

## **Chapter Six**

### **LAND USE PLANNING**

#### **Introduction**

Indiscriminate use of land for different purposes without any prior planning has created a serious problem, particularly in the context of the pressure of vast increasing population in the country. In this background, a study sponsored by the Ministry of Agriculture and Forests, Government of Bangladesh was undertaken in 1981 to examine the adequacy of existing laws, regulations, rules, etc. relating to the regulation of land use, with a view to suggesting measures for amending or strengthening these laws or regulations and introducing new legislation, if necessary, to enable the Government to regulate the use of land on a planned basis.

#### **The Study**

The study led to interesting finding which high-lighted the urgent need for taking measures to achieve the desired objective. Presumably, the facts emerging out of this study will not materially differ from those relating to other regions where expansion of urban activities is progressing fast in a similar fashion. The basic issues which arose in this connection and the measures suggested are

expected to be adequate guide-lines for the formulation of a land use policy for countries or regions with similar problems.

### **Present Position**

As an illustration, it may be mentioned that the unrestricted growth of brick-fields in areas within the vicinity of cities or urban areas has been proceeding very rapidly. Obviously, this was because of increasing pace of development activities. It is well-known that in a brick-field there are 3 distinct work areas, viz, the part covered by the kiln, the area used for making, drying and storing burnt bricks and the portion used as burrow-pits for excavation of clay. The part of the brick-yards covered by the kiln is badly damaged in the process of burning work. Its reclamation for agricultural use becomes highly expensive. This part can, therefore, be taken as permanently lost to agriculture. Deep excavations caused by the removal of soil from brick making areas are turned into derelict tanks and are mostly lying useless, although the burrow-pits could be very conveniently developed as profitable fisheries.

Another example of haphazard use of land is the way how industrial plants are installed in areas and lands of purely agricultural nature. Establishment of new industries have been intensified after the independence of Bangladesh, specially during the year 1975-80. The lands acquired for industrial projects whether within public or in private sector lie on the banks of the two rivers flowing through the outskirts of the city of Dhaka. These river belts being formed of alluvial soil are by far the most fertile, but because of their low situation, highly expensive for urban development. Due to transport facilities provided by the said two navigable rivers, these areas have been attracting entrepreneurs for setting up new industries. Furthermore, industries of different sorts are being established haphazardly and without conforming to any pre-designed development plan. The absence of any well-laid plan has not only resulted in jumbling up of heterogenous industrial plants in the same area, but has also caused avoidable wastage of agricultural land of good quality. It has been revealed in course of the above mentioned study that many of the owners of big industries have acquired land far in ex-

cess of their actual requirement, ostensibly for future expansion of their projects or simply to give luxurious privacy to them, which is a phenomenon not to escape the notice of even a casual observer.

Instances of housing societies started either on a co-operative basis or on individual initiative in the outskirts of the metropolitan city are not also uncommon. These housing projects in Bangladesh increased year after year, reaching its peak during the period of 1975-80. What is most important to note in such cases is that the housing societies have sprung up in many areas chosen without having to conform to any laws, rules or regulations. A typical example of such unplanned housing projects has been noticed within an agricultural project area called Dhaka-Narayanganj-Demra (DND) project in close vicinity of Dhaka city. The project was sponsored originally by the Water Development Board of the Government with the essential objective of development of agriculture by raising embankments against flood water. The project covered 38 villages, but ultimately due to sprawling of housing settlements within the project area, one village was completely excluded as it was mostly consumed by human settlements. This phenomenon again shows that human settlement has sprawled not only haphazardly but also at the detriment of a purely agricultural project which was intended to be a flood-protected and drained zone. Another aspect of the mushroom growth of housing settlements in the outskirts of the metropolitan city without any plan is a design to utilise housing projects for speculative purposes. The promoters of the housing projects invested in land just to distribute the same piecemeal, without any development, to the enrolled members at high prices.

Another study was undertaken by Mr. G. Serno, Airport Interpretation Consultant, FAO/UNDP Land Use Policy Project, Dhaka, in 1981. In the seven thanas studied by him, 13.3% of the total land (1974) was found "not available for cultivation," whereas, according to the statistics (1974-75) of the Bureau of Agricultural Statistics of the Government of Bangladesh, the rate of loss of land to settlement, roads, etc. was even much higher, i.e. 26.5%. The rising trend is understandable in the wake of rapid development process after independence. But the most significant point to note is that this rising process of development activities took place in an un-



planned and thoughtless manner resulting in avoidable wastage of valuable agricultural land.

At present, acquisition of land for non-agricultural purposes is being made through (a) legal proceedings under the existing Land Acquisition Act and (b) purchase, exchange or taking lease from private parties. In cases of projects undertaken in the public interest, proceedings under the current Land Acquisition Act are resorted to. Private purchases, exchanges and short-term or long-term leases are not subject to any restriction except those prescribed in the terms and conditions agreed to between the parties.

### **Legal Aspects**

No statutory steps towards regulating the use of agricultural land in this country were taken before the enactment of the East Bengal State Acquisition of Tenancy Act, 1951, except in Chittagong Hill Tracts. This Act has been the pioneer legislation, containing prohibitory measures for protection of agricultural lands from passing into non-agricultural use. Section 90 of the Act prohibits the transfer of the holding of a raiyat (tenant) or a share or portion thereof except to a bonafide cultivator, without previous written permission from the competent revenue authority on specific grounds. Penalty for the contravention of this provision amounts to forfeiture of the land so transferred. Section 76 of the Act also provides that no land shall be settled by the Government with a person unless he is an agriculturist. Section 96 of the same Act confers the right of pre-emption to agricultural tenants holding lands contiguous to the land transferred. Unfortunately, all these regulatory provisions appear to have been lying in the statute book without any effect, due to the absence of any rules framed thereunder prescribing the machinery to take cognizance of cases of contravention, impose penalties and take other measures to enforce them. In consequence, conversion of agricultural land to non-agricultural use is going on without any let or hindrance.

Section 18, sub-section (2), Clauses (d) and (h) of the Chittagong Hill Tracts Regulation, 1900 empower the Government to make rules to regulate or restrict the transfer of land and regulate the



requisition by Government of land required for public purposes in the said Hill Tracts. These rules are enforceable by the Deputy Commissioner of the district.

The East Bengal Transfer of Agricultural Land Act, 1951, which came into force on the 21st day of October, 1951, was enacted prohibiting transfer of agricultural land exceeding a prescribed ceiling (10 standard bighas equivalent to 3.33 acres) of land, agricultural or otherwise, without permission of competent authority, on pain of fine or/and forfeiture of land. One of the objectives underlying this enactment might be restricting the transfer of agricultural land in bulk for non-agricultural uses. This legislation saved big areas of agricultural lands from falling freely into the clutches of non-agriculturists. This Act, however, was repealed in 1969. The reasons for removing this enactment from the statute book are not known.

One of the existing land-taxation measures applicable to the transfer of immovable property including land is the capital gain tax, of which the rate is quite significant, payable under the Finance Act, on the basis of market value of such property. Besides, the annual rate of land revenue or rent, which is now called land development tax, is considerably higher in respect of lands used for commercial, industrial and residential purposes than the rate payable for agricultural lands. This has, of course, a deterrent effect on the change of land use from agricultural to non-agricultural.

### **Inadequacies of Existing Laws**

The existing provisions of the East Bengal State Acquisition & Tenancy Act, 1951, mentioned above are not only ineffective, but are also quite inadequate. In the first place, this Act does not provide for prevention of speculative transactions of agricultural land transfers. Secondly, there is no bar at present to completely change the character of agricultural land, as in the case of brick-fields or industrial units. The absolute right of a person to use his landed property in any way he likes so long as it does not transgress the rights of others is surely a retarding factor to the use of the full potential of the agricultural land. In the absence of any effective machinery to enforce the existing provisions of Sections 76, 90 and

96 of the State Acquisition & Tenancy Act, 1951, circumvention thereof in various ways is another retarding factor.

The biggest obstacle in the way of agricultural lands being used for purely agricultural purposes is the alluring prices offered by non-agriculturists which can tempt a farmer to sell his land for non-agricultural use. There are instances of the best agricultural land having been used for purposes for which land of lesser quality could be utilized. This phenomenon can be observed almost everywhere in our rural areas, inspite of the fact that our farmers are generally aware of the value of their lands. But speculative price of lands in and around urban areas is a factor that always tends to lure the poor agriculturists to sell their lands to industrialists and builders. This is all the more true in the case of brick-fields where, unfortunately, the properties which make soil material suitable for brick-making are in common with those making good agricultural soil.

### **Areas of Intervention**

In Bangladesh, as in any other developing country, it is hardly possible to draw up any contour showing specifically the area of intervention in the matter of land-use. Urbanization, industrialization, housing-settlement, road communication and other development activities have been in the process of rapid expansion causing tremendous pressure on agricultural land, Brick-fields, in particular, which come in the wake of major development projects, are also aggravating the situation. Green-belts around cities and urban areas are fast receding. Areas where townships are growing up and their surroundings seem to be the first and foremost region that call for intervention. Vast areas, mainly agricultural land of the finest quality, are being usurped by construction of buildings, roads, highways, etc.

In the rural areas, however, the need for intervention is mostly of a protective nature, as we want to save agricultural land in the countryside from misuse. But there is no denying the fact that such regions also need developmental planning, which is a factor justifying an integrated approach as essential.

Undoubtedly, the area of intervention is mostly around urban areas where unplanned and haphazard developmental activities are

going on. In this context, city master plans contemplate laying out of zones for different uses in and around the city, with a view to control private development activities, comprising the entire urban community. Some land planners have also thought of special area plans and controls, embracing less than the entire community, as infrastructure impact plans. It provides a basic frame-work for assessing and organising the secondary impacts of major infrastructure investments, e.g. a high way, a water system, a sewer system or other major productive investments, such as a steel mill or a petroleum refinery that have land use impacts.

Planning and control agencies are also concerned with layouts within the sites of proposed residential, commercial, industrial or mixed projects covering several parcels or one large tract of land. The sites are referred to as "subdivision plans" and the control system applicable to them as "subdivision controls". Such project designs are called "site development schemes" in the Paurashava Ordinance, 1977 (Section 96), Town planning Rules (Section II)<sup>1</sup>

The scope of intervention can also extend to the purchase of developmental rights in urban areas. In other words, it is a scheme for the public acquisition of developmental rights. The scheme assumes the creation of some form of an urban development land trust, the broad purposes of which would be the acquisition of interests in land in advance of the requirements of specific improvement scheme. The initial activities of the trust would be limited to the acquisition of development rights only, owners being left with existing use rights until and unless the land is actually needed for construction.<sup>2</sup>

### **National Issue**

The national issue can be clearly spelt out as follows. Any legislation in the field of land use planning has to offer the possibility of two types of plan: the municipal plan and the regional plan, all

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<sup>1</sup>Report on Physical Planning Law for Bangladesh by Prof. Milton Keplan, November, 1980. (Bangladesh National Physical Planning Project BGD 72-104)

<sup>2</sup>Policies for urban lands (April, 1979), Urban Housing Policies and Programme, Urban Development Directorate, Dhaka.



within the frame-work of national policy aims.<sup>3</sup> In rural regions, what is needed is 'developmental' as much as 'protective' planning. These are areas where multi-sectional development is required in order to improve rural employment and rural incomes. Here land developmental planning has to deal with the optimum integration of land use, covering agriculture, forestry, recreation, communication, natural conservation, rural industries, etc. Consequently, not only is an integrated approach essential to the development of rural areas, but land use planning is the vital component of this process.

A comprehensive national land use plan should take into account, *inter alia*, the following policy issues:

- i. Unplanned use of land in 'growth centres' and 'human settlements' is seriously straining the scarce land resources of the country, besides causing health, sanitation, environmental and socio-economic problems, which need control, regulation and guidance through legal and administrative intervention;
- ii. Irrigation-based modern agriculture, specially through co-operatives, must have institutional support in relation to layout of distribution channels, unrestricted access to water and non-conflicting cropping patterns;
- iii. An overall rural development by way of land reforms, tenural changes, etc. needed for optimum land use has to be ensured through a legal frame-work.<sup>4</sup>

### Possible Solutions

It is now universally recognised that there must be a comprehensive land use policy for the nation as a whole. This will not only cater to the developmental needs of city and urban areas, but also take care of the special requirements of the rural regions. But framing of the

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<sup>3</sup>Physical Planning and Rural Planning in the Netherlands by H. Corver, Director-General, Directorate for Land Use and Fisheries, Ministry of Agriculture and Forests.

<sup>4</sup>A Note bearing No. LGRDC/Secy/186/81 dated August 19, 1981 of the Secretary, Ministry of Local Government, Rural Development and Co-operatives, Government of Bangladesh.

nation's land use policy is an innovatory undertaking, which must be backed by a strong political will. Given the political will, the immediate determination of the national land use policy will be followed by legislative enactments and administrative measures providing the manner, mechanism and areas of intervention.

In the first place, a new law should be enacted to serve as an umbrella for city master plans, urban development plans and the local land use development programme. An enabling law of this nature should, in fact, give the legal backing for implementing the national policy enunciated by the Government. The said enabling law should take into account not only framing of master plans for big cities and urban areas, but also "special area plans and controls" which deal with infrastructure impact plans. The law may also take care of "subdivision plans" and "sites development scheme", as referred to earlier. It is, however, open to serious doubt if the law should also embrace any scheme for the purchase of developmental rights in urban areas in the present socio-economic context of the country.

In almost all the countries abroad, 'zoning' appears to have been accepted to be one of the ways for achieving the end of proper land use. But this measure has same inherent drawbacks too. It has been noticed that 'zoning' causes inflation in prices of land. It may also create conflicts of interests in matters like irrigation, communication and sanitation. Besides, circumvention of 'zoning' has been found to be easy and frequent. In spite of all these constraints, zoning of land around cities (for instance, to provide green belts) and also in special rural sites (e.g. for development of industrial estates) may need to be planned and administered by the Government agencies, city authorities and other local bodies, with the backing of the enabling law referred to in the foregoing paragraph.

The existing provisions of East Bengal State Acquisition & Tenancy Act, 1951 should be strengthened and their scope expanded. In the first place, its relevant provisions regarding transfer of land and right of pre-emption referred to earlier should be made more comprehensive, with powers to frame necessary rules thereunder, for enforcing agencies to function in an effective manner. Similarly, the Chittagong Hill Tracts Regulation, 1900 should be amended to cover regulation of the use and transfer of land in more



clear terms and language. As regards other laws pertaining to local bodies e.g. the Paurashava Ordinance, 1977, Local Government Ordinance, 1976 and other laws governing the administration of Dhaka City Corporation, Dhaka Improvement Trust, Khulna Improvement Trust and such other bodies should be given powers to regulate and control land use within their respective jurisdictions and frame rules and bye-laws for creation of control mechanisms to enforce them effectively. Besides, an effective co-ordinating agency is also needed to avoid conflict of interests.

Suitable tax-structure can also serve as sufficiently deterrent against conversion of agricultural land to non-agricultural uses. But, in effect, these tax measures do not prove effective in the absence of day-to-day reporting of such conversions to the local revenue authorities. Government, by executive orders, can make it mandatory for all such conversions to be reported to local revenue officials for registration of transfer documents and mutation of transferees' names in District records. This can be easily done, as in the case of capital gains tax payable to income-tax authorities who insist that land registration officers will not register any transfer deed until the gains tax is paid.

The District Land Allocation Committees have now limited scope in the matter of acquisition of land. These Committees may be made more effective instruments, through executive directives or other means, to control abuse and wastage of agricultural land and also to ensure intensive use of non-agricultural land, if it is made obligatory for any body in the public or private sector to obtain the Committee's clearance before acquiring land for non-agriculture use.

In Bangladesh, apart from city and urban planning, Thana planning embraces Union planning and village and special area planning. The planning process is really one of dialogue: not planning 'for' the people, but 'with' the people. Any action programme to enforce the legal and administrative measures for regulating the use and transfer of land must have the involvement of the Thana Council and Union Parishad. These bodies have the full local knowledge of the requirements of land for various purposes and their recommendation has to be given full weight before a local official, if entrusted with the enforcement of legal or administrative measures, gives his final



verdict. The role of the Thana Council and Union Parishad is so vital that legal or other administrative restrictions on free transfers of agricultural land by sale or otherwise for any purpose other than agricultural cannot succeed without their direct participation.

### **Conclusion**

We are conscious of the critically vital importance attached to the national issue of land use regulation. I have concentrated my attention on the legal aspects of the issue and offered my suggestions on the basis of an objective professional analysis of the problem. The political expediency in reaching final decisions in the national context will naturally have to be considered and settled by the Government in due course.\*

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\*This chapter is based on the Report on a 'Study on Legal Aspects of Land Use Regulation in Bangladesh' presented by the author as Consultant to the Ministry of Agriculture & Forests, Government of Bangladesh in January, 1982.

## Chapter Seven

### LAND REFORMS

#### East Bengal State Acquisition & Tenancy Act, 1951

The first major attempt in the direction of land reforms was the enactment of East Bengal State Acquisition and Tenancy Act, 1951. Prior to that, measures to define the status and rights of the raiyats vis-à-vis the landlords were contained in the Rent Act X of 1859 and the Bengal Tenancy Act of 1885, as amended subsequently in 1928 and 1938. The Flood Commission was the first major land reforms body appointed by the Government and its recommendations were the foundation of the 1951 legislation.

The main provisions of the 1951 Act were three fold: (i) abolition of all re-receiving interests, (ii) prohibition of future subletting and (iii) putting a ceiling on land holdings per family beyond 100 standard bighas (33.33 acres). The ceiling was subsequently raised to 375 standard bighas (125 acres) during the martial law regime of Ayub Khan. This was, however, brought down to the previous figure of 100 standard bighas after independence of Bangladesh, with a further subsequent restriction not to raise the limit in cases of holdings totalling upto 60 bighas. As a direct consequence of fixing a ceiling, large areas of excess lands vested in Government. But, although sub-letting was forbidden, the 1951 legislation did not touch the problem of bargadars (share-croppers), nor did it regulate the land owner-bargadar relationship. The absentee landowners left the

cultivation of their land to the bargadars who, because of uncertainty of continuance of their tenure, lacked the necessary incentive to improve the bargadar-operated farms.

The State Acquisition and Tenancy Act did not thus solve all the problems of the agrarian structure. To quote the draft second five-year plan, the rural population, which forms 90 per cent of the entire population of the country, is faced with "ubiquitous share-cropping, widespread sub-marginal holdings, acute sub-division and fragmentation, dubious land records and peculiar problems associated with the management of Khas or char lands". It was felt that land reforms as presently envisaged must cover the regulation of tenancy rights, including those of bargadars (share-croppers), measures to tackle sub-division and fragmentation of holdings, proper land management including improvement of crop yield, the organisation of credit and marketing facilities of the farm-produce and other matters which the particular needs of the country demand. The objective should be to achieve higher living standards, improvement of social status and better opportunities for those engaged in cultivation and, last but not the least, the attainment of greater productivity from the lands they cultivate.

In Bangladesh, one of the most densely populated countries in the world, the problem of land reforms is now assuming greater importance than ever before. There is no fixed blue-print for land reform, but the programmes undertaken in various countries follow essentially the same pattern with suitable variations warranted by local conditions. The land reform measures of Ireland, Egypt, Japan and West Bengal state of India may be studied with interest.

### **Land Reform Measures in Other Countries**

In Ireland, the Land Act of 1923 abolished rural landlordism and fully compensated the landlords. The Land Commission established there acted as a great purchaser and distributor of lands. The tenants came directly under the Land Commission pending transfer of fee-simple ownership to them.

Agrarian reforms introduced in Egypt in 1952 provided that no person should own more than 200 feddan (about 210 acres) of agricultural land. The small farmers who owned five feddan or less



and who benefited from the land distribution plan were required by law to establish co-operatives of their own. The co-operatives were used to provide agricultural credit and inputs like seeds, fertilizers and farm machinery. In addition, they were to plan the cultivation of land and rotation of crops, market the principal crops and set aside from the proceeds annual instalments payable to government for the price of the land, taxes, loans, etc. The ex-owners received indemnities in compensation for their acquired lands in state bonds redeemable in 30 years.

Land reform and land distribution programmes in Japan were carried out with great success and have been a contributory factor to increased agricultural production there. The relevant law was enforced by 10,000 elected agricultural land commissions composed of landlords, owner-farmers and tenants. If the meeting of a land commission was not open to the public, its decisions were invalid. Payment of compensation (partly financed by government) was made in the shape of land bonds, redeemable in 22 years through the Japan Hypothecation Bank.

In India land legislation has shown results not only in elimination of intermediaries but also in tenancy reform. In West Bengal, the land-holding ceiling has been fixed at from 2.50 hectares (6.25 acres) to seven hectares (17.50 acres) per adult raiyat, depending on the size of his family. The problem of bargadars also came up for legislative enactment. The produce of land cultivated by a bargadar was to be divided (i) in the proportion of 50:50 if plough, cattle, manure and seeds were supplied by the landowner and (ii) in the proportion of 75:25 in all other cases. The legislation also provided that no person would be entitled to terminate cultivation of his land by a bargadar except on very stringent grounds.

### **Major Reforms in West Bengal (India)**

The major land reform activities undertaken in West Bengal relate to:

- i. determination of the owner-bargadar relationship;
- ii. the fixing of a family ceiling of land holdings and determination of excess lands;
- iii. the provision of institutional finance to bargadars;

- iv. rationalisation of land revenue;
- v. restoration of alienated lands;
- vi. distribution of vested agricultural lands.

The most important landmark in implementing the foregoing has been 'Operation Barga'. This is a major component of the land reform policy of the West Bengal government. The recording of bargadars by the district settlement staff at any stage of the settlement operation, or even after the settlement records are finally published, is now allowed under current revenue law and rules framed thereunder. Procedural delay has been curtailed by on-the-spot scrutiny of bargadars' applications for the recording and issue of barga certificates. The barga right is now treated as heritable but not transferable. (Vide West Bengal Land Reforms Act, 1955 as modified upto 31st August, 1974 and the Rules framed thereunder.)

It is worth mentioning that the other important elements which have created an appropriate climate for massive land reforms in West Bengal are (i) the organisation of target groups, (ii) the politicisation of local governments and (iii) a manifestation of political will in sustaining all administrative measures and actions until the desired goals are achieved.

### **Problems in Bangladesh**

It is widely acknowledged that any major or comprehensive effort at land reform in a country like Bangladesh must include provisions for the rationalisation of land tenure system upto share-croppers; the fixing of a proper ceiling on land holdings; the consolidation of holdings or an alternative method for tackling fragmentation or scattered plots; the correct distribution of excess lands made available by application of the ceiling; and equitable sharing of the produce of land between owner and share-croppers; and the organisation of infrastructure to increase productivity.

Any talk of improving the land tenure system must take account of the rights of bargadars. At present they have no permanent rights in the land they cultivate; they also have no long-term security of tenure and so they have no incentive to improve the land or its

productivity. As in West Bengal, firm measures have to be taken perhaps to record the bargadars and make their rights heritable, though not transferable. Their share in the produce of the land also has to be equitably determined, as provided in the Land Reforms Ordinance, 1984. Unfortunately, this law did not prove effective. A firm political will is needed to achieve this.

As for fixing the ceiling of land holdings, the present trend is for small farms which are believed to be more efficient than large ones. Apart from farm efficiency, there is also the social aspect. When fixing the ceiling, planners must be guided by the demands for reducing social inequality. The ceiling has to be decided familywise and not for each individual separately. If the family is taken as the unit, it should include the head of the family, his wife, unmarried children and any other person dependent on him living in the same mess. But servants and hired labourers have to be excluded. Whatever may be the size of the family, a maximum limit has to be set. In consideration of farm efficiency and social justice, there is scope for further reduction of ceiling.

Consolidation of holdings has proved to be a pious hope in Bangladesh. Towards the end of 1960 the government started a pilot project to consolidate holdings in the whole of Deviganj PS and part of Boda PS of Dinajpur district, with a total area of 175 square miles spread over 182 villages, having 2,97,683 plots and 66,088 khatians. The work started in the second week of June 1961 and was completed on 30 June 1962. There was serious opposition from the local people, including the bargadars. The project failed totally and ultimately the government nullified the consolidation work already completed, by a special law enacted for the purpose. The Land Revenue Administrative Enquiry Committee, East Pakistan, studied the question in 1962 and observed as follows: "We are convinced that any scheme for compulsory consolidation of holdings will be unacceptable to the tenants in East Pakistan. In view of the very small area of land held by the majority of tenants, 75 per cent of whom hold less than three acres of lands each, and of the law of inheritance which leads to extensive sub-division of holdings after each generation, it is doubtful if consolidation of holdings will be of any advantage to the tenants."



Equitable sharing of the produce of land and organising infrastructure to increase productivity can be discussed together. The draft second five-year plan in Bangladesh refers to "agrarian growth with equity" where "care is taken to work out a viable programme under which equity consideration supplements commodity growth strategies". The planners have further observed that tenancy reforms are urgently needed with a view to ensuring the security of share-croppers and more rational sharing of the produce on the basis of contribution to costs. Land reforms should pave the way for co-operative and other groupings of farmers to enable them to use optimally more modern inputs and credit facilities.

### **Local Participation**

In the above context, village institutions like "gram sarkars" of President Zia's time first come to mind; but there is no denying that Bangladesh has to move cautiously. If government really wants village co-operatives to work jointly on production plans and the utilisation of modern inputs, it should select some pilot projects and see how they work. Meanwhile, the experiences of West Bengal and other countries can be considered. Legislation should be enacted as soon as possible to give the bargadars their legitimate rights. In 1957 the East Pakistan Bargadars Bill was to be introduced in the Legislative Assembly, but it did not see the light of the day; it was dropped when Ayub Khan came to power in 1958. The West Bengal Land Reforms Act, 1955 contains almost similar provisions as those in the aforesaid Bill. Meanwhile, measures were taken to improve the share-cropper's lot, but without any effect (See page 72).

Implementation of land reform measures is of vital importance. The machinery to be employed for the purpose must be independent of the normal revenue set-up in the country. The formation of a special task force is inescapable, but the people's participation must be ensured above all. Local governments will be effective instruments in this regard. The Union Parishads have to be associated in implementing the detailed provisions of reforms laws. This subject has been dealt with elaborately in a separate chapter to follow.

## **Chapter Eight**

### **AGRICULTURAL DEVELOPMENT THROUGH LAND REFORMS AND OTHER INNOVATIONS**

#### **Bangladesh Case-Study, 1980**

In a somewhat deviation of the traditional thinking on land reforms, which mainly deals with tenancy reform and fixing ceiling on land holdings, a study was undertaken in early 1980, at the instance of General Economic Division of the Planning Commission, Planning Ministry, Government of the People's Republic of Bangladesh, to determine the problems of land reforms with a view to increasing agricultural productivity through modernization. The study was assigned to a Consultant firm named Development Research Associates International Ltd, Dhaka. Its Central Research Team was headed by Mr. A. K. M. Ahsan, ex-C.S.P and a former Secretary of the Ministry of Agriculture, Government of Pakistan. The writer worked in the team as an Expert on Land Administration.

#### **Visit to West Bengal (India)**

The Study Team visited West Bengal in India from 21st to 26th April, 1980 with the object of not only seeing the land reforms measures, legal and administrative, undertaken there, but also to know the problems encountered in the process of implementation of the same. The West Bengal Government considered that bargadars,

comprising most of the actual tillers of the soil, must be the target group for all land reforms measures. This thrust on bargadars was because they form the poorest and most neglected section of the rural population.

### **Barga Tenure**

After ensuring that persons belonging to this group are properly recorded in the relevant official land records, the Government realized that their tenure as barga cultivator must not lie at the sweet will of the landowners. It was stipulated that the owner of the land shall not be entitled to terminate cultivation of his land by a bargadar, except in execution of an order of the competent authority on one or more of the following grounds.

- i. that the bargadar has without any reasonable cause failed to cultivate the land, or has used it for any purpose other than agriculture;
- ii. that the land is not cultivated by the bargadar personally;
- iii. that the bargadar has failed to deposit or tender the full extent of the share of the crops of the landowners;
- iv. that the person owning the land requires it bonafide for bringing it under personal cultivation;
- v. no bargadar shall be entitled to cultivate more than 6.00 hectares of land.

### **Institutional Finance**

Recorded bargadars are given seasonal bank loans on the basis of barga certificates issued to them. In this process, the concerned Gram Panchayat has an important role to play. No colateral is needed for getting this loan. Not more than 30 days' time is formally required for sanction of such loans.

### **Rationalisation of Land Revenue**

Lands of which the total value (on the basis of local market rate) is upto Rs. 50,000/- is exempt from any payment of land revenue. Lands valued over Rs. 50,000/- is subject to the payment of revenue



at a graduated scale on the total rateable value. If the total rateable value is over Rs. 5,000/-, the levy is 2 paisa in the rupee on the next Rs. 1,000/-, 3 paisa in the rupee on the next Rs. 1,000/-, 4 paisa in the rupee on the next Rs. 3,000/- and so on. The maximum levy is 8 paisa when total rateable value is over Rs. 6,000/-. Rateable value is determined at one-tenth of the market value of the land.

### **Close Association of Panchayat Bodies**

The Gram Panchayats and Panchayat Samities have been closely linked in the process of bank financing given to bargadars. The Panchayat bodies are very much aware of their responsibilities in this regard. Each loan application is scrutinized and recommended by Gram Panchayat concerned. At the top is the Zilla Parishad in each district. Then comes the Panchayat Samity at the Block level. The Gram Panchayat is at the base. The official hierarchy has also been closely linked with the panchayat bodies. The District Magistrate is the Chief Executive Officer of the Zilla Parishad, while the Block Development Officer is the Executive Officer of the Panchayat Samity.

### **Maximization of Crop-Yield**

Apart from modern technological means viz. improved seeds, fertilizers, irrigation, etc., good crop-yield depends also on the security of tenure of bargadars. This has been ensured by the measures mentioned above, as adopted in West Bengal. Besides, certain major institutional elements were emphasized to the study-team as the prime source of and providing strength to the appropriate climate for the land reforms efforts. They are:

- i. The organisation of the target group: behind this organisation, it was firmly mentioned, lies the 15 year-long history and tradition of Kisan movement, which functions as a watch-dog over programmes of reforms.
- ii. Politicisation of local governments:  
Elections of the Gram Panchayat, Panchayat Samity and Zilla Parishad were fought on political party basis. It was claimed

(and also substantiated) that the old leadership pattern of rural elite had yielded ground to a large extent to the representatives of the larger section of the un-privileged class. These local bodies have been closely integrated with the procedural aspects of the formulation and execution of land reforms and development projects.

- iii. The Political will: The reform spirit finds expression in the policy formulation and programme adopted by the Government of the day. This overall political will, through the interacting and integrating processes involving the State Government, the Kisan Samities and the local government institutions, also guides and sustains all administrative measures and actions towards goal-setting and goal-achievement.

### **Water-Development Projects in Bangladesh**

The main schemes adopted in erstwhile East Pakistan were Ganges-Kobadak Project, Teesta Barrage and Polder scheme. The object in view was agricultural extension by providing irrigation water by constructing canals and by reclaiming wastelands and building cross bunds leading to formation of new chars from the bed of sea or big rivers. The project areas were in Kushtia-Jessore, Rangpur-Noakhali, Khulna-Satkhira and Chalan beel waste of Rajshahi.

### **Financing and Maintenance of the Projects**

As many of these projects were expensive, there was a question of sharing the financing and maintenance cost of these projects between the Government and actual beneficiaries. A Committee was appointed to study this question and a tour was undertaken from 21st April to 1st May, 1968 to examine the question in former West Pakistan on the basis of experiences gathered in respect of projects like Salinity Control and Reclamation Project (SCARP), Mangla Dam, Warsak Dam, G.M. Barrage, etc. The Committee was headed by Mr. R. A. Ahmed, Member (Finance), EPWAPDA and included the present writer, then serving as Director of Land Records and Surveys, Govt. of East Pakistan, as a Member. Incidentally, the writer did not see eye to eye with the specific recommendation of

the Committee which did not reflect the special circumstances obtaining in erstwhile East Pakistan. It was decided that his views would form a part of the recommendations as a Note of Dissent (Vide minutes of the meeting held on 7th June, 1968 along with the Note of Dissent, Appendix 4).

The substantive observations of the writer as contained in his Note of Dissent are reproduced below:

"We understand that recent experiences in the assessment of water-rate in G.K. Project (first phase) on the basis of the existing 1/10 th ceiling are not very encouraging from the financial point of view. Although there is nothing basically wrong in the existing policy of assessment, we should revise the ceiling and bring it upto such a ratio as is commensurate with the working expenses. We recommend that a Committee be appointed with the representatives of the Finance Department, Revenue Department and the EPWAPDA to go into this question and suggest suitable legislative amendments."



## Chapter Nine

### IMPLEMENTATION OF LAND REFORMS

#### Summary Acquisition of Big Estates

The implementation of the scheme of State Acquisition as envisaged in East Bengal State Acquisition & Tenancy Act was a time-taking process. After the Act was passed in 1951, steps were initiated for acquiring, in a summary procedure as laid down in Chapter II of the Act, the interests of the proprietors of big estates on the basis of the collection papers available from the zamindars' cutcheries. Similar action was taken in respect of the Court of Wards estates which were also acquired by the summary procedure. In this process, 443 big estates with a total annual income of Rs. 4,74,27,207.00 were acquired straightway. But the interests of subordinate tenures and other rent-receivers under these estates remained unaffected.

#### Civil Suits

The first hurdle in the implementation process came in the shape of several Civil Suits filed in the courts of sub-judges by some zamindars challenging the acquisition of their interests under the Act. The main ground of the cases was that the compensation provided in the Act was inadequate. All these cases were, however,

decreed by the lower courts in favour of Government, and the High Court also upheld the lower courts' verdict.

### **Acquisition in Bakarganj District and Khulna Sundarhans**

Another decision simultaneously taken by the Government in 1952 was to acquire all rent-receiving interests, besides those of the aforesaid big estates, under Chapter V of the Act in the district of Bakarganj and Khulna-Sundarbans, where the record-of-rights and maps had been just revised. According to this procedure, acquisition was to follow preparation and final publication of Compensation Assessment Rolls. The first regular State Acquisition Operation was, thus, started in these areas. By this procedure, all rent-receiving interests and excess khas lands in Patuakhali subdivision of Bakarganj district were acquired with effect from 14th April, 1954, in Pirojpur subdivision of the same district and Sundarbans portion of Khulna district with effect from 15th April, 1955 and in major portion of Sadar subdivision of Bakarganj district with effect from 14th April, 1956.

It was also decided to acquire all rent-receiving interests in the rest of the province after regular revision of record-of-rights under Chapter IV and preparation of Compensation Assessment Rolls under Chapter V. It was, therefore, proposed to have revisional settlement operations completed under Chapter IV and V in all the districts of East Pakistan in course of 10 years.

### **Wholesale Acquisition**

On the 12th October, 1955, Government, however, finally decided to acquire, by the 14th April, 1956, all the remaining rent-receiving interests in all the districts of the province by the summary procedure i.e. under Chapter II of the Act. It was indeed a big decision. Orders were issued immediately for the preparation of preliminary ren-rolls on the basis of the existing record-of-rights within six months in order to provide an immediate basis for collection of rents by the Government from the entire body of ground tenants who were paying their rental dues to their respective landlords prior to wholesale acquisition.

### **Preliminary Rent-Rolls**

In pursuance of this decision, wholesale State Acquisition operations were started throughout the Province of East Pakistan in charge of eight Settlement Officers drawn from senior E.P.C.S. Officers. As the entire chain of rent-receivers in every district disappeared overnight and all ground tenants were brought directly under the Government, the immediate need was obviously to have a set of rent-rolls prepared for the collection of rents. It was a herculean task to prepare the rent-rolls before the 14th April, 1956, the day fixed for taking over. The Settlement Officers succeeded in preparing the preliminary rent-rolls for the Province as a whole on the basis of existing record-of-rights, which were brought upto-date by on-the-spot enquiries in every village within the stipulated period.

### **State Acquisition Settlement Operations**

But the Government had the obligation of paying compensation for acquiring all these interests. The State Acquisition Settlement Officers were, therefore, entrusted with the job of revising record-of-rights, without large scale correction of existing village maps, and preparing Compensation Assessment Rolls all over the Province. The operation already in progress in the Bakarganj district was integrated with the wholesale operation, while the major Settlement operation, which had been started for the first time in the district of Sylhet and had already made considerable progress, was switched over to the State Acquisition Operation. The object of these operations was not only to prepare Compensation Assessment Rolls, but also to provide a sound basis for future collection of rent and ceases by the Government, which could only be possible by under-taking a revision of record-of-rights, where an original settlement had been completed earlier. This was a stupendous task and was to be finished in a short time.

### **Writ Petitions**

Government had, in the meantime, issued notifications on the 2nd April, 1956, acquiring with effect from the 14th April, 1956 all interests of all rent-receivers in their estates, taluks, tenures, hold-



ings and tenancies situated within all the districts in erstwhile East Pakistan excluding Chittagong Hill Tracts, except those which had already been acquired by and vested in the Government. Similarly, notifications were issued, acquiring with effect from the same date, all lands in khas possession of all rent-receivers, which were not retainable under the law. On the 13th April, 1956 i.e. on the day previous to the day of taking over, a new problem cropped up. On that day, 83 petitions were moved against the Province of East Pakistan in the Dhaka High Court for Writ of Mandamus mainly on the ground that these notifications were ultra-vires of the Constitution. 14 of the Writ Petitions were in respect to estates claimed to be wakf estates and 4 were in respect to estates claimed to be Debottar estates. Government took over possession of all rent-receiving interests and non-retainable khas lands included in the notification of the 2nd April, 1956, except those covering the Writ Petitions with effect from 14th April, 1956. On the 7th August, 1956, the High Court delivered judgement dismissing all the Writ petitions so far as they related to the acquisition of rent-receiving interests of the petitioners concerned. Appeals were filed immediately before the Supreme Court and on the 17th June, 1957, the Supreme Court delivered judgement dismissing all the appeals with respect to acquisition of all the secular rent-receiving interests. Government then took over possession of all the secular interests of the Province which were covered by the Writ Petitions.

### **Wakf and Debottar Estates**

The case regarding the acquisition of rent-receiving interests of Wakf and Debottar estates were still pending before the Supreme Court. Consequently, the possession of rent-receiving interests and khas lands of such estates were not taken over by the Government. The Government, however, took possession of subordinate tenures of the Wakf and Debottar estates on the ground that the same had been covered by the notification of whole-sale acquisition of 2nd April, 1956. An Ordinance was then promulgated permitting the mutawallis and shebaitis of Wakf and Debottar properties, acquired but not taken possession of by Government, to continue to manage such properties as agents of Government. This measure was taken to

avoid hardship to the persons concerned. The State Acquisition Operations which were under-taken to prepare final Compensation Assessment Rolls went on with utmost expedition, so that it could finish the work by the end of 1962. In Bakarganj district, Compensation Assessment Rolls of all rent-receiving interests and excess khas lands had already been prepared and finally published in Patuakhali and Pirojpur subdivisions and major part of Sadar subdivision, Compensation Assessment Rolls were finalised with effect from the 14th April, 1958. The process of acquisition of rent-receiving interests and non-retainable excess khas lands was thus completed in the district of Bakarganj and Khulna-Sundarbans within 14th April, 1958. In the rest of the Province, although rent-receiving interests and non-retainable khas lands were acquired in a summary way, the excess khas lands stood acquired with effect from the 1st of Baisakh following the date of final publication of Compensation Assessment Rolls.

#### **Land Revenue Commission, 1959**

Meanwhile, it was noticed that many legal and administrative difficulties had accumulated which stood on the way of speedy completion of the acquisition process and it became a formidable task to arrange the payment of compensation. The collection of revenue also became a serious problem. It was felt that the whole question should be studied carefully with a view to highlighting the problems of implementation and removing bottle-necks, if any, in the process of implementation of the State Acquisition scheme. The Government of East Pakistan, therefore, appointed a 3-man Land Revenue Commission in December, 1958, headed by Khan Bahadur Md. Mahmud, a veteran revenue expert. The writer was Member-Secretary of this commission. The Commission completed their report in July, 1959 and made elaborate recommendations regarding the payment of compensation and re-organisation of the administrative set-up of the Revenue Administration to cope with the situation. The Commission also examined the provisions of the State Acquisition Act with a view to making them more realistic and suitable to meet the needs of the people in the light of experiences gathered in the process of implementation of the reforms.

### **Recommendations of Land Revenue Commission**

The main recommendations of the East Pakistan Land Revenue Commission, 1959 were precisely as follows:

- a. Now that landlordism has been abolished and all tenants have really become "peasant proprietors", it is appropriate that they should be called "Malguzars" rather than "raiyyats".
- b. The ceiling of the area of khas lands which a person may be entitled to retain would be fixed at 100 acres per family, including the homestead and orchards. But for the local areas where the average production of land is less than 15 maunds per acre, the ceiling should be 133 of land per family.
- c. Measures for a simpler basis of assessment of ad-interim compensation and compensation for pre-acquisition arrears rent and ceases vested in the Government should be adopted according to the suggestions of the Commission.
- d. The entire revenue set-up from the tahsil level upto the district level should be re-organised and strengthened.

These questions, among other things, were further examined by a committee appointed on the 15th September, 1959 with Mr. S. M. Hasan, C.S.P., Member, Board of Revenue, East Pakistan as its Chairman. This committee was originally known as the East Pakistan Land Consolidation Committee. But in November of the same year, the committee was reconstituted and named as East Pakistan Land Reforms Committee with the same Chairman. Its recommendations were to the following effect:

- a. The collector of a district should be empowered to under-take land consolidation otherwise than on application from raiyyats and the East Pakistan State Acquisition & Tenancy Act should be amended accordingly,
- b. The existing provisions of the above Act for re-assessment of rent at the interval of 30 years should be amended to provide for such assessment at shorter intervals,
- c. The ceiling for holding khas land by a family should be 100 acres, including homestead and orchards.



The above recommendations were substantially accepted by the Government. The raiyats were no longer raiyats and they were called 'maliks'. The ceiling of holding khas lands was raised from 33.33 acres to 125 acres per family, inclusive of homestead. The State Acquisition law was amended to provide for a simpler basis of assessment and payment of compensation and to enable the Provincial Government to under-take consolidation of holdings on a compulsory basis. The law was also amended to take up re-assessment of rents at an interval of 20 years instead of 30 years.

In consequence of the amendments of the State Acquisition Act following the above recommendations, the East Pakistan Cabinet, on the 31st March, 1964, took the firm decision authorising the Revenue Department to start revisional settlement operations combined with rationalisation of rent under Part V of the Act and to start a pilot scheme for land consolidation in the district of Dinajpur. Other steps for streamlining the method of assessment and payment of compensation were also taken.

## Some Aspects of Land Reforms

### (a) Financial Aspects

#### *Increase in land revenue*

The immediate effect of land reforms in East Pakistan was most spectacular in the field of financial returns. Before the abolition of the zamindari system, the land revenue demand of the Province stood at Rs. 1,76,74,609/-. In consequence of the whole-sale acquisition scheme, the total annual demand of rent and other dues payable to Government rose to Rs. 10,66,36,367.00 in 1958-59 (excluding Chittagong Hill Tracts). The break-up is given below:

a. Rent.	Rs. 9,48,91,160.00
b. Demand on account of sairat mahals i.e. hats, bazars, fisheries, etc. Rs.	1,17,45,207.00
Total demand in 1958-59	Rs. 10,66,36,367.00

There was thus an increase in the revenue demand to the tune of R. 8,89,61,758.00 without any enhancement in the amount of rents payable previously by the tenants to their landlords. Although rents payable by tenants were maintained, the income from sairat mahals i.e. hats, bazars, fisheries, etc. was on the increase. By wholesale acquisition, Government acquired 18,900 sairat mahals of different kinds. Immediately after wholesale acquisition in 1956-57, the total receipts from these by way of bid money in open auction was Rs. 37,46,256.00. Steps were, however, taken to improve these hats, bazars and fisheries, with the result that in 1965-66, the total receipts from this source came to be R. 1,29,59,242.00, thus yielding an increase of nearly one crore of rupees in course of nine years. Added to this, was another income in 1965-66 in the shape of salami and other miscellaneous receipts, totalling Rs. 56, 80,910.00.

### **Excess Khas Lands**

The above represents the annual gross increase in the total receipts of the Province under the head, "Land Revenue". But there was, at the same time, an accrual of considerable invisible income in the shape of surplus khas lands which vested in the Government in consequence of the wholesale acquisition. It appears from the statement 7 appended to the Report of East Pakistan Land Revenue Commission, 1959 that a total area of 3,43,113 acres of different classes of such khas lands actually vested in the Government. But with the increase of ceiling of retainable khas land from 100 acres to 125 acres (375 standard bighas) by subsequent amendment of law, the total area of excess khas lands vested in Government came down considerably. It is not possible to commute the correct money value of this asset, but a very conservative estimate will certainly place this figure at not less than 15 crores of rupees, as estimated in the above Report.

### **Cost of Collection and Management**

In any case, we have so far considered the gross receipts only. But to get a fair estimate of the net receipts, we should set off the cost of collection and management which was incurred annually after

wholesale acquisition. In 1950-51, i.e. immediately before the summary acquisition of big estates, the cost of collection and management worked out at 23% of the gross receipts, including cesses. But this percentage remained almost the same in 1965-66, if we exclude the capital cost on account of payment of compensation, settlement operations and grants-in-aid to charitable institutions. These three items cannot strictly be included within the cost of collection and management. The net receipts were thus unaffected by the increased management cost, which was kept within the pre-acquisition rate.

### Payment of Compensation

It is worthwhile mentioning here that the total amount of compensation assessed in respect of all land rights acquired and khas lands vested in Government by summary and wholesale acquisition comes to be Rs. 36,34,01,111.00. Of this amount, Government was able to pay Rs. 19,98,58,309.00 in all in course of a five-year payment programme, which was coming to an end by May, 1958. The balance includes a sizeable amount (Rs. 9,93,23,885/-) assessed in favour of non-residents of former Pakistan, who could be paid in bonds through blocked accounts.

### Rationalisation of Rent

It has been mentioned earlier that one of the most far-reaching decisions taken by Government was one relating to rationalisation of rent. In the rent-structure of East Pakistan prior to abolition of zamindari, there was hardly any uniformity or rationale in the quantum of rent paid for lands of similar classes and with similar advantages. The rates of rent often depended on the amount of *salam* paid by the tenant to his landlord at the time of initial settlement. The status and incidents of tenancy were another factor determining the rate of rent. Apart from these widely varying factors, there were cases of *chakran* tenancies, in which lands were leased out, without any visible rent, in lieu of services rendered to the landlord. According to the new decision, rents could be rationalized on the basis of total gross produce of the soil in course of revisional settlement operations, for which a 20-year perspective plan to com-



plete the whole province, was under consideration of the Government. Available figures indicated that even if a ratio of 1:25 between the rent and the gross produce was adopted, the total rental demand of East Pakistan would record a rise of about 40% over the existing figure. There would, of course, be cases of sharp enhancement of rent, but at the same time, there would be reduction of rent in many cases. In fact, the whole rent-structure would, after rationalisation, reflect rates based on principles of equity and fairness. In this connection, the views of the Commission of Taxation and Tariff (Third Report, January, 1967) are quoted below:

"In East Pakistan the average rate of land revenue, estimated at Rs. 3.75 per acre, constitutes 1/60th portion of the gross produce per acre of paddy valued at 1965 prices, although the law permits the fixation of land revenue upto 1/10th of the gross produce per acre... The wide disparity at present existing between the theoretical and the real levels of incidence is mainly due to the failure of the land revenue system or its various limitations to keep abreast of the sharp rise in prices of agricultural products over the last three decades."

#### *(b.) Administrative Aspect*

##### *Absence of collection papers*

The wholesale acquisition of all rent-receiving interests made a tremendous impact on the land revenue administration of the province. Due to non-co-operation of the big landlords, Government could not come into possession of the available papers of the acquired estates and, in the case of small rent-receivers, there was no legal obligation on them to maintain or supply their collection papers. Government was thus confronted with a colossal problem of collecting rents from millions of tenants whose particulars and rental dues were mostly unknown.

#### **Pre-acquisition Revenue Administration**

Before acquisition, the functions of the land revenue administration were limited. The land area of the whole province at that time could be divided into three categories. About 91% of the total area was under permanent settlement with private persons holding proprietor-

ship under the Government. For this portion, the revenue receipts of the Government were fixed in perpetuity. There was another category of land comprising 3.5% of the total area, which was temporarily settled with private persons for a specified period and the revenue payable by them to Government was subject to revision and enhancement after that period. In permanently and temporarily settled areas, the actual cultivators held land as tenants under the proprietors or under the middlemen called tenure-holders. In the third category of lands, which comprised about 5.5% of the total area of the Province, the tenants held lands directly under the Government. These were originally called "Crown" estates, but after independence from the British they were termed "Government" estates. The land revenue authorities were thus much in the picture in respect of Government estates, while in the cases of other two categories, they had very limited functions.

### **New Responsibilities and Functions**

After wholesale acquisition, the duties of the revenue organisation increased manifold. In the matter of collection of rents, they were now to deal with 2,26,03,782 khatians which represent the interests of the vast mass of tenants who came directly under the Government. To start with, they were given a complete set of mauzawari preliminary rent-rolls, which were prepared by the Settlement Department in a remarkably short-time. These preliminary rent-rolls were replaced subsequently by the record-of-rights revised and finally published by the same Department. But to maintain these records and keep them upto-date by incorporating all the latest changes and mutations was not an easy job. Apart from this, the land revenue machinery had other problems also to face.

First came the task of settlement of khas lands to deserving persons. Because of the continuing pressure of population on land, the people are naturally very land-hungry. This factor alone made the land settlement job very difficult and required constant vigilance on those associated with this work at lower level.

The management of sairat mahals was another complicated task. Most of the rural hats and bazars, which were so long owned by the zamindars or tenure-holders, were in a state of utter neglect. After

they were acquired, Government agreed to spend 25% of the net income towards their improvement. Later, Government decided to transfer all small rural markets to the Union Parishads and those in urban areas to Municipalities and Town Committees for development on certain terms and conditions. In respect of bigger hats and bazars, Government continued the system of leasing them out by public auction every year, but fixed tolls were to be strictly adhered to by the lessees.

Along with hasts and bazars, a large number of fisheries of different sizes also vested in the Government. As in the case of bigger markets, these fisheries were also being leased out by open section, as also by negotiation with bonafide fishermen's co-operative societies. The derelict water areas were made over to Fishery Department for reclamation and improvement, as and when required by that Department.

The collection of arrear rents due from tenants, which accumulated from year to year, was yet another problem for the revenue administration to tackle. The magnitude of the problem will be evident from the fact that in 1956-57, the total demand in respect of rent and cesses (including arrears) amounted Rs. 15,69,28,329.00, of which Rs. 4,91,68,508.00 was only collected and the rest fell in arrears. The position during 1965-66 was that Rs. 13,64,23,284.00 was collected against a total demand of Rs. 32,52,09,905.00 including arrears. As the arrears were swelling up every year, thousands of recovery certificates under Public Demands Recovery Act were being filed, with the result that in 1965-66, as many as 70,19,218 certificates involving Rs. 19,43,48,377.00 accumulated.

### **Land Revenue Administration Enquiry Committee**

Meanwhile, it was felt that the revenue organisation needed streamlining to cope with the added responsibilities arising out of the wholesale acquisition. A committee called the Land Revenue Administration Enquiry Committee was appointed by the then East Pakistan Government to study the whole situation closely. The Committee completed their report in July, 1963 and made elaborate recommendations about re-organisation of the revenue set-up, eradication of corruption in revenue administration and other matters.



## **Effects of Land Reforms**

Having described the main features of land reforms in erstwhile East Pakistan and the manner in which they have been implemented, it seems appropriate to summarise the immediate effects of land reforms as below:

- a. The cultivator, now called malik, has a direct proprietorship of his land held under the Government. Every tenant, irrespective of his former status, will now enjoy a permanent, transferable and heritable right in his land.
- b. His only liability to the Government is the payment of a fixed rent or land revenue. Subject to this and the restriction that he has no mineral rights and cannot create a fresh rent-receiving interest, he is entitled to use his land in whatever way he likes. The improved status and the security now enjoyed by him will create better incentive for increased production.
- c. All excess khas land of the ex-proprietors and rent-receivers and jotedars having vested in the Government are being distributed among the landless agriculturists and cultivators with less than economic or subsistence holdings. This will not only mean a more equitable distribution of land, but will also lead to maximum use of all cultivable land.
- d. The existing rent-structure which is generally unfair and inequitable will give way to a system where all lands will be assessed to rent on a rational basis according to the productivity of the soil and no enhancement will be allowed within a period of twenty years.
- e. The operation of a ceiling fixed at 375 bighas (later reduced to 100 bighas ) for a family will eliminate the big concentration of landed wealth which provided social inequalities of opportunity in the past. The present system will certainly encourage more intensive land use and productive investment.
- f. The tenants will now have opportunities to have their scattered holdings consolidated if they so want for better management and economic cultivation.

- g. The re-organisation of the revenue set-up will ensure better maintenance of record-of-rights. In the result, there will be very few land disputes and litigation in future.
- h. Hats and bazars which were thoroughly ill-managed previously, will now be improved at considerable expenses of Government, providing improved services to the farmers who have to assemble there for selling their merchandise. Similarly, fisheries will be improved and derelict water areas reclaimed, yielding increased production of fish wealth in the country.
- i. As the tenants have now come directly under the Government, they will be free from all illegal exactions and oppression of the erstwhile zamindars' employees.
- j. The reforms are bound to build a strong and economically sound middle class destined to play a vital role in the economic, social and political spheres of the country.

### **Preparation of Compensation Assessment Rolls**

Assessment of compensation for acquisition of rent-receiving interests and non-retainable khas lands and sairat mahals is always preceded by fresh preparation or revision of record-of-rights to make it up-to-date. For such purpose, Government may proceed either u/s 31 or u/s 17 of the State Acquisition Act.

After the record-of-rights in respect of a district or part of a district has been prepared or revised and finally published under the Act, the Revenue Officer shall prepare in the prescribed form and in the prescribed manner, a Compensation Assessment Roll, in which the gross assets and the net income of all rent-receivers within such district or part thereof, and the amount of compensation to be paid under the provision of the said Act to all such persons will be shown.

Assessment of compensation may broadly be categorised under the following heads:

- a. Assessment of compensation for rent-receiving interests, secular in nature.
- b. Determination of annuity in respect of Wakf, Debottar and other trust properties as is exclusively dedicated and the in-

come therefrom exclusively applied to religious or charitable purposes, without reservation of pecuniary benefit for any individual.

- c. Assessment of compensation for excess and certain types of non-retainable khas lands.

It may be mentioned here that there is some difference between the amount assessed as compensation and the amount determined as annuity in that the amount assessed as compensation is paid away entirely in cash or bonds to the recorded rent-receivers/landowners, while the amount determined as annuity is paid annually to the Trustee/Mutawali/Shebait for performance of religious or charitable rites as stipulated in the deed of Trust/Wakf/Debottar.

For the purpose of preparation of the compensation Assessment Roll:

- a. The gross assets of rent-receiver shall be taken to consist of the aggregate of the rents and cesses which were payable to such rent-receiver by his immediately subordinate tenants.
  - i. In the case of the interests acquired summarily under Chapter II, for the agricultural year immediately preceding the notified date, and
  - ii. In other cases, for the agricultural year immediately preceding that in which the record-of-rights was finally published under Chapter IV, and where such rent-receiver is the proprietor of an estate and the holder of a tenure, also of the aggregate of the fair and equitable rents determined under Chapter IV for such of his khas lands as he retains possession of under section 20.
- b. the net income of a rent-receiver shall be computed by deduction from his gross assets the following:
  - i. the sums which were or are calculated as payable by such rent-receiver for such year as land revenue or rent and cesses to the Government or to his immediate superior landlord, as the case may be, in respect of the lands to which the gross assets relate;



- ii. the sum which was or is calculated as payable by such rent-receiver in respect of such assets for such year as tax under the Bengal Agricultural Income-Tax Act, 1944;
- iii. the sum which was or is calculated as payable by such rent-receiver in respect of his income from non-agricultural lands included in such assets for such year as tax under the Income-tax Act, 1922;
- iv. the average annual expenditure, if any, incurred by such rent-receiver on account of maintenance of any irrigation or protective works in such lands; and
- v. collection charges not exceeding twenty per centum of the gross assets.

Section 37 of the S.A. Act provides for different slabs of calculation for different groups of net income, with the saving clause that a group with higher net income shall not receive lower compensation than persons with a lower net income.

Determination of compensation in respect of excess or non-retainable khas lands of different classes or categories is done under the provisions of sections 39 of the S.A. Act. The main feature contained in the above provision of law is that each parcel of the excess or non-retainable khas lands should be grouped into one of the categories contained in section 39 of the Act and assessed to compensation accordingly.

After the C.A. Rolls are prepared and consolidated, the total amount payable is entered in relevant column of the C. A. Roll and the consolidated Compensation Assessment Roll in draft form is placed for public inspection for a period of at least 30 days and this is called "draft publication" of C.A. Rolls u/s. 40 of the Act. During the said period, persons aggrieved may file objections in respect of any entry in the C.A. Roll or omission therefrom and the Revenue Officer shall dispose of such objections.

An appeal if presented within two months from the date of the order appealed against, shall lie from every order passed by the Revenue Officer under sub-section (1) of section 40 to the prescribed Superior Revenue Authority and such Superior Revenue Authority shall consider and dispose of such appeals in accordance

with rules made in that behalf by the Government. The Superior Revenue Authority within the meaning of section 41 of the S.A. Act shall be:

- a. the Director of Land Records and Surveys in all cases and
- b. the Settlement Officer in cases where the order appealed against was passed by a Revenue Officer subordinate to him.

When all objections and all appeals have been disposed of and the compensation assessment rolls duly modified, the Revenue Officer shall finally publish the same under provisions of section 42 of the Act. The final publication shall be conclusive evidence that compensation assessment roll has been duly made under this chapter and every entry in the compensation assessment roll so finally published shall, except as hereinafter provided, be final and conclusive evidence of the matter.

After the final publication of the Compensation Assessment Roll, Government shall also by notification declare that a compensation assessment roll has been finally published, specifying in such notification the date of such final publication; and such notification shall be conclusive proof of such publication and of the date thereof.

After the publication of a notification in the official Gazette under sub-section (2) of section 43, the consequences as mentioned in section 44 of the Act shall ensue.

As soon as may be after publication of a notification in the official Gazette, the Revenue Officer shall cause to be published, in the prescribed manner, proclamation in the local vernacular:

- a. explaining the consequences which have ensued on such publication of such notification, and
- b. directing all persons in such area, who will become tenants under the Government with effect from the first day of the agricultural year next following the date of such publication of such notification, to pay rent to the Government and not to anybody else.

Section 48 of the Act provides that the Government may appoint one or more persons who has or have exercised the powers of a District Judge or a Subordinate Judge to be a Special Judge or

Special Judges for the purposes of hearing appeals which may be preferred to him or them under the provision of this Act and inquiring into disputes as to the title to receive any compensation under a Compensation Assessment Roll finally published under section 42 or as to the apportionment of any compensation referred to him.

Any person, aggrieved by an order of the Superior Revenue Authority under section 41 or the Commissioner of State Purchase or other officer under section 49 may present an appeal against such order within 60 days from the date of the final publication under section 42 of the Compensation Assessment Roll to which such appeal relates or of the order appealed against, whichever is later, to the Special Judge appointed under section 48.

When the time for appeals u/s 51 or 53 of the Act has expired or when appeals under the above sections filed have been disposed of, the Revenue Officer shall proceed to make payment of compensation to the former proprietors, tenure holders and other rent-receivers and to the cultivating raiyats, cultivating under-raiyats and other persons who are shown in such Compensation Assessment Rolls to be entitled to compensation, of the compensation payable to them in the terms of the said roll.

The amount of compensation was payable in cash or in bonds or partly in cash or partly in bounds. The bond shall be non-negotiable and payable in not more than forty annual instalments to the persons named therein.



## Chapter Ten

### SETTLEMENT OPERATIONS

#### The First Cycle

The first cycle of survey and settlement operations was completed in the entire Province of Bengal with the conclusion of Dinajpur Operation during 1934-40. This was followed by series of revisional settlement operations taken up first in Chittagong district in 1923.

Two more revisional settlements were taken up in Faridpur (1940-45) and Bakergonj (1945-52), after the Revisional operation in Chittagong district was completed in 1933.

A fresh cycle of settlement operations was started in 1965, commencing with Rajshahi district followed by similar full fledged operations taken up, one by one, in Dhaka, Chittagong, Pabna, Kushtia, Mymensingh, Jamalpur. Simultaneously, Diara settlement in the entire Province of the then East Pakistan was taken up in 1964, operating centrally from Dhaka.

Meanwhile, State Acquisition settlements, were started in the whole of East Pakistan, in the wake of wholesale abolition of Zamindari System throughout the Province, divided into 8 Zones, which were placed in charge of eight senior Settlement Officers. The Province-wide State Acquisition operations were concluded within a remarkably short period of 1956-64. These operations concentrated

on revision of record-of-rights, without full-scale correction of maps on regular blue-print survey, as previously done in respect of revisional settlement operations in Chittagong, Faridpur, Bakergonj districts in 1923-33, 1940-45 and 1940-52 respectively. A complete chart of Settlement operations undertaken during the period from 1908 to 1978 will be seen in Appendix.2

The district of Sylhet did not go through a full-fledged settlement operation until after its inclusion in East Pakistan after the Partition of India; following a referendum in the district, then part of Assam Province. A regular cadastral survey and settlement operation was concluded in this district during 1950-64. This was followed by another cycle of revisional operations as stated above in 7 districts, starting from Rajshahi in 1965 and continued till 1978 in Independent Bangladesh.

A new scheme of conducting survey and settlement operation was, however, adopted in December, 1984, as per recommendation of NICAR (National Implementation Committee for Administrative Reorganization). Vide Ministry of Land Administration and Land Reforms Order No. IC-15/84/1689- Estt. dated 24th December, 1984. Under this scheme, the entire country was covered by a plan to take up survey and settlement operations simultaneously with 22 original district headquarters, working as centres of operation within the jurisdiction of the undivided districts, called Zones. These were termed as Zonal Settlements. To start with, 10 such Zones were selected and placed under as many senior settlement officers for conducting operation in 10 districts viz. Khulna, Barisal, Jessore, Faridpur, Noakhali, Comilla, Sylhet, Tangail, Rangpur and Bogra. But within the following few years, it was felt that even in 10 selected districts, it was difficult to run settlement operations simultaneously, because of serious constraints of budget allocation, shortage of trained manpower and other operational problems. Many of the Zonal settlement officers lacked settlement experience and a large percentage of field staff was fresh untrained recruits. The inevitable result was poor progress of work, resulting in unavoidable prolongation of the programmed target.

The above factor forced the Government to revise their original programme and concentrate the settlement operations including field



work in only 5 districts. It was decided that in the other 5 districts, no fresh field work would be undertaken, but ongoing camp work with subsequent stages would be continued till completion. According to the squeezed programme, full-fledged work would go on in the districts of Comilla, Mymensingh, Tangail, Rangpur and Bogra to be completed in 3 years. In the other 5 districts, the unfinished attestation, objection hearing and other work in the area previously taken up will be wound up in 2 years' time. It was also decided that since the revisional settlement work of Dhaka and Pabna had just been completed, the manpower of these districts would be diverted to the 5 districts, where full scale work was on.

Based on the experience of the above 10 Zonal Settlement operations taken up as per the new scheme, the Government has now realized that there is no alternative to phasewise settlement operations of the olden times, to be taken up in batches of 4 or 5 districts at a time.

### **Training of Officers**

A special feature of survey and settlement operation is that it affords an opportunity to acquaint officers engaged in general and police administration and also those performing judicial functions with the land tenure system and all issues relating to land in the country. Ours is a land-based economy and in fact, land provides the life-line of our people, particularly in rural areas. In this context, an in-depth knowledge in land problems can be best achieved through an on-the-spot training in course of a survey and settlement operation running in a district or local area.

It is a time-honoured system that the above categories of Government functionaries are imparted settlement training for 3 or 4 months together. This system of training has always been considered very useful for administrative, police and judicial officials at the start of their career. Previously, the training used to cover 4 months, of which the first month was devoted to theoretical training through camp lectures, coupled with demonstration in field to the under-training officers (UTOs), camping jointly in batches of two together. On the close of the joint camp (as it is so called), the UTOs disperse



to split camps scattered all over the operational area, where field work goes on. Here several batches of UTOs pitch their tents and perform the field job by themselves for 2 or 3 months together. But the UTOs shift their camps to come closer to operational work in its different stages. In this process, the UTOs gather first-hand knowledge in the country's land tenure system and different problems faced by a land-owner or cultivating raiyat (malik). This direct interaction with small farmers and the Government agencies recording their land interests helps the district officials in true discharge of their duties, when back to their own jobs later on. Now-a-days, this training time has been cut down to a shorter period to afford a larger number of officials to have the same opportunity of receiving a very useful training during the field season.

### **Training of Staff**

An on-going settlement operation is obviously the best place for imparting training to subordinate staff needed for both camp work and field job. A properly organized training programme running continuously under the supervision of Directorate of Land Records & Surveys can train up hundreds of field staff, of whom there is now a critical shortage in actual practice.

### **Settlement Report**

On conclusion of an original cadastral settlement or a revisional settlement operation, in a district or part of a district, the Settlement Officer concerned has to write a comprehensive report. This report usually contains circumstances relating to the initiation of the operation, its work programme, difficulties or problems experienced, if any and performance of important supervisory personnel and field staff engaged in the entire job. Besides, all relevant information about the geographical, historical and socio-economic features of the operational area, along with related statistical data about the land tenure pattern, general agrarian infrastructure, various crop pattern and the average yield thereof, economic, educational and political institutions pervading the different strata of the population and vari-

ous other land-based data pertaining to the area. In addition, the actual time frame for completing the operation, along with the total cost involved and all such vital information concerning the entire operational job find place in the Settlement Report. It can be compared with the district Gazetteers, although the latter were more political and public administration oriented. In fact, a district Settlement Report is a very important document having abundant statistical information mainly concerning the agrarian structure and economy of the area, which is indeed a dependable resource material for later analytical studies, if taken up. The Settlement Reports now available in the Directorate of Land Records and surveys, along with the names of their authors, are listed in Appendix-5 of this book.

## **Chapter Eleven**

### **THE TASK FORCE REPORT ON LAND ADMINISTRATION**

#### **The Report**

This is the Report of one of the Task Forces commissioned during the temporary regime of Justice Shahabuddin Ahmed, Acting President of Bangladesh in 1991, while Mr. Rehman Sobhan was the Planning Adviser of the Interim Government. The Task Force Report on Land Administration has been studied with great interest.

The authors of the Report have dealt with limited objectives of discussing:

- a. the need for a national land policy,
- b. problems related to land ownership,
- c. conflicting land use and
- d. implementation of land reforms, in the backdrop of post-Independence activities.

Among the compelling factors demanding an effective national land policy, the authors of the Report have mentioned the following:

- i. productivity rationale,
- ii. equity rationale,



- iii. rural violence and social instability arising from pervasive land disputes,
- iv. unplanned forest depletion, ill-planned alteration of land-water balance and over-exploitation of land and water resources, causing environmental degradation.

A careful study will indicate that factor (iii) has been ever-emphasized and factor (iv) overstated. Appropriate comments in these matters will be elaborated later. The following is a summary of the rest of the Report.

Having stated why an overall land policy is needed, the authors of the Report have given (a) a profile of our land resources, with appropriate statistics regarding different land use categories and land classification and water resources development, (b) the structure of land ownership in the country, based on agricultural census, 1983-84 and a scenario showing the extent of landless and small peasantry, and (c) conflicts in land use between the competing claims of agriculture, forestry, fisheries, livestock and settlements.

The Report then summarises the salient features of post-Independence legislation on land reforms, with particular reference to the positive results of such reforms. It lauds the 1972 exemption of land rent for families owning land upto 25 bighas and the legislation bringing all 'shikasti' (perhaps an over-sight for 'payasthi') land i.e. newly formed or accreted land under Government khas possession.

Finally, the Report identifies major weaknesses standing in the way of formulation of a realistic land policy, as below.

- a. Failure to appreciate the overall land constraint, leading to exaggerated attention to redistributive land reforms, without caring for optimal utilization of public or state land resources;
- b. Failure to consider regional variation in implementing land reforms;
- c. Major flaws in elite perception of what constitutes the major land related problems of the country. These flaws are inherent in prevalent land administration system and the associated court process, vis-à-vis pervasive land violence, causing implementation failures.

- d. Absence of any centralized system of information on land resources and land rights, leading to false land transfers and consequent litigation.

### **Recommendations**

The Task Force recommendations given at the end of its report, can be briefly summarised as follows:

1. Reforms and upgrading of land management to be accepted as a corner stone of land policy;
2. BCS (Admin) cadre should be bifurcated into (i) Magistrate Pool and (ii) Land Management Pool;
3. The present system does not provide for simultaneous mutation of record-of-rights along with registration of land transfer deeds. This leads to civil and criminal litigation in cases of false transfers. In the interest of protecting tenancy rights of bonafide owners and efficient land management, simultaneous registration and mutation under a single authority like Assistant Commissioner (Land) at Thana level to be introduced;
4. A judicious land ceiling for urban lands should be determined and enforced;
5. Land acquisition needs of Government to be determined strictly in accordance with overall national land use policy;
6. Land Taxes must be collected rigorously from individuals and Government and autonomous bodies, including Defence installations. Land Tax should be at progressive rates. Different rates for different uses of land;
7. All khas land distribution programmes should be implemented through a high powered committee under the leadership of Deputy Commissioner and including ADC (Revenue), SP/Additional SP., AC (Land) and Union Parishad Chairman, through public hearing on site;
8. In Jalmahal management, regional characteristics to be considered;



9. Forest laws and forest administrative structure should be reformed in the interest of maximum efficiency in development of forest resources, keeping in view the protection of environment.

### **Our Comments**

It is difficult to agree with some of the observations and recommendations in the Task Force Report. In the first place, reference may be made to what the authors of the Report call "major flaws in the system of land record-keeping, registration procedures, colonial legacies in land laws, the court process and land administration system." Here, a proper appreciation of the basis on which record-of-rights (ROR) are prepared and maintained vis-à-vis the purpose of registration of all land transfer documents is called for. Our farmers—marginal, small or medium—consider possession of land as a means of social security and each one of them regard his or her individual Khatan (ROR) and dakhila (rent-receipt) very important. In course of preparation or revision of these land records—which is done on the spot in presence of the villagers concerned—the rightful and wrongful possession of each plot of land comes out on surface as crystal clear and is recorded as it actually is.

If a piece of land appears to be in wrongful possession of somebody, it is recorded as such. Yet these records, which show the exact picture in the field, have been given by law the presumptive value and any one challenging the legality of any particular record has the option to do so before a judicial officer in the civil courts. But such challenges are few and far between, because the records prepared in the field go through a process of continuous checking and correction at 'attestation', 'objection' and 'appeal' stages at the hands of superior revenue officers, before they are finally published under the provisions of law.

These record-of-rights when prepared or revised, are handed over to Deputy Commissioner's Tahsil staff, who have to maintain these records through a process of mutation occasioned by purchase, inheritance and other transactions leading to transfer of land rights. The Sub-Registrar who has the duty of registering all kinds of docu-



ments, including land transfer documents, has always to ensure that a land transfer form is duly filled up by the transferer at the time of registration, for the information of the tahsil office. As soon as the registration is completed, these forms with all necessary particulars of transfer written therein are transmitted to the tahsil office for incorporating necessary changes in their records.

In this context, it will be unwise to burden the Thana Asstt. Commissioner (Land) with the task of registration of land transfer documents, which will involve unnecessary additional task. The hands of AC (Land) are already full with the job of disposal of innumerable certificate cases for recovery of arrears rent, besides his other day-to-day management duties.

The Task Force has mentioned about rural violence and social instability arising from pervasive land disputes. It is true that "to an overwhelming extent, incidence of rural violence have their origin in land-related disputes." But at the same time to blow up the existence of such type of violence out of proportion is not realistic (see page 113 of this book.) Existence of rural violence flourished during Zamindary time, when 'lathials' of different landlords clashed very often over taking possession of newly thrown-up chars in big rivers and settling inter-Zamindary land disputes by force. But now that Zamindary system has been abolished and old laws and regulations relating to alluvion and diluvion eliminated, there is no question of such open violence coming up any more. Even if the provisions of previous alluvion/diluvion laws are restored, as is now begin contemplated, the alluvial accretions or chars thrown up in big rivers will at the first instance go into possession of the Deputy Commissioner's Khas Mahal Department. Parties claiming rights to the new chars and accretions will have to apply to the Deputy Commissioner for recognition and securing possession. On hearing contesting parties, the Deputy Commissioner will determine the rightful owner and then put him in possession.

As regards absence of a centralized system of information, reference is invited to the proposed LIS (Land Information System), which appears in the recommendations of the FAO-UNDP Study undertaken in 1988 by Mr. Hartley, a British Expatriate Consultant and referred to earlier in this volume. Even if the proposed LIS does

not obviously help the vast peasantry in regard to their individual needs, a district-wise LIS could be useful as a reserve of information for retrieving pieces of information on specific administrative purposes. (Vide page 39 of this book) But it is very doubtful if this can stop false land transfers and consequent litigation, because the jurisdiction of civil courts as the ultimate adjudicating authority cannot be taken away by the land registering body.

While describing the salient features of the post-Independence land reforms, the Task Force has lauded the legal measure for exemption of land rent for families owning land upto 25 bighas. This measure was, of course, laudable, as it gave relief actually to the landowning rural poor. However, this relief was later nullified by the introduction of Land Development Tax Ordinance, 1976, when all rents and cesses levyable upon land were abolished and instead, a graduated scale of land development tax was introduced. Extinction of the right and title of the owner in the diluviated lands and vesting of land gained by accretion from the rivers or sea in the Government was indeed a measure of expropriatory nature. This is why, it is reported, this measure is now going to be abolished and by and large the old provisions brought back in the Statute book.

The recommendation regarding the bifurcation of BCS (Admin) cadre does not appear to be feasible. An officer of BCS (Admin) is not supposed to work only as a Magistrate and a Land Management Officer. He has many other duties to perform. For example, he works as a Thana Nirbahi Officer (TNO), Nezarat Deputy Collector (NDC) and, on promotion, as Addl. Deputy Commissioner, Relief/General/Land Acquisition, besides as A.D.C., Revenue and Settlement Officer. Therefore, it is believed that the proposed structural changes are not only not feasible, but will also fail to yield the desired result. Nor is any major change in the present system of recording land ownership and land transfers justified. Concerned authorities are firmly of the view that the Land Records Directorate has to stay, but the reforms proposed in pages 109 to 116 of Chapter 12 of this book are unavoidable.

About other recommendations of the Task Force, optimal utilization of land and a proper mechanism for khas land re-distribution programme have found an important place there. As regards land



use planning, a separate Chapter (Chapter Six) in this volume has been devoted for analytical study and critical observations on the subject. For khas lands redistribution plan, the author is in general agreement with the views of the Task Force.

Lastly, one cannot help noticing an apparent major weakness in the Task Force Report. The report has not said anything about the vast majority of our rural poor, viz. the bargadars (share-croppers). In Chapter Seven and Chapter Eight of this book, it has been observed that the share-croppers must be the main target group for whom meaningful land reform measures should be aimed. In West Bengal (India), special measures were taken in the name of 'Operation barga' to record the bargadars with a view to ensuring that effective relief do reach them in protecting their barga rights and also giving them a fair share in the produce of the land they cultivate.



## **Chapter Twelve**

### **ON SOUND LAND MANAGEMENT**

#### **Physical Features and Population**

Bangladesh lies between the latitude of 20° North to 27° North and the longitude of 88° East to 93° East. Its frontiers lie mostly with the Indian States of West Bengal, Assam, Meghalay and Tripura, except on the south-east, where it has common boundary with Myanmar (former Burma) and on the south, where lies the Bay of Bengal. Bangladesh forms a part of the Bengal Basin and its pride is in its waterways and huge greeneries. The waterways comprise a large network of big rivers, streams and canals, totalling about 15,000 miles in length.

The country won its independence from Pakistan in 1971 after a bloody war lasting for 9 months. It has a total area of 55,977 square miles (147,570 sq. km.) and a population of 106 million, 314 thousand and 992 (106,314,992), according to 1991 census, with an average density of 720 persons per square kilometre (1,866 persons per sq. mile), excluding water areas. The rural population consists of more than 85% of the total population.

The total farm area comprises about 62% of total geographical area. There are about 10.04 million farm holdings. The pattern of land ownership shows that of 50% of the families (having land

above 2.5 acres) own 26% of the land and 70% of the families (having land below 2.5 acres) own only 29% of the land. The per capita availability of crop land is at present only 0.24 acre.

### **Pattern of Rural Society: The Rise of the Middle Class**

The land tenure system indicated in Paragraph One of this book was at the root of the formation of social pattern in the rural areas. At the top of the social rung was the Zamindars or independent talukdars who were the direct offshoots of widespread sub-infeudation. This chain of middle-men shifted from one to the other, the responsibility of collecting rents and looking after the interests of the tenants (raiyaats).

Under this system, all direct connections between the Zamindars and the tenants were severed. It prevented the Zamindars from fulfilling the functions which provide the economic justification for a landlord-tenant system. The tenure-holders immediately above the raiyaats had neither the incentive, nor the capital to effect any agricultural improvement. The land, which formed the basis of agricultural production, was nobody's concern. The system promoted the prosperity of that class in Bengal which had the leisure for cultural and political pursuits and provided educated men for the professions and government services and considered themselves as responsible for all political and social progress in this part of the sub-continent.

The men behind the plough i.e. the raiyaats or under-raiyaats who were at the bottom of the social ladder, were left completely to themselves with hardly enough means to eke out their existence. Although the land cultivated by them was generally fertile, any financial aid needed by them for carrying on the production process was loaned by the village money-lenders at exorbitant rates of interest. The poor cultivators thus became an easy prey to the oppression and illegal exactions from unscrupulous agents of the absentee landlords and the money-lenders. Even so, the raiyaats continued to be the backbone of the agricultural production. In fact, they along with the jote-dars (big landholders) formed the base from which sprang up the middle class of Bengal (particularly East



Bengal) which has always played a vital role in the social and political sphere of this area.

### **Original objectives of land reforms**

The original object of abolition of Zamindari system was to establish direct relation between the State and the cultivators. The Flood Commission Report submitted in 1940, clearly recommended that "the Zamindari or all types of rent receiving interests should be acquired by the Government on payment of compensation and the peasant raiyats should be brought into direct relationship with the Government." This has been ensured by a strict prohibition of subletting on the part of raiyats (present-day 'maliks').

In the process, the middle class landed hierarchy has disappeared and made way for small and marginal farmers to appear on the scene, in addition to the huge number of landless agriculturists and share-croppers. The share-croppers are those who, not being land-owners themselves, cultivate land for others, most of whom are absentee owners of land. They are really the biggest target groups in rural areas for whom a sound land management is needed. Unfortunately, a large portion of rural population, viz. 57% of the rural families are functionally landless and their number is increasing.

The landless families are categorized in 3 groups. Category I are those who have neither a homestead, nor any cultivable land. Category II are those who have only a homestead, but no cultivable land, while Category III are those who have a homestead and cultivable land upto 0.50 acres. The picture of landless families as depicted in Bangladesh Agricultural Census, 1983-84 is as follows:

#### *Landless families*

Category	Number in thousands	Percentage of total rural homestead
Category I	1198	8.7
Category II	2714	19.6
Category III	3898	28.2
	<b>7810</b>	<b>56.5</b>



### **The Recent Reforms**

Of the recent legislative enactments relating to land reforms and land management, Land Reforms Ordinance, 1984 and the Agricultural labour (Minimum wages) Ordinance 1984 stand out as significant. The first one provides for a second ceiling on acquisition of agricultural land. The original law fixed a ceiling at 100 standard bighas, which was subsequently raised to 375 bighas and then again, it was brought down to 100 bighas, beyond which no person can retain or acquire agricultural lands per family. The 1984 Reforms Ordinance says that families owning land upto 60 bighas (20 acres) are barred from acquiring further land by purchase, inheritance or otherwise. A family or person acquiring more than the lower ceiling limit by inheritance is allowed compensation for surrender of such excess land to the Government. Another feature of this Ordinance is a bar on eviction from rural homestead, even in the process of law, for non-payment of rent or tax. The same law has given some protection to share-croppers (bargadars) also. It provides for a 'barga-contract' for 5 years and ensures two-third share for a bargadar in the crop produced by his own labour, plough, seed, water and fertilizer. If, however, seeds and fertilizers are supplied by the landowner, he will share the crop to the extent of two-third. Full implementation of this law is yet to be practised. But steps have been taken in this direction.

The minimum wages for agricultural labour has been fixed at 3.27 kg. of rice or its equivalent market price, under the provision of Agricultural Labour (Minimum wages) Ordinance, 1984. In actual practice, this provision is yet to be enforced.

In 1989, two Acts were passed, viz. Land Appeal Board Act and Land Reforms Board Act. By these legislations efforts have been made for streamlining the administration under the Land Ministry, by creating two high-powered Boards, one for strengthening district revenue administration and the other for speedy disposal of appeals and cases brought against the orders of Divisional Commissioners and Addl. Divisional Commissioners in revenue matters. These two Boards by themselves have not proved to be adequate for achieving the desired objectives.

## **Present Objectives**

The concept of land management as distinct from land administration has not yet developed in Bangladesh. The main thrust is still on the collection of land dues, but the real objectives of a sound land management policy have not so far received sufficient attention. 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 landowners most of whom are sub-marginal farmers and landless cultivators. Apart from the collection of land revenue (now called land development tax), which is really a part of land administration, the objectives of good land management should include up-to-date maintenance of record-of-rights, quick and equitable settlement of khas lands and alluvial accretions, rent adjustment in diluvion-affected holdings, institutional financial assistance to landless and marginal farmers, speedy disposal of recovery proceedings and above all, provision for the required number of well-trained revenue officials and adequate supervision of such officials at all levels. As our economy is mainly agro-based, we have no option to ignore these objectives.

## **Present strength and weaknesses in Land Records Directorate**

The job involved in the maintenance of record-of-rights relates to preparation/revision of record-of-rights, including maps, as also to update these records (ROR) after they reach the District administration. At present, ROR is prepared or revised at periodic intervals through the agency of the Directorate of Land Records & Surveys. The techniques and methodologies employed in this connection are old, but dependable and the degree of accuracy in achieving the end-result is fair, compared to the cost involved. To quote Mr. W.S. Hartley, the British expert commissioned in 1988 under a FAO-UNDP Study, "Land information regarding ownership or shares of ownership is collected on the ground in such a way as to minimize local disputes. A procedure of settlement (or adjudication) follows to allow objections and appeals to be dealt with..." (Vide Mr. Hartley's Interim Report.)



The aforesaid FAO-UNDP study recommended certain improvements, which have not yet fully materialized. Modern methods of computerisation of land records by developing a kind of Land Information System (LIS), as recommended in its Report, will not go a long way in helping our tenantry who are huge in number. They hold lands or have some kind of interest in land, for whom a Khatian—a record containing their own individual land interests with essential details—is needed as a prize document for each. But as a reserve of information on district basis, the proposal LIS can be useful for retrieving stored information for specific purposes.

### **Updating of ROR**

Apart from maintaining Khatians (ROR) prepared by the Directorate of Land Records & Surveys, there is always a prime necessity to update these records from day to day. The change in different incidents of land records occurring everyday is a continuous process. Ownership of a parcel of land changes by way of transfer, purchases, sale, gift, mortgage and also by inheritance. This is a daily affair. One can see this phenomenon by a casual visit to the thana sub-registrar's office, where such changes are given a legal cover, by registering the relevant transfer documents. Changes also take place through other legal instruments. e.g. partition deed, auction sale, or such other transactions causing transfer of ownership or special rights in land.

A tahsil office operating under the direct supervision of revenue officials in a district or a thana has to give effect to such changes (as also devolution by inheritance) by correcting land records through a process called mutation. These mutation cases are heard and disposed of by a revenue official at thana level (now called Assistant Commissioner, Land). Before hearing and disposal, all such cases need a preliminary enquiry to ascertain the truth or otherwise of a mutation prayer, which job is done by the tahsildar. Disposal of mutation cases thus depends to a large extent on the expedition of tahsildar's enquiries.

### **Tenants' Woes**

The tenant's woes originate at this stage and unless the tahsildar is properly and effectively supervised by his superior officers, he has



an unlimited scope for causing delay, harassment or manipulation in his enquiry process. Here lies the source of weakness of the revenue administration in the district. The tahsildar has many other functions to perform. For instance, he has to keep a complete list of Government khas lands, including newly thrown-up chars or lands vested in Government as excess lands affected by State Acquisition Law or acquired by auction sale in certificate cases, etc. If the tahsildar's record is not complete, superior revenue official's job for a quick settlement of khas lands cannot be effectively done. Nor can he settle khas lands to really deserving persons, including landless and marginal farmers, unless the tahsildar is able to report correctly. Moreover, he is unable to make rent adjustment in diluvion cases if the report regarding extent of diluvion is not complete or received timely. A speedy disposal of recovery proceedings is not possible unless the necessary particulars of default in payment of rent are available.

### **Supervision**

The remedy lies perhaps in strengthening the tahsil staff and, more particularly, in posting experienced/trained revenue officials in the district revenue administration. More often than not, the Assistant Commissioner, Land posted in a thana is a fresh recruit who has just finished his foundation training in the B.C.S (Admin) Academy. Similar is the case with the Revenue Deputy Collector (R.D.C) or Add. Deputy Commissioner (Revenue), who often lack the required training to perform his duties efficiently.

### **District Land Administration**

As regards officials and staff employed now-a-days in settlement operations under the Directorate of Land Records, the picture is more grim. A Director of Land Records or a Settlement Officer is often reluctant to join his lack-lustre posting, compared to a district administration job. In the result, the supervisory posts above the Thana Assistant Settlement Officer in the Directorate of Land Records & Surveys are held by officers, who had rarely been in

settlement job before or were not sufficiently trained in settlement work. This could be avoided if some of the Thana Assistant Settlement Officers were manned from amongst the Assistant Commissioners (Land) immediately or soon after they completed their foundation training. This on-the-job experience would have, in due course, equipped them to perform the job of an Assistant Commissioner, Land, or Revenue Deputy Collector or Addl. Deputy Commissioner (Revenue) more effectively than at present. This is the Author's opinion.

### **Incentive for a Sound Land Management**

As an incentive, Assistant Commissioners (Land) posted and working in Thana Settlement work could be given a compensatory allowance, as was the case in the past. Similar allowance could also be considered for a Zonal Settlement Officer and his Charge Officers, who have to be constantly on field tour to perform their supervisory job effectively.

It is believed that a policy decision on the question of compensatory allowance deserves consideration, with a view to improving the efficiency of the officers posted in survey and settlement work. Along with this goes the problem of supervision at the district level of the management side, which demands much closer attention. A sound land management system will always remain a dream so long as the aforesaid weaknesses and problems are not adequately faced and tackled.