

Chapter One

HISTORICAL BACKGROUND

Introduction

In order to have an in-depth understanding of the present system of land management and land administration in Bangladesh, the historical background of the land tenure system in the entire territory of Bengal (now comprising independent Bangladesh and the Indian province of West Bengal) must be taken into account. It has been recognised in this sub-continent from the earliest times that conceptually all land belongs to the state and that all persons who cultivate or hold intermediate interests in land are bound to pay a share of the produce of the soil to the state for the use and occupation of the land unless the state, in any particular case, has given up such claim by a special grant. The state share of the produce is payable either in cash or in kind and is known as land revenue.

Under the Hindu rulers in ancient India land revenue was payable in kind and varied from one-eighth to one-sixth of the produce of the land. Though the sixth became a traditional share, the growing requirements of the state in a perpetual condition of warfare often pushed the state share to one-quarter. The Muslim rulers subsequently adopted the indigenous system, but generally collected

the state's share of the produce in cash, the produce being valued at the current market rate.

Sher Shah: Reforms

Sher Shah (1540-1545) reformed the land revenue system by introducing measurement of the lands and a regular system of assessment and collection. The first systematic attempt to substitute cash for produce payments was made in the reign of Akbar with the help of his Minister, Todar Mall (1571-1582). One-third of the average gross produce was adopted as the basis of assessment and the rates were fixed by calculating the price of staple food crops on an average of the previous 19 years. Todar Mall was a great financier and an eminent revenue authority and his name had come down to posterity as a guarantee for sound assessment.

Moghul Period: Todar Mall's System

The first step towards effecting an accurate assessment was a comprehensive survey of land and the establishment of one uniform standard of measurement. Todar Mall's settlement was made with the raiyats (tenants) direct for a term of 10 years. The revenue system named after him must have proved beneficial to the raiyats and just to the state; it lasted without material variation for more than a century, during which time cultivation flourished and the tenantry attained a high degree of prosperity. Under Todar Mall's assessment, the revenue of the Suba of Bengal which was divided into 19 Sircars or districts, each district being sub-divided into a number of parganas, amounted to Rs. 106.93 lakhs. In 1658 Shah Shuja, then Moghul Governor of Bengal, made a new assessment and increased the land revenue to Rs. 131.15 lakhs. An important administrative development during the time of Akbar was the emergence of the Dewan as the head of the financial administration. The power of the Dewan was at its highest when Murshid Kuli Khan became the Dewan of Bengal, Bihar and Orissa in 1701. He introduced further administrative innovations and increased the land revenue of Bengal, Bihar and Orissa to Rs. 142 lakhs in 1722. By

1765, when the British acquired the Dewani or financial administration of these provinces, the nominal revenue had risen to Rs. 312 lakhs, though it is doubtful whether so large a sum was ever actually realised. A substantial part of it was 'abwabs' imposed by the Nawab in addition to the revenue assessment. Alivardi Khan imposed further 'abwabs' including the Mahratta Chauth.

The last phase in the revenue administration of the Moghuls was the excessive growth of the system of farming which marked the later days of the Empire after the death of Aurangzeb. As the authority of the Emperor decreased, the local Governors of Bengal became more independent of the court of Delhi. They also became careless about the details of administration and the official organisation for the control of land revenue disappeared. The farmers became masters of the situation and were allowed, on payment of the stipulated sum, to appropriate the revenue for their own use and profit and to do as they liked with the tenants. They were not slow to take advantage of the weakness of a tottering central administration and fortify their position until they developed into great landlords whose pretensions gradually extended to the ownership of the soil.

Grant of Dewani

The decline of the Moghul empire began to change Bengal's history and on 12 August 1765, the East India Company secured from Emperor Shah Alam the official grant of the Dewani of Bengal, Bihar and Orissa. This provided the foundation of British revenue jurisdiction in these provinces. Under the terms of the grant, the East India Company was to pay an annual sum of Rs. 26 lakhs to the Moghul Emperor and to appropriate to itself all the excess over this sum in the collection of the total land revenue, after paying the expenses of the establishment.

Todar Mall's System Continued

Todar Mall's system of assessment, as revised in 1685 and 1750, was in force when the British assumed control of the revenues of Bengal. In theory the assessment was based on a measurement of the

cultivated area and classification of soil. But no survey was carried out in Bengal and other outlying provinces and large areas were let out in farms to amils or revenue collectors, who were apparently left to make their own arrangements regarding assessment and collections. At first no attempt was made by British officers to conduct the administration and for some time no interference with the native officials was contemplated. No change was made in the existing system till 1769 when supervisors were appointed to superintend the collection of revenue by the Bengali officers of the former regime. In 1772 the former supervisors were converted into collectors of revenue in districts.

Quinquennial Settlement

Very shortly afterwards, Warren Hastings was appointed Governor-General and he at once embarked on measures for transforming the Company's merchants and writers into executive officers. A Committee of Circuits was appointed with instructions to tour the province and make settlement of estates with farmers offering the highest bid for five years. This was known as the quinquennial settlement. It was believed that the locals of the country were better informed about the value of the lands than their rulers and few would engage in a payment which they could not find the means to discharge. However, the new system proved an absolute failure. The arrears accumulated and decreasing collection of revenue so alarmed the authorities in India and the Company Directors in the UK that steps had to be taken to evolve a more satisfactory system.

Lord Cornwallis: Pitt's India Act

In 1777 annual settlements were tried for several years. The evils of such settlements were obvious and in 1784 Pitt's India Act was passed, which required the Government of India to enquire into the condition of landlords and establish permanent rules for the collection of revenue founded on the local laws and usages of the country. In 1786, Lord Cornwallis came to India as Governor-General with a letter of instruction from the East India Company

Directors in which they considered "a permanent settlement of a reasonable and fair revenue to be the best, for the payment of which the hereditary tenure of the possession is to be the only necessary security". With him came Mr.(afterwards Sir) John Shore, newly appointed to the Board of Revenue. Cornwallis and Shore instituted the most careful and elaborate enquiries regarding the past and current condition of land tenures in Bengal, the results of which are embodied in Shore's famous minutes of 1788 and 1789. Then followed long controversies regarding the status of the zamindars and an appropriate method of land revenue settlement.

Decennial Settlement

The Company Directors instructed that assessment should be for a period of 10 years in the first instance. Accordingly, in 1790, settlement was made for this period with the actual collectors of rent of all denominations, i.e. zamindars, independent talukdars and the lessees, with the promise of its conversion into permanent settlement provided that such permanent settlement should meet with the approbation of the Company Directors. This approbation was embodied in their letter of 29 August 1792. Accordingly, Regulation 1 of 1793 was promulgated by the Governor-General declaring that the revenue assessed upon the lands of each estate had been made unalterable and fixed forever. The zamindars were declared to be the proprietors of the soil. (See Appendix 1 for a gist of the Articles of the Regulation).

Permanent Settlement

At the same time the zamindars were made liable to have their estates sold for arrears of revenue if this was not paid by sunset on the latest date fixed for each instalment; no excuse such as drought or famine was to be accepted for non-payment. This was known as the Sunset Law. The main object of the East India Company in introducing permanent settlement was to safeguard the punctual receipt of land revenue, though it recognised that fixing of the land revenue forever would in time lead to loss of revenue to the state.

Bengal Tenancy Act, 1885

Though permanent settlement was made in 1793, the controversy for and against it continued. In 1812, the Select Committee appointed by the British Parliament submitted the famous Fifth Report. In 1830, a second Select Committee set up by the House of Commons came to conclusion that the intention of Lord Cornwallis did not come true. By the middle of the nineteenth century there was a revulsion against its working which manifested itself in widespread agrarian discontent. This resulted in the enactment of the first tenancy law, the Rent Act X of 1859, which defined an occupancy raiyat and laid down relations between landlord and tenant. In 1885 a more comprehensive tenancy law, the oft-quoted Bengal Tenancy Act of 1885, defined the rights of the raiyats. The Act was amended substantially in 1928 and again in 1938. As a result of these amendments, raiyats who held 90 percent of the cultivated lands acquired heritable occupancy rights along with rights of sub-letting and transfer.

Floud Commission, 1938

The above legislation, however, failed to alleviate the conditions of the raiyats. Popular feeling continued against the permanent settlement and asserted itself after the grant of provincial autonomy in 1935. The permanent settlement by which the land revenue was fixed forever was found to be incompatible with the growing demands made by the provincial government for nation-building programmes. A Land Revenue Commission was, therefore, appointed in 1938 under the chairmanship of Sir Francis Floud. The Commission submitted its report on 21 March 1940 and observed that the permanent settlement was no longer suitable to the conditions of the time. It recommended the abolition of all rent-receiving interests in order to bring all the actual cultivators directly under the government. This recommendation was supported by the Bengal Administrative Enquiry Committee of 1944.

East Bengal State Acquisition and Tenancy Act, 1951

In 1947 the Bengal State Acquisition and Tenancy Bill was introduced in the provincial legislature of undivided Bengal, but was

not passed because of the partition of the country. After the partition the East Bengal State Acquisition and Tenancy Act was passed by the East Bengal Legislative Assembly in 1950 and assented to by the Governor-General on 19 May 1951.

The main provisions of this law are noted below:

- a. all rent-receiving interests from those of zamindars, talukdars and other intermediars to those just above the actual tillers of the soil (other than share-croppers) were abolished;
- b. further subletting of lands by the ground tenants was prohibited;
- c. a ceiling on holding of lands was imposed, beyond which excess lands would vest in the Government;
- d. compensation in cash or 40-year's bonds will be paid after due assessment under the law.
- e. all hats and bazars, ferries and fisheries stood vested in the Government on payment of due compensation therefor.

Subsequent Reforms

The above law is considered as a milestone in the history of legislative enactments in the field of land tenure system in territories now included in Bangladesh. However, after its independence, there has been a number of amendments in this epoch-making law at different stages to meet the needs of time. The most significant one was the State Acquisition and Tenancy (Third Amendment) Order, 1972. By this amendment, raiyats having 25 bighas of land or less per family were each exempted from paying any rent. Of course, this provision was done away with later by the introduction of Land Development Tax in place of rent and cesses payable by all tenants irrespective of the size of their land holdings (Land Development Tax Ordinance, 1976). But the exemption from paying rent for lands held by any tenant family upto 25 bighas has been restored after the Ruling Democratic Government was voted to power in 1991.

Chapter Two

LAND SURVEYS

Introduction

In 1793, the terms of the Decennial Settlement of 1789-1790 were made permanent by Lord Cornwallis with the result that the permanently settled estates in the Provinces of Bengal, Bihar and Orissa became liable for no further increase in Revenue from 23rd March, 1793. The permanently settled area covered about 91% of the total area (56.977 sq. miles) of present-day Bangladesh.

The information collected upto 1789 regarding the limits and areas of existing estates was incomplete and, probably sometimes, very inaccurate and in the early 19th century, the Collectors of districts affected by the Permanent Settlement found themselves in difficulties to ascertain as to what land had been actually included in the Permanent Settlement. The true limits of that land were, at the best, ill defined by the papers in the hands of the Collectors. The tillers of the soil very often pushed their cultivation into jungle tracts beyond the limits of their settlements and as the cultivation expanded, rents were collected by Zamindars for lands, which often were not actually covered by Permanent Settlement. Disintegration of original estates was rapidly taking place and this complicated the situation. Estates sold up for arrears of revenue or for other causes

were bought in by Government or by private persons and very often the estates could not be located on the ground. For these and other reasons, it was becoming increasingly difficult to administer efficiently the permanently settled areas, and the help of the Revenue Surveyor was called in to settle, once and for all, the limits of estates and to make such maps of them and collect such information about them as would eliminate the possibility of future disputes.

In the temporarily settled areas the situation was different: in these, the Government generally fixed the rents for a limited term of years, or else farmed out the estates to suitable persons who settled tenants on them and collected the rents. In either case, Government was responsible that the cultivators were properly treated, and a settlement, therefore, usually necessitated what is known as a 'raiyatwari' or field-by-field survey. In the case of the permanently settled areas, the unit was the estate as it existed in 1793, and in the case of the temporarily settled areas, the unit was the cultivator's holding at the time of re-settlement.

Whether the area dealt with was permanently settled or not, it was found convenient, in all but very exceptional circumstances, to adopt the village recognized locally as the real unit of survey. Some of the probable reasons for the adoption of the village as the unit are given below:

- a. The survey maps being required for administrative purposes, it was advisable that the administrative unit most generally adopted should be shown on these maps,
- b. For collection of statistical data, smaller unit of survey was convenient,
- c. General administration called for a small unit,
- d. The village has always been recognized as a land unit, and its boundaries did not greatly fluctuate,
- e. If an estate was made up of many villages, the village was the unit usually adopted in the administration of that estate.

Parganas are ancient land divisions, but for various reasons, the pargana for many years has shown a tendency to disappear as a recognized land unit. Pargana is of great importance, however, from

the Revenue Survey point of view, because the records of that survey were mainly collected Parganawar.

Previous Surveys

Before coming to any detailed discussion about the methods of survey operation presently in vogue, it is required to discuss in brief the major survey operations that preceded the same. The various kinds of major surveys can be briefly described chronologically as below:

(a) Thakbast Survey: 1845-1877

The Revenue Surveys were always supposed to be preceded by a 'Thakbast' or demarcation survey, the object of which was to demarcate finally on the ground the boundaries of all villages and estates in the area for survey.

About a year ahead of the actual commencement of Revenue Survey, a Settlement Officer with the required officers and staff proceeded to demarcate on the ground the actual boundaries of villages and estates, so that when the Revenue Surveyor took the field he would find all boundary disputes settled and would be able to carry out his work without delay. While the demarcation on the ground was being done, rough maps were made by civilian staff showing the boundaries of each village with the boundaries of the estates that fell within it, and also the position of the demarcation marks left on the ground. At the same time, a file or 'misl' was prepared which gave full details of description of the boundary and the names of adjoining villages. In addition, a 'sapuradnama' or acknowledgement of the corrections of the boundary, besides a 'ruidad' or memorandum covering details of the estates dealt with and certain statistical data, were made by the Amin. The real unit of Thak Survey was a village; a rough map was compiled showing all the villages in one Pargana, and a list containing the names and numbers assigned to different villages. This map was called the Thak Muzmili. Village list was an adjustment of the Thak Muzmili. It contained the names of villages as accepted by the Demarcation Officer, and also gave the Thak numbers of villages. Eventually, the Revenue Surveyor gave Revenue Survey numbers to villages, and in later years, an at-

tempt was made to make the two sets of numbers agree. Modern conditions have introduced at least two other sets of numbers; in Diara areas, a new set of numbers were assigned in the Diara Survey of 1862-83 and, in areas covered by a modern Cadastral Survey, a new set of numbers, called Jurisdiction List Numbers, which are Police Station-wise, has again been used.

All the results of the Thak Survey in respect of each Pargana were handed over to the Revenue Surveyor for his guidance. The Settlement Officer entrusted with Thak Survey was usually a Covenanted Civilian with full powers of a Collector of Revenue.

The demarcation was done by Amins, working under Peshkars, who were supervised by Deputy Collectors subordinate to the Settlement Officer and orders were issued that no final demarcation was to be done until the disputes regarding a boundary had been settled. The general rule was to place Thak marks at measured intervals of 200 to 300 feet round a boundary, and to place 'dhuis' (large mud pillars 5 feet high) at all principal bends in the village boundaries and at all village trijunctions. Each such mark was supposed to be shown on the Thak maps. These maps, however, were not always accurate. There are three main kinds of Thak maps:

- a. Eye sketches, in which no actual measurements were made,
- b. Maps in which rough magnetic bearings were used,
- c. Mass made from careful magnetic bearings and careful linear measurements.

The vast majority of Thak maps made before 1852 are eye sketches and some maps made after 1852 are a little better. At the same time, some of the latest maps are reasonably accurate. We may, however, pass over the question of accuracy of Thak maps with the remark that they were not intended to be more than rough guidance to the Revenue Surveyor, and that, as such, they served their purposes usually.

The scales of Thak maps varied; eye sketches did not pretend to be to scale, and the other maps varied from 4" to 24" to 1 mile.

(b) Revenue Survey: 1846-1878

The Revenue Surveyor with the data available from the Thak Survey and the marks on the ground commenced his work. The objects of

the Revenue Survey were to (a) make accurate maps of the village boundaries and sometimes of the estate boundaries, (b) survey the topographical details that occurred within and around villages, (c) compile certain statistical data required for general administrative purposes, (d) make maps of each village (usual scale 4"=1 mile) and 1" maps of Parganas, and (e) in certain cases, make a field-by-field (Khasra) survey of each village (Khasra map) or of portions of each village, and to compile the 'Khasra' registers to which the Khasra maps would set as indexes. Operation (e) is dealt with separately, since it is not a part of, but is rather a development of the work done before, during, or after the Revenue Survey itself.

It was the general rule first to survey accurately round the limits of a Pargana or (later on) round a village area called a Main Circuit, angles being measured with the Theodolite and the linear distances with the chain. These large circuits were then subdivided by 'Pardas' run across them, approximately following village boundaries, and last of all a traverse polygon to encircle, fairly closely, each village. The interior details of the village were shown in the Revenue Survey Maps. The origin upon which the whole work was based was, theoretically, a station of the Great Trigonometrical Survey (1840-1865).

The field operations connected with Revenue Survey were generally entrusted to a Revenue Deputy Superintendent (Revenue Surveyor) who divided his staff into small parties, each capable of carrying out the traverse, boundary and detail survey of, say, 450 sq. miles per field season of six coolest months of the year. Each small party was placed under the orders of an European Surveyor or Assistant Surveyor. The methods used for filling in the details varied. The details surveyed may be considered under two heads: (a) boundaries and (b) topographical details. The boundaries, as a rule, were surveyed or mapped by one of the following systems:

- i. by ordinary plane table survey,
- ii. by offsets to the traverse line,
- iii. by direct transfer of the Thak boundaries, reduced to scales of Revenue Survey.

The interior details of the village were filled in by using circumferentor, prismatic compass, surveying compass, and plane

table and T. square. In the later surveys, the plane table, used topographically, was greatly in favour. The interior details may be looked upon as accurately surveyed, because the traverse stations gave ample points and bases from which details could be mapped. This is because the most correct work in Revenue Survey was the traverse work, and it is only the traverse points which should be accepted for relaying work, if they can be located. Where tolerably accurate Khasra Maps were made, it is believed that sometimes roads and other topographical details were transferred, by reduction, from the Khasra Maps to Revenue Survey Maps.

The Revenue Survey has measured the whole surface of the country and allotted all lands to one village or another where it bears its appropriate jamas. Villages not brought under assessment which were formerly known as 'towfeer' cannot now exist and the positive termination of all vexatious claims of this sort is not the smallest of the benefits conferred on the country by the Revenue Survey. The results of the Revenue Surveys were normally made use of for the preparation of 1" = 1 mile Pargana maps. These 1" maps were afterwards used by the Surveyor-General for making 1" maps of Districts and for compiling of the Atlas of India on the scale of 4" to 1 mile.

(c) Khasra Operations: 1841-1854

It was customary for Khasra Operations to be carried out in temporarily settled tracts, and also in those permanently settled lands in which interests were so interlaced as to make it impossible or unduly expensive to show full details upon the Thak maps or in Thakbast papers. Khasra work was not always a part, either of the Thakbast or of the Revenue Survey Operations; it was often a separate phase of work carried out, with a definite object. It was generally found advisable to carry on this work just before Revenue Surveys, since it was most satisfactory and economical to do it then. The Khasra work was sometime done by the Settlement Officer; at other times, it was carried out by the Revenue Surveyor. In all there were 4 systems of Khasra work:

- i. work in which no maps were made,
- ii. work in which maps were eye sketches,

- iii. work in which maps were made by scale and compass, but in which great accuracy was not arrived at,
- iv. work in which scale and compass were used on an improved system.

The common scale used seems to have been that of 16" to 1 mile. The details collected by the Khasra staff, in a form called the Khasra Chitta or Field Book, were generally as follows:

- i. each 'field' received a number,
- ii. the tuazi number in the Collector's Rent-Roll,
- iii. the name of the estate,
- iv. the proprietor's name,
- v. the cultivator's name,
- vi. the position of the field,
- vii. the length and breadth of the field in 'rashis', etc.,
- viii. the field area in Bighas, Cottas and Chittaks,
- ix. the crops grown,
- x. remarks column for important descriptions.

As the above information was collected, it was entered in Khasra Chitta and called out loudly for the information of the villagers present at the time. On the completion of the Khasra Operation, the Chitta was fair copied and it along with the map were signed by the proprietors concerned in token of their acceptance of the accuracy of records. All entries in Khasra papers were made in the vernacular. The following points required to be remembered in this connection:

- i. Khasra maps were not often made,
- ii. Many of the maps are inaccurate but some are very fairly accurate,
- iii. If the records of a Khasra Survey exist, it is generally possible from those to trace the original holdings mapped on the ground; this is often possible from the Khasra map alone, and is very often easy if the Khasra map is compared with a modern Cadastral map,
- iv. Some of the Khasra maps and records are incomplete,
- vi. No duplicate copies were made of the Khasra maps.

From a Khasra survey referred to above, it is but a short step to the modern Cadastral maps. The existing Cadastral system was first employed in a large scale in the seventies of the last century in the United Provinces (now Uttar Pradesh) of India; thence it spread to Bengal proper and in course of time, reached Eastern Bengal. The United Provinces system was first worked in Bengal by Col. J. R. Sandeman, I.A. and the system employed in Eastern Bengal was substantially that used by him as the first Director of Bengal Surveys, modified to suit existing conditions by Lt. Col. R.T. Critchton, C. I. E., I.A., who was Director of Surveys in West Bengal and Bihar and Orissa. We shall deal with the general methods of modern Cadastral Survey later.

(d) Diara Surveys; 1862-1883

Under the provisions contained in Act IX of 1847, Diara Surveys on the scale of 4 inches to 1 mile were carried on in the beds of the Ganges and other large rivers of the Province. These surveys were carried out for the purpose of a basis of assessment of land which had formed since the Decennial settlement. The results of the Diara Surveys often allow us to make accurate comparative maps which can be made to show Revenue, Diara and modern boundaries geographically. The importance of this fact cannot be overrated, for it is very often the true basis of settlement of river-bed disputes.

As far as Bengal is concerned, the whole of the Ganges river and certain rivers in North-West Bihar were surveyed professionally between 1862-65.

Modern Cadastral Survey

As stated before, the modern Cadastral survey is an improvement on the Khasra survey which generally preceded Revenue Survey. The Cadastral system is divided into the following main heads:

- i. Traverse survey,
- ii. Cadastral work,
- iii. Settlement work.

The tranerse survey is done by professional Surveyors. This work is the counterpart of the traverse operations of the Revenue Surveys, but improved methods have been introduced in the various phases of the work.

The Cadastral stage consists of the breaking up of the Traverse plots, on the ground and on the plots, into a number of rough quadrilateral figures, each averaging some fifteen to twenty five acres, the sides of those quadrilaterals being based upon points on traverse lines; these quadrilaterals are then subdivided into rough rectangles, averaging about two to four acres each, according to the intricacy of the details to be surveyed. From the sides of the different quadrilaterals, by means of short offsets taken with an optical square and by means of measurements with a chain or 'laggi', all the interior details of a village are mapped.

The result of the Cadastral work is a map, almost always on the scale of 16"=1 mile, of each village, which shows, in their proper positions, the actual limits of all cultivators' fields or such sub-divisions or amalgamations of these fields as may be required by the rules framed for the Settlement work which is to follow.

The Cadastral Survey work was formerly done by the Survey Department, and it is only in the last few years that it has been taken over by the Settlement Department, assisted in the case of each large Settlement by a professional Survey Officer, known as Technical Advisor. In this manner the work is kept up to the standard adopted by the Survey Department and so no discrimination between the maps made by either Department need be made so long as the present system of working remains unchanged. The Cadastral work may be looked upon as the counterpart of the Khasra surveys of the past, but it differs from them in several important respects, some of which are given below:

- i. The true shapes of fields are shown instead of the approximate shapes,
- ii. The areas of field shown in the modern maps are extracted directly from the maps themselves and are not computed by mensuration,
- iii. The original maps made in the filed now are reproduced mechanically and these mechanical copies (which can contain no reproduction errors) are issued to those interested; in the old days nothing but traces of originals were used,
- iv. Field boundaries can be accurately relaid from the Cadastral maps.

Aerial Survey

Bangladesh is apparently well suited for cadastral mapping by vertical air photographic techniques. Its primary advantage is its flatness and air visibility of plot boundaries. But no such mapping can obviously prove to be satisfactory, as vegetation (jungles) and homestead patches would hide the details and ground information. However, it may well be useful in more open countryside, provided the scale is large enough to identify the smallest plots. A scale of 1:12,000 is probably sufficient in most areas. But, even in such suitable areas, aerial photography does not provide the complete answer, as field survey for completing the details would always be required. Unfortunately, the cost of air photography is high and would not be cost effective, in any case.

Chapter Three

LAND RECORDS

The Bengal Tenancy Act, 1885

The settlement work which follows the Cadastral Survey is now done in very much greater detail than in the past and no reasonable expense is spared to ensure its accuracy. From the last chapter it will be seen that the present system is a very great improvement upon the old systems, but it is easy to trace many of the different steps which have led up to the present day Cadastral system.

The Bengal Tenancy Act was passed in 1885 i.e. about 7 years after the completion of the Revenue Survey. From what has been stated in the foregoing paragraphs, it will appear that there were in existence:

- a. In permanently settled estates, the Thakbast maps and Revenue Survey maps, but no record-of-rights;
- b. In other estates, the Thakbast maps, the Revenue Survey maps and also the rough maps and record-of-rights prepared in the course of periodical revisions of land revenue.

The Bengal Tenancy Act lays down in great detail the mutual rights and liabilities of landlords and tenants. Tenants are divided into tenureholders, raiyats and under-raiyats. Chapter X of the Act

deals with the preparation of record-of-rights. It extends the system of preparing record-of-rights to all kinds of estates, whether permanently settled or otherwise. Further it empowered, with the previous sanction of the Government, relevant authorities to prepare such a record in a whole district for the general purpose of administration. In accordance with this provision of law, survey and settlement operations have now been concluded for the whole Province of undivided Bengal with the exception of Chittagong Hill Tracts. The first operation taken up under this provision was in the district of Chittagong, which was completed in 1885-1898 under Mr. C.G.H. Allen, I.C.S., as the Settlement Officer. Almost simultaneously, another minor operation was conducted in areas covered by the Chakla Roshanabad Estate in the districts of Tippera and Noakhali. This operation was completed in 1892-1899 under the supervision of the Settlement Officer, Mr. J.G. Cumming, I.C.S. The district of Bakerganj was the next district taken up as a whole in survey and settlement operation in the year 1901 under the Settlement Officer, Mr. M.D. Beatson Bell, I.C.S. It was completed in 1908. The cycle of District Settlements in the entire Province was completed with the district of Dinajpur taken up last and completed in 1940. (Appendix 2)

Operations under Chapter X of the Bengal Tenancy Act were carried on in accordance with rules framed by the Provincial Government and the provisions contained in the Survey and Settlement Manual, 1935 and the Technical Rules and Instructions of the Settlement Department. In the rules, it is laid down that the records shall be prepared on the basis of actual possession.

Operations taken up under Chapter X of the Bengal Tenancy Act might be generally of two kinds, viz.;

- i. District Settlement, i.e. the first operation of its kind in the district under provisions of the above Act.

In case of such operations, all stages of work beginning from traverse survey upto the final publication of records have to be completed.

- ii. Revisional Settlement Operations on the basis of the maps and records of the District Settlements.

In case of revisional operations, work generally starts from the advanced stage of Khanapuri-cum-bujharat on the blue-prints of the District Settlement maps. In cases, however, where configuration of the fields have undergone extensive changes, work starts from traverse survey as in the case of a District Settlement.

The East Bengal State Acquisition & Tenancy Act, 1951

With the introduction of the East Bengal State Acquisition and Tenancy Act, 1951, survey and settlement operations are now being conducted under provisions of the said Act and rules framed thereunder.

When a district is taken up in District Settlement Operation, it is ordinarily sub-divided into Blocks of approximately 800 sq. miles each. The various stages of work may be briefly described as below:

- i. Requisite notifications under the relevant Acts, viz., East Bengal State Acquisition and Tenancy Act and Bengal Survey Act V of 1875 are issued in the official gazette for information of all concerned.
- ii. The Traverse Party attached to the office of the Director (now Director General) of Land Records and Surveys makes a traverse survey of the area. One or more large polygons, known as Main Circuits are first laid out. The angles of these polygons are measured by theodolites and the distance from each angle is measured by Gunter's Chain, 66 feet in length and consisting of 100 links. The main circuits are then similarly divided into sub-circuits, and finally the sub-circuits are divided into smaller polygons, one for each village or mauza. This framework, to which the subsequent detailed mapping will be set, is connected with pre-existing fixed stations of the G.T. Survey. Its accuracy is also tested by astronomical observations. The traverse surveyors mark their "stations" i.e. the places where they have observed angles—generally by means of bamboo pegs. These stations are near, but not always necessarily on the boundaries of villages. Although ordinary stations are only approximate to the village boundary, great care is always

taken to locate a station on the exact point where three villages meet. This trijunction point is marked by a triangular stone or an earthen cylinder. In large villages the traverse surveyor run "sub-traverse lines" at convenient places through the village polygon.

In course of traverse survey, the traverser prepares his field book where he records all his angular and linear measurements and sends the field book to Headquarters for computation and supply of plot sheets or skeleton maps to the Settlement Officer. When the field work is found correct, the traverse stations are plotted on a squared paper which is called P-70 sheet and the plotted sheets are supplied to the requiring Settlement Officer.

In case of Revisional Settlement Operations, the blue-print sheets of the previous Settlement Operation, on requisition by the Settlement Officer, are supplied by the Drawing Section of the Directorate of Land Records and Surveys.

Different Stages of Field Work

The next stage of work is the preparation of the detailed 16" to 1 mile map. This is the start of Cadastral Survey. The first phase is Kistwar work which is carried out by the Surveyors or Amins under the supervision of Settlement Kanungos called Halka Officers and other superior supervising officers of the rank of an Assistant Settlement Officer viz., Cadastral Circle Officers and Charge Officers. The Amins before commencement of Kistwar work are supplied with necessary equipments, e.g. one plane table with tripod, one Gunter's chain, one optical square, one ivory offset scale, one 16-inch to a mile metal scale, one pair of dividers, one flat ruler, and one table of conventional signs.

The Cadastral Amin divides the 16" village polygon prepared by the traverse party into quadrilaterals known as 'morabbas'. These again are sub-divided by subsidiary lines known as 'shikmi' lines. Within this ultimate framework, he locates the exact position of each field corner by means of the optical square (a mathematical instrument used in survey, by which the points on a given straight line on the ground, called 'shikmi' line, at which all field corners within a

certain distance of the line are at right angles, are ascertained), his chain and his measuring rod or 'laggi'. He marks the field corners in his sheet, joins them up and so prepares his Cadastral map. The Cadastral map is at first prepared in pencil. The Kanungo and other supervising officers run check lines or 'partals' in accordance with the rules contained in the Technical Rules and Instructions of the Settlement Department to check the accuracy or otherwise of the internal plotting. In case of any incorrect plotting, if required measurements are taken and fresh plotting is done.

The next stage is 'Khanapuri', which means filling up of columns, which in fact is the first stage of preparation of the draft record-of-rights. During this stage a Khatian is opened for each group of proprietors (if any) as well as a Khatian for each tenancy. The Khatian will show the person or persons who are in possession of the interest in question together with their respective shares as well as the status and special incidents, if any, attached to such tenancy. It will at the same time indicate the superior interests as well as the subordinate tenancies. Simultaneously with 'Khanapuri', the statistical data in respect of each holding are noted in the Khasra book, public easement form, and other statistical forms. Thus, when the Khanapuri work of the entire mauza is completed, the Kistwar map is sent to the Drawing Section of the Settlement Office for extraction of area of each plot of land and the Khatians prepared during the Khanapuri stage are copied at the Cadastral Circle Office. The copied Khatians, which are called 'Parchas', are distributed among the tenants and superior interests concerned. After Khanapuri, the map which is first prepared in pencil is inked up in blue cobalt. In the meantime, the map, after having the areas extracted with the help of acre comb, is sent back to the Halka Officer for next stage of work i.e. 'Bujharat'.

Bujharat is a Persian word which means "giving understanding" or "explanation" to the tenants regarding the particulars recorded in the field of each plot and holding. The Kanungo or Sardar Amin doing Bujharat moves from field to field checking the map and record and correcting mistakes, where necessary, in presence of the landlords and tenants or their representatives. He also makes at this stage preliminary entry of the rent, but he does not make any entry regarding status or special incidents of tenancies. Disputes arising

during Khanapuri as also during Bujharat are decided during this stage.

The next stage is the attestation of the draft records. This is done by Revenue Officers usually called Attestation Circle Officers. Each Attestation Circle Officer is provided with one Peshker, one Bench Clerk, one or two Badar Amins, Janch Mohrirs (Checkers) and 2 or 3 Peons. Attestation commences on notified dates. All the entries in the draft khatians are read out to the persons concerned and corrections, where necessary, are done under the initial and seal of the Attestation Circle Officer. Disputes and prayer for 'Badars' i.e. re-measurement of fields coming up at the attestation stage are heard, enquired into and disposed of. During this stage petitions for amalgamation or subdivision of holdings under sections 116 and 117 of the East Bengal State Acquisition and Tenancy Act are entertained and these petitions are disposed of on merit. On completion of attestation records of individual mauzas, a 'janch' or scrutiny of the same is made and attested record-of-rights are placed in draft publication for a period of not less than 30 days. All concerned have free access to the records during this stage and may take pencil notes.

During the draft publication period, any one who is dissatisfied with any entry in the record-of-rights or any omission therefrom, may file objection in the prescribed form. These objections, after due notice to the parties concerned, are disposed of by the Assistant Settlement Officer duly empowered in this behalf. Corrections, if any, ordered by the Assistant Settlement Officer/Objection Officer are incorporated in the record concerned.

There was no provision for filing appeals against order passed in objections under the provisions of the Bengal Tenancy Act. But provision for appeals has been incorporated in the East Bengal State Acquisition & Tenancy Act, 1951. According to the above provision, parties aggrieved by orders in objection cases may file appeals to the Settlement Officer. These appeals after due notice to the parties are heard and disposed of by the Settlement Officer or Senior Assistant Settlement Officers known as Charge Officers duly authorised in this behalf.

Rationalization of Rent

It needs be added here that along with revisional settlement operations carried on under the provisions of Part V of the East Bengal State Acquisition & Tenancy Act, 1951, another operation for rationalisation of rent is also taken up simultaneously under the provisions contained in Chapter XIV of the said Act.

When an order for rationalisation of rent has been made, the Revenue Officer divides the notified area into as many assessment circles and assessment units as he considers necessary, having regard to the condition of the soil and the crops grown. The Revenue Officer then determines the rent rates for different classes of land in each assessment unit. In determining the rent-rates for different classes of agricultural land, the Revenue Officer shall take into consideration:

- i. the nature of the soil and the general productivity of the class of land for which the rent-rate is being determined;
- ii. the normal yield per acre of the land to be determined in the prescribed manner;
- iii. the average prices of the crops grown on such land calculated on the basis of the average prices of such crops prevailing during the proceeding twenty years, excluding the years in which such prices were abnormal;
- iv. Any means of irrigation or drainage or any other special facilities for cultivation of such land;
- v. the result of any work of agricultural improvement effected within any particular unit at the expenses of Government.

The rate of rent per acre for any class of agricultural land determined shall not exceed one-tenth of the total value of the produce per acre of such land obtained by multiplying the normal yield per acre of such land, determined in the manner prescribed, by the average price of crops grown in such land referred to in clause (iii) above:

In determining the rate of rent for different classes of non-agricultural land, the Revenue Officer shall take into consideration:

- i. the rent generally paid to the Government for non-agricultural land with similar advantages or of a similar description in the vicinity;

- ii. the market value of the land or of similar land in the vicinity immediately before the publication of the notification under section 99 (of the East Bengal State Acquisition & Tenancy Act) to be determined in the prescribed manner;
- iii. special conditions and incidents, if any, of the tenancy; and
- iv. the result of any work of improvement effected within any particular unit at the expenses of the Government;

But the rate of rent per acre for any class of non-agricultural land determined in the prescribed manner shall not exceed one-fourth per centum of the market value in the case of a residential area and half per centum of such market value in the case of any other area.

The rent generally paid for similar land in the vicinity, as referred to in clause (i) above, shall be calculated by adding up the existing rents of such land in the unit and dividing the sum total by the total area of such unit.

The table of rent-rates prepared in the above way is draft published by the Revenue Officer for a period of not less than 30 days. Parties aggrieved may file objections which are then disposed of. After all objections have been disposed of, the Revenue Officer (Settlement Officer) submits his proceedings to the prescribed Superior Revenue Authority (Director of Land Records & Surveys), with a statement of the grounds of his proposal together with all necessary particulars for confirmation. When a table of rent-rates has been confirmed by the Superior Revenue Authority, it shall be conclusive evidence that the proceedings for the preparation of the table have been duly conducted in accordance with the law. The rate of rent for any class of land shown in a table of rent-rates and duly confirmed, shall be the maximum rate at which the rent of a raiyat or non-agricultural tenant for such class of land can be settled. The rent-rates thus determined and confirmed shall not be changed until after a period of twenty years has elapsed from the date of such confirmation. In accordance with the table of rent-rates referred to above, a holdingwari rent-roll is prepared and after all stages of work in respect of the same have been completed upto objection stage, the rationalised rent in respect of each holding is incorporated in the record-of-rights.

Final Publication of ROR and Maps

The record-of-rights is then final-junched (scrutinized) and the same is finally framed. The final records shall be prepared in conformity with the draft records corrected as above and shall consist of a series of khatians prepared in forms which are generally similar to the forms used for the Khatians of the draft record-of-rights. The final record shall be printed or prepared in manuscript according to the direction as may be given by the Government by general or special order.

When a record-of-rights has been finally published, the Revenue Officer shall within 60 days from the date of final publication, make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official title.

After the field work is over, including the disposal of all appeals, the village maps are sent to the Settlement Officer's Drawing Office for final scrutiny and final inking with Chinese black ink. The 16" village maps are then reduced in size to 4" = 1 mile and 2" = 1 mile scales with the help of pentograph machine and congregated into thana jurisdiction maps.

Derived Maps

These three sets of maps are then sent by the Settlement Officer to the Directorate Drawing office for further scrutiny and reproduction. The village maps (16" = 1 mile) after printing by vandyke method are sent to the districts for sale. The congregated 2" = 1 mile maps are further reduced to 1" = 1 mile police station maps and 1" = 4 miles district map by photographic reduction process. The 4" = 1 mile thana jurisdiction maps are printed along with 1" = 1 mile Police Station maps and 1" = 4 miles district maps, by photo-litho process. These maps (except 4" = 1 mile maps) are also sent out to districts for sale and administrative use.

Printing of ROR and Maps

As stated above, inked-up maps are returned to Directorate of Land Record and Surveys for printing, using the same Van dyke process

as was used for the preparation of blue prints required for field work. The major constraint is the preparation of the plates. Each Zinc plate is currently used upto 20 times by careful scrubbing and grinding on a vibrating bed of marbles.

Record-of-Rights (ROR) are printed at the Settlement Press located in the Directorate. Here a compositor type-set each khatian, a proof is prepared by roller, checked and 10 copies of each khatian are hand-pressed. Khatains for each mauza are collated and hand-bound. After processing and binding mauzawari copies of ROR, they are distributed to revenue and tahsil offices, Deputy Commissioners and tenants. Some copies are available for sale at a nominal price. The whole printing process is obviously time-taking.

Computer-Aided Printing of ROR

The traditional system of printing of settlement khatians (ROR) is obviously related to the small requirement of not more than 100 to 125 printed copies for each khatian. This is why a rotary press is not suitable for printing ROR. On the otherhand, huge backlogs take place in the printing programme in Settlement Press. In 1988, it was reported that a total of 7 million manuscript copies were waiting for printing in the Directorate Press. A study was commissioned in February, 1988 on the introduction of 'Computer-Aided Printing System for Land Records' in Bangladesh. The study was named FAO/UNDP Project No. TCP/BGD/6752. Mr. W. S. Hartley, M. Sc., ARICS, a British Expert was appointed to undertake the study. The writer was one of the two National Consultants, who assisted the Expert in this study. Among the various options considered by the Study Team to solve the problem, computerization of land records was one.

Extensive enquiries made in Bangladesh University of Engineering and Technology (BUET) and in organisations dealing with and using computers clearly indicated that "there are not currently any reliable techniques for recognizing hand written text, let alone Bengali text. Systems may be available to scan and recognize typed or printed text, but these assume that the records have already been printed."

Mr. Hartley, however, recommended that a Pilot Project could be started with a view to evolving a computerized Land Information System (LIS). He observed: "Perhaps the greatest constraint to the implementation of a computerized LIS is the current lack of suitable Bengali software. Data input, storage, manipulation and output would be required in Bengali. Currently, there is word-processing software in Bengali available, but this is likely to fall short of the software required for database manipulation".*

- * The quotations here and in the foregoing paragraph are from Mr. Hartley's Report.

Chapter Four

ALLUVION AND DILUVION OF LAND

Bangladesh a Deltaic Region

Bangladesh is a deltaic region and criss-crossed by mighty rivers like Meghna, Jamuna and Brahmaputra. Besides, it has a large coastal area. Fluvial and tidal action of the main rivers and along the sea coast cause significant accretion and diluvion. Firm land is regularly swept away by the great rivers during the floods and new char lands are constantly being formed. There has been in fact a net increase of land in Bangladesh between 1940 and 1963. In the south-east delta region, 1076 sq. km. of agricultural land was eroded, while 1356 sq. km. of new chars were accreted and stabilized. In all, the area liable to frequent alluvion and diluvion actions account for about 15% of the total area. This factor gives rise to complex implications for land ownership and land management.

The British addressed the above phenomenon by making laws from time to time to determine the ownership of such alluvial accretions and lands washed away by diluvion. We give below the salient provisions of the relevant laws in a nutshell.

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Regulation XI of 1825

This Regulation provides Rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea. The claims can be further elaborated as follows:

- a. Claims and disputes as to alluvial lands will be decided by usage when clearly recognized and established.
- b. When no usage is found established, all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or of the sea will be decided as laid down below:

- i. When lands is gained by gradual accession from recess of a river or sea, it shall be considered an increment to the tenure of the persons to whose land or estate it is thus annexed or as a subordinate tenure by any description of under-tenant whatever. But no permanent interest therein can be claimed beyond what exists in 'asli' land. No exemption from payment of any increase of rent will be entertained.
- ii. The above rule is not applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate. In such cases, the land, on being clearly recognized, shall remain the property of the original owner.
- iii. When a char or island thrown up in a large navigable river (the bed of which is not the property of any individual) or in the sea, and the channel between such island and the shore may not be fordable, it shall according to established usage be at the disposal of Government.

But if such channel appears to be fordable at any season of the year, it should be considered as an accession to the land most contiguous to it. But no exemption is entertainable for increment of rent already there.

- iv. In small and shallow rivers the bed of which is recognized as the property of an individual, the char or sand bank shall belong to the proprietor of the bed of the river.
- v. In all other cases not specifically provided for by the above rules, the course of justice is to be guided by the best evidence available on established local usage, if any or by general principles of equity and justice.

Lands washed away and afterwards reformed upon the old site which can be clearly recognized are not lands "gained" within the meaning of this Regulation. They remain the property of the original owner.

Act IX of 1847

This law provides for assessment of lands gained from the sea or from rivers, by alluvion or dereliction. It includes:

- a. power to direct new surveys of riparian lands, at the interval of 10 years, on the banks of rivers and on the sea shores,
- b. deduction from Sadar jama of estates from which lands have been washed away in the proportion of *mafassal* jama of the land lost to the *mafassal* jama of the whole estate. If *mafassal* jama cannot be ascertained, the question will be decided on area basis, and
- c. assessment of increments to revenue paying estates for addition of land.

Act XXXI of 1858

It contains further provisions for settlement of land gained by alluvion, as follows.

- a. Addition of revenue assessed upon alluvial land to jama of original estate.
If the proprietor objects to such an arrangement, the alluvial land shall be assessed and settled as a separate estate with a separate jama.
- b. The separate settlement may be permanent if the settlement of the original estate is permanent.

Alluvial (Amendment) Act (IV of 1868)

This Act amends the provisions of Act IX of 1847. Ammended provisions are:

- a. Accession to island declared at the disposal of Government shall be considered an increment to such island and shall be equally at the disposal of Government.

- b. Newly thrown-up islands in large and navigable rivers will be taken possession of by Government and shall be assessed and settled.
- c. Subsequent junction of any such island to mainland will not affect Government right.

Act V of 1920

This law is intended to prevent disputes covering the possession of certain lands gained by alluvion or by dereliction of a river or of the sea. It also contains provisions as follows:

- a. Power of collector to attach alluvial land if he is informed that a dispute likely to cause a breach of the peace exists or is likely to arise. Collector may demarcate it with boundary pillars. He may himself manage such land or appoint a receiver thereof.
- b. When collector has attached such land, he shall cause a survey to be made and prepare a comparative map.
- c. When the survey and map have been completed, the Collector shall make a reference to Civil Court.
- d. When the Court makes an order, it shall certify to the Collector its decision and the Collector shall put the person stated in such order to be entitled to the land, in possession thereof.

Bengal Tenancy Act (VIII of 1885)

Section 86 A of the Act provides for abatement of rent on account of diluvion proportionate to the area lost.

Right, title and interest of the tenant or his successors-in-interest shall subsist in such lands during the period of loss by diluvion not exceeding 20 years and he shall have right to immediate possession on the re-appearance of such lands in 20 years. The landlord shall have right to the arrears of rent without interest in respect of the land which has re-appeared for the period during which it was lost or for 4 years, whichever is less.

East Bengal State Acquisition & Tenancies Act, 1951

- i. Section 86 of the Act provides for abatement of rent on account of diluvion and re-entry into lands which re-appear.
- ii. Section 87 of the Act relates to rights in land gained by gradual accession from recess of river or sea and for payment of extra rent for the gained land.

The Present Situation

Since the enactment of the State Acquisition and Tenancy (Third Amendent) Order, 1972 (PO No. 96 of 1972), the provisions enumerated above stand abolished. The current law now provides that the right, title and interest of the tenant in the land diluviated by the erosion of rivers and fluvial action along the sea coast would be extinguished. Besides, the ownership of the land formed by accretion by recess of the river or sea, whether reformation in situ or an absolutely new formation, would vest in Government free from all encumbrances. However, after the emergence of the democratic Government in the country in 1991, steps to restore the legal provisions of the previous Regulations and Acts are being actively considered, and a new law seems to be in the offing.

Chapter Five

LAND ADMINISTRATION AND MANAGEMENT

Pre-State Acquisition Status

Before abolition of Zamindari system, Collector was the only authority in a district responsible for land administration. In a total area of 57,977 sq. miles comprising the territorial area included in Bangladesh, 91 per cent was under permanent settlement, where land revenue payable by the Zamindars direct to Government was fixed in perpetuity. Under the famous Sunset Law, the landlords were liable to pay Government revenue within a particular date, failing which the defaulting estate having each a Tauzi number would revert to Government. The administration of permanently settled estates was concentrated in the Collectorate. But another 3.5 percent of the total territorial area was temporarily settled with private persons and the revenue payable by them to Government was subject to revision and enhancement after a specified period.

In both permanently settled and temporarily settled areas, the actual cultivators held land as tenants (raiylats or under-raiylats) under the proprietors or under the middlemen (intermediate tenure-holders) below these proprietors. The remaining 5.5 percent of the total area was managed directly by the Government and in this area, the cultivators held land directly under the Government. The average

rate of rent paid by a raiyat was Rs. 3 As. 11 per acre, while for an under-raiyat, it was Rs. 5 As. 3 per acre.

The management of these lands called Government Khas lands was with the Khas Mahal Department of the Collectorate. These lands were either alluvial accretions from the bed of big rivers or sea, not covered within the boundaries of the permanently or temporarily settled estates, or lands which gradually came under cultivation, outside such boundaries. Settlement of alluvial accretions or other Khas lands was made by the Khas Mahal Department with tenants on periodical basis. In case of big areas (generally alluvial accretions), Khas Mahal authorities used to make settlements with different persons, usually landless villagers or marginal farmers in a manner, where provision of lands earmarked for markets, schools, a big tank and other community facilities are made beyond settlement of lands with deserving individuals. The purpose was to create fresh human settlements called 'clustered villages' or 'guchhagram'. The Collectorate Khas Mahal Department was always manned by a senior Deputy collector called Khas Mahal Officer, assisted by District Kanungs and field surveyors.

Present Situation

In direct consequence of State Acquisition proceedings undertaken under the provisions of the East Bengal State Acquisition and Tenancy Act, 1951, the Government stepped into the shoes of the erstwhile Zamindars and a long chain of intermediate tenure holders and other rent-receiving interests. It has now to collect rents from millions of ground tenants lying at the bottom of the land tenure ladder. The problem manifested itself in a big way since 1956, the year when wholesale acquisition of all proprietary and rent-receiving interests was given effect to overnight throughout the Province of erstwhile East Pakistan. The collection papers of previous landlords and a host of rent-receivers were not easily available. Faced with this situation, the Government started a kind of settlement operations called State Acquisition operations, dividing the entire Province into 8 Zones, with a senior Settlement Officer appointed for each Zone.

Their task was two-fold: first to prepare mauzawari rent-rolls, on the basis of whatever collection papers were available from the outgoing Zamindars and rent-receivers, to enable the Government to collect rents from the ground tenants at the existing rates; secondly, to take up a summary revision of record-of-rights (ROR) and village Cadastral maps without going through the elaborate process prescribed in the usual legal provisions. The idea was to make a hurried revision of ROR on the basis of existing maps, just to record the latest changes in the ownership and other rights through inheritance, transfers or other causes. As for correction of maps, it was intended to make a thorough revision in areas where configuration or classification of plots had undergone major changes by fluvial action of rivers or in coastal regions or by large scale land acquisition for development purposes. This enormous task, entrusted to Zonal Settlement Officers, was completed in the entire province of erstwhile East Pakistan within a short period of around 4 years, with the help of an army of field workers, many of whom were admittedly either half-trained or absolutely new in their job. On the conclusion of this task, the revenue officials in each district were given a set of revised records-of-rights and maps, besides mauzawari rent-rolls which had been prepared earlier to enable them to collect rent from the numerous ground tenants. The total number of holdings as on 30th June, 1980 was reported to be 22.6 millions spread over 59,668 mauzas in 453 rural thanas and 17 metropolitan thanas.

Organogram

A complete organogram chart of the present-day land administration will be seen in Appendix 3. It will be seen that at the bottom of the land administration system is the tahsil, in a district, which comprises two unions on an average. Each union has about 15 villages or so in its jurisdiction. In each tahsil there is a tahsilar and one or more assistant tahsildars. The jurisdiction of a thana revenue unit comprises four to six tahsils on an average. The total number of thanas is 470. An Assistant Commissioner, Land looks after revenue work at thana level, while the district jurisdiction usually covers three to five thanas. In the entire country there are now 327 revenue units and 2,002 tahsils.

Immediately after Independence, the Commissioners of Divisions were divested of appellate and revisional powers over the decisions and orders of Deputy Commissioners. A few years later, however, these powers were restored. But the biggest casualty in the field of land revenue administration after the emergence of Bangladesh was the Board of Revenue which was the Chief Revenue Authority in erstwhile East Pakistan, having three to four members who ranked as senior secretaries to the then Central Government and upto that time considered as an effective and powerful body in the highest echelon of Government. The Deputy Commissioners and the Commissioners of Divisions, so far as their revenue work was concerned, were then directly accountable to the Board of Revenue.

The Board of Revenue with its entire establishment, which included one Secretary, one Additional Secretary and four or five Section Officers, was abolished by the President's Order No. 12 of 1973, which was confirmed by Government Order No. IM-10/72/115 (500)-RI dated 3 March 1973. Its functions were taken over by the Ministry of Land Administration and Land Reforms (now called Ministry of Land), which henceforward was to function not only as the Government's policy-making authority in land administration and land reforms, but also as the Chief Land Revenue Authority in the country.

A Tahsildar's duty is multifarious. Some of the main items are as follows:

- i he collects rents from ground tenants and maintains records of collections and arrears;
- ii he receives applications for mutation of names in the land records occasioned by change of ownership or devolution of interest by inheritance or otherwise, forwards these to the Assistant Commissioner, Land concerned and incorporates the latter's orders in the record-of-rights;
- iii he maintains records of Government Khas lands, new accretions and auction-purchased lands;
- iv he opens new holdings for lands settled by the Collector or his authorised officer out of available Government Khas lands;
- v he files certificates under the Public Demands Recovery Act 1913 for recovery of arrears of rent.

The Tahsildar is an important person in the entire chain of land revenue administration in a district. He is supervised by an Assistant Commissioner, Land who has his office at the Thana Headquarters. He may be regarded as the miniature Collector in the thana revenue administration. He not only supervises collection of land revenue, but is personally responsible for the hearing and disposal of mutation cases and certificate proceedings. He is also required to inspect the incidence of alluvion and diluvion of lands and make the necessary map corrections and rent adjustment. At the district level, the supervisory duties are performed by the Additional Deputy Commissioner, Revenue, who is also charged with the important function of sanctioning new settlement of lands. The Collector of a district, now designated as a Deputy Commissioner, has a Revenue Deputy Collector to assist A.D.C (Revenue) whole-time in the field of land revenue administration.

The most laborious part of the job of the Assistant Commissioner, Land is the disposal of certificate cases. The only legal process for collecting arrears of land tax, is to invoke the provisions of Public Demands Recovery Act, 1913. The proceedings are circuitous and time-consuming and leads to accumulation of thousands of cases in his thana office. The total number pending in districts on 10 June 1980 was 3, 93,228 involving Tk. 75.33 lakhs. To tackle a plethora of certificate cases pending for hearing in each thana is a huge task and leaves little time for the Assistant Commissioner to look after the mutation cases, new settlement cases and a host of disputes relating to possession and title arising between different persons.

The post of a land Reforms Commissioner was created soon after Independence in order to implement the provisions of the ammended State Acquisition and Tenancy Act relating to the re-fixing of the land ceiling at 100 standard bighas, the determination of excess lands and the preparation of compensation assessment rolls.

The concept of land management as district from land administration has not yet developed in Bangladesh. The main thrust is still towards the collection of land dues. The real objectives of a sound land management policy have not so far received sufficient attention at appropriate level. Nor have these objectives ever been

spelt out properly. The net result is confusion, suffering and hardship—in fact, a bitter experience for the poor tenants, most of whom are sub-marginal farmers.

Distribution of Khas Lands

The traditional manner of disposing of surplus Khas lands at the disposal of government is to distribute them to agriculturists with little or no land of their own. They are known as landless or marginal farmers. Preference would normally go to those who had less than one acre of land or none at all. In no case, land used to be distributed to anybody having more than 3 acres. In fact, the following priorities were followed:

- i. agricultural refugees (those who migrated from India after Partition of the country).
- ii. agriculturists whose lands were swept away by diluvion process.
- iii. ex-servicemen of the agriculturist class.
- iv. other bonafide cultivators who are landless or owning less than one acre of land.

The previous system also included provisions for recovery of the price of land settled at concessional rates (popularly known as *salami*) over a period of 10 years. As the applicants were too many compared to available Khas land, this system hardly touched the fringe of the problem. Moreover, because of acute land-hunger in many districts with densely populated areas, really deserving persons were, more often than not, deprived of the benefit due to manipulation of unscrupulous big land-holders who set up benami applicants for settlement of Khas lands.

To distribute lands to individual cultivators in the traditional manner is to fritter away limited Khas lands fit for settlement without regard to production efficiency, auxiliary means of livelihood and really deserving claims of the allottee families. Moreover, a large percentage of such lands (except those in char areas) would appear to be either unculturable or cultural wastes, requiring heavy initial outlay to reclaim them for productive cultivation. This will be

beyond the financial capacity of a small farmer. The Government has no plan at present to help these allottees with reasonable financial support, either through bank loans or outright agricultural loans.

There is no accurate statistics regarding Government Khas land. The sources of such Khas lands are: one, accretion of char lands in Government's rights; two, auction purchase of defaulting tenants' holdings; three, vested lands which were abandoned and four, excess lands acquired beyond the ceiling imposed by the State Acquisition law. Apart from want of due interest in determining and registering the lands of the first two categories, adequate steps were not perhaps taken to trace out vested properties and excess Khas lands of individual land-holders. According to an estimate made in this regard, for a ceiling fixed around 15 acres per family, total excess lands beyond this ceiling would come to 7.30 lakh acres, or roughly, 13 acres in each village. The present actual ceiling fixed at 33.33 acres per family, will not yield excess lands of any appreciable quantity. Given a situation like this, it will be futile to think of rehabilitating the innumerable marginal or landless farmers by allotment of available Khas lands.

Experiment of Guchhagram and its Weaknesses

The concept of 'guchhagram' was perhaps based on the aforesaid considerations. However, within a short time, the 'guchhagram' project turned into a joke—a seemingly political slogan. This evaluation may sound very harsh. But after initiating in 1980 the first phase of the project, covering 58 districts in 4 divisions, 346 clustered villages (known as guchhagram) sprang up in the entire country. Of these, 157 received Government financial support, while the remaining 189 were set up under the patronage of the Deputy Commissioners of several districts. The mushroom growth of 189 guchhagrams at the initiative of District officials was the result of an unhealthy competition to please the head of the then autocratic regime, without proper planning about the continued sustenance of the involved families. It was obvious that it was not enough to build a small hut for each family around a big tank constructed at the cost of Government or local resources arranged by the Deputy Commissioner. What was wanting was a permanent source of income

or means of livelihood for these families, through building cottage industries or similar income-generating projects to support them. This was the main weakness of the guchhagram scheme. The obvious result was that these guchhagram or clustered villages disintegrated in many places, while in other areas, the families settled just vanished, leaving the guchhagram in search of daily earnings elsewhere. Instances of some families of such guchhagrams having turned into beggars were also reported in the media. Another reason why these projects failed was that selection of families for rehabilitation in the guchhagrams was not reportedly always done on a fair and just basis.

Future Trend

It appears that the present Government has taken up *Shanirvar* (self-supporting) 'Adarshagram' programme with the object of rehabilitating landless and marginal farmers on a durable basis. The traditional priorities which are now obviously outdated have yielded to new priorities. In the first place, strict adherence to the principles guiding the new priorities is absolutely necessary. Secondly, provision of income-generating schemes for the welfare of Adarshagram beneficiaries should also be there, if the new idea has to succeed. It will have to be integrated with the larger national objective of poverty alleviation programme in the rural areas, already initiated by the Government. In this connection, one thing stands out as the foremost factor to note. The allottees of re-distributed lands have to be chosen by the authorities along with the representatives of the concerned Union Parishad. The co-operation of non-government organisations (NGOs) is now being enlisted for arranging credit facilities, training in small crafts, etc. for the involved families.

Land Acquisition for Development Purposes

The promulgation of the Acquisition and Requisition of Immovable Property Ordinance, 1982 by repealing the Land Acquisition Act, 1894 is a great step forward for protecting the interests of private owners against arbitrary acquisition of their lands for development purposes. Under the provisions of the repealed Land Acquisition

Act. 1894, land could be acquired for the Government and non-government institutions in public interest and taken over pending determination and payment of compensation. The result was that determination of the amount of compensation could take years and, in many cases, compensation was not paid even after a decade of handing over of the land to the Requiring Body. Another fault was that since compensation was not required to be paid before acquisition, the Requiring Body could afford to overestimate its actual requirement and ask for more lands than it really needed. Experience has shown that many government and autonomous organisations failed to utilize even half of the acquired lands.

The new law provides that after the issue of notice of intent of acquisition of land in public interest, the Deputy Commissioner of the district concerned will determine the amount of compensation on the basis of the average market value during the past one year of similar type of land in the vicinity and offer the same to the owner before handing over possession of the land to the Requiring Body. The compensation so calculated including 20% of the market value was offered as additional compensation for compulsive nature of the acquisition. The entire amount of compensation thus determined must be paid to the awardee in full, before his land is legally acquired and handed over. If the land thus acquired remains unutilized or is used for purposes other than that for which it was acquired, the land will be liable to be surrendered to the District Officer.

It has further been desired by an Executive order that any proposal for acquisition of land over 3.33 acres must have the President's approval.

Vested Properties

Following the Partition of India and creation of two independent states, viz. Bharat and Pakistan, hundreds of thousands of families on either side of the new border migrated to the countries of their choice. This phenomenon involved very large scale dislocation in the ownership of immovable properties. Those who migrated to Bharat had to leave their dwelling houses and landed properties and commercial or industrial concerns behind. Similarly, Pakistanis left

their hearth and homes and other immovable properties in Bharat, while crossing the border. In this process, properties left behind by persons opting for India in the new territory of Pakistan covering Eastern and Western wings were termed "evacuee" properties and new laws were passed for the management of such properties.

This was the scenario upto 1965, when the two new countries fought their second war on Kashmir issue. After the cease-fire, evacuee properties became " enemy" properties as an aftermath of the war. Vide The Enemy Property (Continuance of Emergency Provisions) Ordinance, 1969. But in 1971, Bangladesh (former East Pakistan) broke away from Pakistan and became an independent State on the conclusion of its Liberation War. The scenario changed again and the abandoned properties, later termed "enemy properties", were called " vested" properties after the repeal of the above Ordinance and a new law was enacted in Bangladesh Vide The Vested and Non-Resident Property (Administration) Act, 1974.

These properties were so long administered by a "Custodian", who invariably was the Secretary of the relevant ministry. Until the emergence of Bangladesh, there was a separate position of Additional Custodian in East Pakistan held by the Secretary Revenue Department, who administered these properties remaining in the eastern wing of erstwhile Pakistan.

In independent Bangladesh, there is now a Custodian of "Vested" properties and the position is held by the Secretary of the Ministry of Land. The Deputy Commissioners or Additional Deputy Commissioners of Revenue in districts, assisted by Assistant Custodians and Superintendents/Assistant Superintendents at Thana level, manage these properties now. The Assistant Commissioner, Land at thana level supervises the Superintendents and Assistant Superintendents. He maintains the list of vested properties and operates through his Tahsil staff for day-to-day administration of such "vested" properties.

Sairat Mahals

Hats, bazars, fisheries, ferryghats and jalmahals constitute the *sairat mahal* as a whole. In direct consequence of wholesale State

acquisition of all rent-receiving interests in the territory now comprising Bangladesh, all existing hats, bazars, fisheries and river-ferries in the country came under direct control of the Government. Most of these hats, bazars, fisheries and ferries are administered day-to-day by the Union Parishads and/or Paurashavas at the lowest ladder of local bodies. But the toll-rates and other terms and conditions are determined by the Government. Large fisheries or jalmahals and hats and bazars are generally auctioned by Deputy Commissioners and the lease proceeds allocated to the fund of local bodies. In some cases, hats and bazars of medium size (one in each district) can be leased out to officially recognized freedom-fighters' organisations as well, by negotiation.

The relevant rules and regulations under which the *Sairat Mahals* are now administered are contained in chapters 9, 10 and 11 of *Bhumi Babosthapana Manual (Land Administration Manual, 1991)*, which now replaces the *Government Estates Manual, 1958*.