

Women's Land Rights and Access to Commons in Bangladesh

A case of Securing Commons (Khas land) from Northern Bangladesh

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I. Background notes

Bangladesh is one of the most densely populated countries with a population estimated currently at 160 million in a territory of 155,000 square kilometers. Consequently, pressure on land is enormous as land is not only a source of livelihood for most in a country which employs 70 percent of its workforce in agriculture but that land is also a key part of the peoples' identity in their social and cultural life.

A majority of the population in Bangladesh at present are functionally landless. While women constitute about 48.5% of the total population, 70 percent of them have no ownership of land. Social, cultural and religious bias against women's ownership of land remain a formidable challenge which reflect in the current legal dispositions too that are heavily tilted against them.

The laws of inheritance and ownership of land and other natural resources in Bangladesh are made along religious creeds. Consequently, there are separate laws for each religious groups but all are highly discriminatory to the women at varying degrees. For example, the Muslim women are eligible to inherit half of what men inherit, whereas, for the Hindus and Buddhists, women do not inherit any properties of their parents and spouses at all. The separate set of customary laws that governs the inheritance of the indigenous peoples in the region of Chittagong Hill Tracts do not allow either inheritance of properties by women.

With its predominantly agrarian economy, sixty percent of the total territory of the country is used for agriculture. Government is the largest owner by far, with approximately 40 percent of all lands under its ownership while the rest is under private ownership. However, with its population of the country, the average availability of land per household is a meager 0.7 acre only. This reflects the tremendous pressure and competition over land by the people majority of whom remain dependent on land to scratch a livelihood.

Table – 1: Land Ownership Pattern in Bangladesh

Land/population	Amount
Total land (million acre)	37.4
Population (in million) (Extrapolated based on Population Census 2001)	150.0
Household (in million) (2007, extrapolated based on Population Census 2001)	30.0
Land under agriculture (million acres)	22.2
Privately owned (rural-urban, disputed, non-identified <i>khas</i> land including community forestry) (million acres)	21.0
Land under government use (rail, port, road, office, industry, educational institutions, health, utility service, etc) (million acres)	10.0
<i>Khas</i> land and <i>khas</i> water bodies (million acres)	5.0
of which, Agricultural <i>Khas</i> land	1.2
Water bodies (closed and open)	1.2
Non-agricultural land	2.6
EPA/VPA (government as custodian) (million acres)	2.1
Abandoned ((government as custodian) (million acres)	1.0

Source: Abul Barkat, 2007(a). Bangladesh Status Report: Land Watch Asia Campaign

This scarcity of land per capita is further confounded by the fact that, the distribution of land is highly unequal. A study posits that the top 20 percent of the society allegedly own 80 percent of the lands (Barakat et al, 2007). This is a direct legacy of absence of any comprehensive land reforms that predates the independence of Pakistan of which Bangladesh was then its Eastern part. Following the 1947 partition of the Indian sub-continent based on the two-nation theory, the newly independent Pakistan government abolished prevailing *zamindari* system and confiscated the absentee properties of the zaminders and declared them 'khas' i.e. as common property of the state. Further, following the 1965 Indo-Pak war, the then government declared a special act – Enemy Properties Act – to acquire the land of the Hindus who left to India in the preceding years. In reality, the law turned out to be particularly a sinister instrument on the Hindu community in general in dispossessing them from their ancestral properties often in complicity with the State machinery. After independence the government of the newly independent country, rather than abrogating the Act, continued with it, albeit with a modified name – Vested Property Act. The impact, in any way, was no less sinister on the Hindu minorities and also on certain section of indigenous population, such as the Santals who are often subsumed in government census statistics as Hindus. A study estimates that this single act alone contributed in driving out several millions Hindu minority individuals from the country, assumed to have fled when confronted with eviction from their ancestral properties (Political Economy of the Vested Property Act in Rural Bangladesh, by Abul Barakat et al, Dhaka, 1997).

These confiscated lands were presumed to be distributed among the landless poor but that never happened. The tradition continued in the subsequent decades even after the emergence of Bangladesh in 1971 as an independent country following a particularly violent war.

It is estimated that of the 10 million acres land that government owns, half are under the category of 'khas land'. These lands, originally appropriated with the abolition of the zamindari are 'officially' under the custody of the government as commons. Since independence successive governments have taken steps for their distribution and a Khas Land Distribution Policy was adopted in the late 1980s that specifically stipulates provisions for distribution of these khas land on priority basis among the landless families and women-headed households. But the overall success remains measured as per concerns raised by media and civil society. Among the latter group, it also includes ALRD.

Much of the available land in the country is dedicated to agriculture. This comprises of 60 percent of the total 37.4 million acres of land in the country. However, with its huge population size, the ratio of per capita agricultural land in Bangladesh is a meager 17 decimals and this is gradually shrinking further with urbanization, industrial use and infrastructure building not to speak of an ever-increasing demography.

The pressure on land also has led to criminalization of the society at large with false litigations to harass and intimidate the opponents. By an estimate (Abul Barakat, 2001), about 75 percent of all cases currently pending in courts are linked to land related disputes. Needless to say, the poor and marginalized are the overwhelming victims.

II. The Case of Mahalbari

The village of "Mahalbari" is located in the Chiribandar upazilla of Dinajpur district, one of the northernmost districts in the country and approximately 300 kilometers by road from Dhaka, the country's capital. The village is indistinguishable from the thousands in Bangladesh. The inhabitants are

extremely poor, the much storied hype of the recent economic progress of Bangladesh has barely had any impacts.



Map: Dinajpur district in Bangladesh

There are in total 58 families in the village, comprising of 4 Hindu, 27 Santal (indigenous group), and 17 Muslim families. All the families are landless and depend for livelihood as sharecroppers or access to khas land. In early 1980s, the families collectively took possession a plot of 13 acres khas land in the adjacent areas of the village. Out of this total plot, about 9 acres consists of water body suitable for fishery. Consequently, the families together formed an association, “Mahalbari Baradighi Landless Peoples’ Fishery Association” with the objective of undertaking fishery venture in the water body and also to defend themselves collectively.

The incumbent Union Parishad (lowest tier of local government in Bangladesh) chairman at that time, collected money from the families as registration related expenses under the pretext of registering the plot in the name of the villagers. He, however, instead took lease of the plot in his name along with a number of his friends. In the process, he also bribed the government land records office to change the status of the plot from khas to privately owned.

The families pleaded before the chairman and submitted petition to the government officials urging the dire poverty. However, none of these came to anything. In mid 1990s, a new chairman was elected who actually happened to be the husband of a daughter of the previous chairman. The new chairman did nothing and instead, perpetrated further encroachment of additional lands in the vicinity and undertook fishery and agricultural activities by misappropriating government grant money to the Union Parishad which were actually sanctioned for poverty alleviation. From 2005 to 2011, a new chairman was elected but he too, took no steps. The previous chairman was again elected in 2011 and the situation for the families saw no change.

In the meantime, from 2000s onward one of ALRD's network partner – Sustain - together with assistance from ALRD, decided supporting the families to obtain possession of the land. It organized a number of training among the villagers to motivate them. It also helped the villagers collect the relevant registration records of from the government office and managed to change the status of the plot as khas. With the support Sustain and ALRD, the villagers made an application for the lease of the plot in their favour to the Assistant Commission, Land – the relevant government official in charge.

However, when no steps were taken by the government nor, by the Union Parishad (mentioned above), the families with the advice of the local organization *Sustain*, forcibly took possession of the plot in March 2011 and built 50-60 bamboo made houses overnight and moved there. The land grabbers expectedly reacted viciously; they at first tried to attack the villagers in an attempt to evict them from the plot but retreated finally faced with stiff resistance from the families. At one point, the indigenous Santal families took their traditional bows and arrows to force the attackers into retreat. The women groups in particular, played a very active role and they have been always in front of everyone while men fled from the village to avoid arrest by the police and court cases filed by the land grabbers.

Following their failures, the land grabbers lodged false cases against the families with the Executive Director of Sustain as the No. 1 accused and the president of the Association – an indigenous Santal person – as the accused No 2. However, the court delivered the verdict in favour of the landless families in June 2012.

Nevertheless, the harassment and intimidation of the land grabber continues. At one point, the families were ostracized in the community by the influences of the land grabbers. The fishery project that the families undertook through their association, the land grabbers once forcibly took away all the fish stock.

However, the 54 landless families, mainly women continue to resist all the menace of the land grabbers. Since then, they have petitioned to the local Member of Parliament (MP), met with the Deputy Commission (top most government administrative official at district level) and faced with the continued intimidation of the land grabbers, filed a court case seeking their physical security and also transfer of the ownership of the plot in their name.

In the meantime, the families have started their new life on the plot. The association, “Mahalbari Baradighi Landless Peoples’ Fishery Association”, they have formed remains the platform for their collective action. They have divided the total land plot equally among themselves and women have been given equal ownership on all properties. They collectively contribute every month in the funds of the association which are utilized for their various collective actions and also the members are allowed to borrow from it during lean season. They also have undertaken fishery in the water bodies which earn them a steady income.

Meanwhile, they all await the government's action for the permanent allotment of the land plots in their favour. They also remain steadfast to resist any evictions and in the words of Sadek Murmu, the association President, "We shall die here but no one can remove us from here".

III. Lessons and Observations

The case is familiar in the context of peasants and landless people struggle to claim their rights and access to land and natural resources in Bangladesh. The demographic explosion is surely a factor but what particularly exacerbates this already bad situation is the lack of agrarian reforms and a chronic bad governance that imperil particularly the most marginalized and vulnerable. Top of that women's defacto situation led rural women in particular to further marginalized position due to discriminatory inheritance laws as well as customs and practice in a patriarchal social set up.

Nevertheless, the case also demonstrates that there still ways that the landless people can realize their rights, however limited and partial this may be. **Mobilization** remains key in this regard, not only the concerned communities but also other stakeholders. Equally key is **connecting** each other through networking with the key stakeholders who all together, are capable of **influencing** the decision makers. But most important is possibly the sustained support from civil society that includes local NGO Sustain, and national networking and advocacy organization ALRD. Technical as well as financial support from the International Land Coalition through NES in all the above areas including on capacity building and advocacy without which the communities, marginalized that they are, are seldom capable of raising their voice.

The proposed case study demonstrates the power of grassroots mobilization and the results of effective civil society advocacy and lobbying in securing common lands jointly by men and women in ensuring food security towards improved livelihood. Throughout the struggle their collective efforts in farming and fishing helped developed their economic status, more importantly social capital which enabled them to access better education and health services for their family members. This groups led by examples in addressing several gender issues for justice e.g. early child marriage of girls, protest against domestic violence. The best part of the struggle for securing commons was the empowerment women as stated by them "We are well respected at home by the male counterpart and also by the society at large. They invite us to take part in their decision making process for suggestion and guidance."

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