created much impact even if it had been a success.

5.2 Land Reform Ordinance 1984

The government had taken reform measures on crisis of economy owing to an alarming growth of population and form a Land Reform Committee in 1982. The committee proposed several recommendations, which includes:

- 1) Reduction of land ceiling from 33.3 acres to 20 acres;
- 2) Establishment of minimum wage rate (3.50 kg. rice or equivalent in cash) for agriculture labors;
- 3) Decentralization and strengthening of survey and settlement administration;
- 4) Recognition and protection of rights of sharecroppers; and
- 5) Expansion of resource base of local government institutions.

On the basis of those recommendations the government promulgated a new Land Reform Ordinance in 1984.

5.2.1 Salient Features of Land Reform Ordinance 1984

Far-reaching changes were also made in the rights of tenants by promulgation of Land Reforms Ordinance 1984. The main provisions of this ordinance were as follows:

- 1) The ceiling to ownership of agricultural land has been reduced further to 60 standard *bighas* per family. Excess land would be acquired by the state on the payment of compensation to the owners. But the owners were free to have their preferred plots up to 60 bighas per family. The existing ceiling was not to be reduced but those family owning land up to 60 *bighas* were prevented from acquiring any more land.

2) Free distribution of khas land among only landless peasants was to be ensured (Siddiqui, 1988).

3) This law declared 'benami' (proxy) transaction void. That is, *benami* transaction was declared illegal and punishable.

4) Most salutary provision in respect of security of tenure is the prohibition of eviction of agricultural tenants from his homestead land. That is, no one could be evicted from his homestead.

5.2.2 Provisions about Sharecropping

Sharecropping arrangement is traditionally regarded unfair for the tenants for two reasons: Firstly, they can be evicted from land by the landowner at their convenience. Secondly, while sharecropper provided all or most of the production inputs, they usually receive only 50% share of the output. The land Reforms Ordinance, 1984 seeks to remove these two unjust and unfair provisions of sharecropping arrangement. The important laws are as follows:

1) The Ordinance provided that the landowner and sharecropper must sign a legal contract. Without signed legal contract sharecropping is illegal. The tenurial rights of the sharecropper were recognized; he was entering into a 5 years agreement with the landowner while he could not be evicted.

2) The period of contract shall be five years.

3) The output of the sharecropped land should be divided into three segments;

a) The landowner would receive one segment as rent;

b) The tenants should receive remaining segment for his labor; and

c) The remaining segment (1/3rd) would be shared by landowner or by tenants according to the cost bearing incurred in cultivation. Thus half a century old demand for output share was conceded.

4) The minimum daily wage for agricultural labors was fixed at 3.5 kilograms of rice or its equivalent in cash.

5) The sharecropped land cannot be sold out to any persons other than the immediate relatives to the landowner or the sharecropper. If the sharecropper is unable to buy the land; it can be sold to other persons but the sharecropper retain the right of cultivation of land as per contract.

6) A landowner can rent out a maximum of fifteen bighas or five acres of land.

These recommendations were given legislative shapes, first in the Land Reform Ordinance 1984 and second in the Agricultural labor (minimum wages) Ordinance 1984.

5.2.3 Applicability of Land Reform Ordinances of 1984

Sharecroppers are insecure in sharecropping arrangement because they could be evicted by the landowner at their convenience due to the absence of signed legal contract. Elahi and Mandal showed that 54% plots were shared out for period of one to three years.

In their study, they found that about 74% plots were sharecropped for one to three year's period. Only 9% and 6% plots were sharecropped in for 4 years and 5 year respectively. The percentage of plots under sharecropping decreased consistently as the duration of sharecropping increased (Elahi and Mandal, 1988).

A *Rin Salishi Ain* was passed in 1989 to give relief to the poor tenants who were compelled to sell their small holding under distressing circumstances such as flood, draught or cyclone. Advance purchase of crops and deposit of blank stamp paper with signature or thumbs impression thereon were declared void.

In spite of its promulgation in 1984, the provisions of law are yet to be implemented. But the problem in Bangladesh today is so deep and complex that even if the reforms fully implemented, it will touch on the fringes of the issue. Agriculture Census 1996 reported that 61.90% of total tenanted lands were transacted under sharecropping (BBS, 1999). Hossain *et. al*, (2000) observed that in sample villages and in households transaction of rented land under sharecropping was 64% in 1999-2000. The sample survey conducted during the period January to November 2003, shows that about 43% lands were transacted under sharecropping which are mainly contracted for one-year basis. The 2nd highest of contractual arrangement was short term leasing arrangement (one year period) constituted 26.32% of total arrangements. Only 4.68% transacted lands were under *Khaikhalashl*, which is contracted on long duration (Field Survey).

6. Summary and Conclusion

6.1 Summary

So, it can be said that land tenure in Bangladesh is the result of socio-economic as well as historical evolution of land system under different government mechanism. The land tenure in Sultani period had not gone under remarkable changes. It was more or less same as ancient period. The Mughal ruler substantially changed the land tenure system. In sum, land tenure in Mughal period was a combination of private ownership and state ownership. But the state ownership was dominant and the Mughal authority fixed the land revenues. During the period of company rule and British rule land tenure had gone under substantial changes. The company carried out several experiment in land tenure system before the introduction of Permanent Settlement in 1793. On 22 March, 1793, Lord Cornwallis, governor general of the company declared Permanent Settlement that made *Zamindars* and *Talukdars* permanent proprietors of land under their respective control. The East Bengal Tenancy Act of 1950 was a landmark in the history of tenurial legislation. It abolished all-*Zamindary* and intermediaries and the rights were declared maliks or owner of land. This Act brought the tenants directly under the Govt. It abolished all revenue framings.

After the liberation of Bangladesh, a revolutionary change in tenurial legislation has been taken place. The land reform measures were aimed at improving the overall conditions of the actual tiller of land. Far-reaching changes were made in the rights of tenants by the promulgation of Land Reform Ordinance 1984. This Ordinance seeks to remove the unjust and unfair provisions of sharecropping arrangements.

6.2 Conclusion

It can be concluded that there was no unique land tenure system in Bengal throughout its history. It has been changes accordance with the aim of ruling authority or by improving the condition of landholder and tenant but latter is given less emphasis. From the survey result it can be concluded that tenants are highly in secured in their tenancy rights. Increase in transacted land under short term leasing arrangement as well as other short duration of contract indicates the gradual commercialization of rental market for land, which in turn further entails the in security of tenant's rights in land.

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