

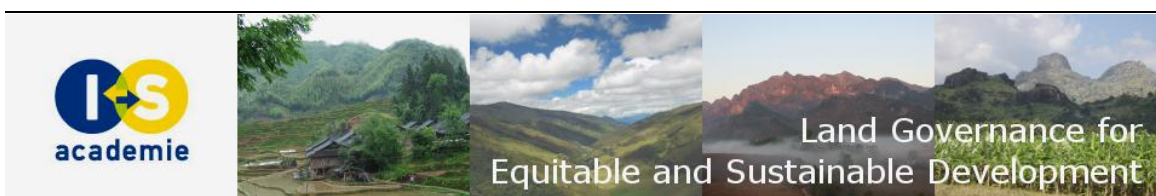
# BANGLADESH

## FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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### ABSTRACT

Bangladesh is a highly densely populated country experiencing strong pressures on land. The inequity of land ownership and the lack of production factors affects food security and food sovereignty. Many of the rural poor in Bangladesh are landless, have only small plots of land, are depending on tenancy, or sharecropping. Moreover, tenure insecurity is high due to outdated and unfair laws and policies. This results in increasing conflicts over land rights and wide spread land grabbing. These growing rural inequalities and instability also generate migration to towns, increasing the rates of urban poverty. Another major land governance issue relates to floods and water management. Defence against floods is accompanied by expropriation; on-going conflicts over control of water-bodies is negatively impacting the lives and livelihoods of poor fishermen communities. In the Chittagong Hill Tracts (CHT) region – the principal home of the country’s indigenous people – a separate legal regime that blends customary and formal law exists and differs from the rest of the country.





This country factsheet was prepared under auspices of LANDac – The IS academy on land governance - and compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands.

### **About IS Academy on Land Governance for Equitable and Sustainable Development**

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

### **About KIT**

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

### **Country expert contribution:**

We acknowledge and thank Mr. Shamsher Ali (Action Aid Bangladesh) for his insights and comments on the latest development impacting land governance in Bangladesh.

# 1 POLICY AND LEGISLATION

## 1.1 Regulatory land governance framework

Land inequality remains a problem in Bangladesh and is exacerbated by elite land grabs and the government’s own incapacity to execute legislation on land ownership ceilings. Since 1950<sup>1</sup>, numerous government policy and legislative efforts have sought to address the extreme inequality in land holdings but with very limited impact due to followed inefficient laws implementing process. The policy focus with respect to land is on land reform. This culminated in a number of laws and policy efforts addressing agricultural productivity and livelihoods, and equity. Despite government’s intentions however, the land ceiling in the 1950 Act and 1984 Ordinance have not been widely implemented (USAID, 2010).

The National Land Use Policy was adopted by government in 2001, setting out guidelines for improved land-use and zoning regulations. The policy was issued by the Ministry of Land but the government has difficulties with implementation (see 2004 Actionable Policy Brief) partly ascribed to the dispersion of land administration authority among many different ministries. To increase effectiveness and credibility of such reforms, the government should focus on decentralized and deconcentrated services.

A separate legal regime that blends customary and formal law exists in the Chittagong Hill Tracts (CHT) region- the principal home of the country’s indigenous people. Authority over land matters in the Chittagong Hills Tracts (CHT) region is shared by the central government and traditional institutions. The central government operates through its district and sub-district offices; but traditional jurisdiction over natural resource management and land and revenue administration lies with traditional village heads or chiefs (*karbaris*), the headmen responsible for several villages (*mauza*) and paramount chiefs or chiefs of revenue circles (*rajas*). Official government institutions maintain but rarely exercise concurrent jurisdiction (Roy 2004).

| Law  | Content  |
|--|--|
| National land use policy -2001                 | <ul style="list-style-type: none"> <li>(1) Stopping the high conversion rate of agricultural land to non-agricultural purposes;</li> <li>(2) Utilizing agro-ecological zones to determine maximum land-use efficiency;</li> <li>(3) Adopting measures to discourage the conversion of agricultural land for urban or development purposes;</li> <li>(4) Improving the environmental sustainability of land-use practices.</li> </ul>   |
| The 1972 Constitution (lastly amended in 2011) | Provides that all citizens shall have the right to hold, acquire, transfer and dispose of property.  |
| The 1950 State Acquisition and Tenancy Act     | <ul style="list-style-type: none"> <li>o Established a 33-acre land ceiling on private landowners, with the excess transferred to the government upon payment of compensation. government was charged with transferring the surplus land to the landless.</li> <li>o Agricultural land use for other purpose is prohibited. If needed, permission should be sought at the revenue officer for classification change.</li> <li>o Indigenous community, other than CHT, need permission of revenue officer to hand over their land to other communities</li> <li>o Revenue officer will update land records according to the hand over deed or land transfer deed.</li> <li>o Inheritance of land ownership will follow personal law.</li> </ul> |

<sup>1</sup> “State Acquisition and Tenancy Act-1950” is basic or fundamental law for land management in Bangladesh.

|  |   |
|--|---|
| The 1984 Land Reforms Ordinance                            | <ul style="list-style-type: none"> <li>o Placed a 20-acre ceiling on acquisition or holding of agricultural land and invalidated <i>benami</i> transactions, in which a person purchases land in the name of another so as to evade the land ceiling.</li> <li>o Provided greater tenure security to sharecroppers (bargadars) in sharecropping contracts with landowners</li> <li>o Agricultural households already occupying farmlands obtained rights to their homestead land through an anti-eviction provision (Uddin and Haque 2009; Shafi and Payne 2007)</li> </ul> |
| Transfer of Property Act 1882 and Registration Act of 1908 | <ul style="list-style-type: none"> <li>o Procedures for titling and registration of land ownership</li> <li>o Procedure of updating land records.</li> </ul>  |

## 1.2 Land tenure forms

The Bangladesh authorities recognize to a limited extent customary rights and practices notably regarding personal laws and simple civil matters. With respect to land principles of customary law are codified in formal law.

Ownership of land in Bangladesh is vested in either private individuals or entities of the state. Ownership-rights to land for individuals can be acquired through purchase, inheritance, gift or settlement by the government. The antiquated Transfer of Property Act 1882 and Registration Act of 1908 set out the procedures for titling and registration of land ownership, which are complex, long, costly and suffer from corruption. The registration fee amounts to 8% to 10% of the total value of the land (depends on the area, whether rural or urban) and other miscellaneous charges to 2%. Thereafter, another problem is the “procedure of Transfer of Property”.

At least 60 per cent of rural families are land-poor<sup>2</sup> including landless. These people are turned into seasonal laborers, working or sharecropping on land belonging to others. Therefore, a range of tenancy arrangements, including term leases and sharecropping, offer a significant part of rural households access to land. Sharecropper tenancy has declined, while fixed-rent tenancy and medium-term leasing arrangements have increased. Most land-tenancy agreements are conducted verbally, although the Registration Act of 1908 sets out a process for registered leaseholds.

|                     |  |
|---------------------|--|
| Common law freehold | Exclusive ownership of land for an indefinite period, estimated to apply to 69% of agricultural farm landholding in 2005   |
| Government land     | Khas Land owned by the Ministry of Land, as representative Collectors, are custodian. Waqf or Trustee land are under control of another ministry or department but managed by a committee. Khas water-body is owned by the Ministry of Land, Forest land are completely owned and managed by the Ministry of Forest & Environment. Railway has its own purchased land, so as the Armed Force Division.. Accordingly each ministry and department has its own land and their own <i>Estate Officer</i> .  |
| <i>Khas</i>         | Surplus land that violates the land ceiling law, other land owned historically by the state throughout colonial and Pakistani rule, Alluvial land, Land without owner, surplus/unused land of acquired land for public interest, Auctioned land, etc. that has been distributed to landless families for Ninety-nine-year use rights . The Ministry of Land is responsible for allocating <i>khas</i> land to the landless; however, corruption and bad motives have limited land allocations to the poor or landless. Land Acquisition law/policy, Shrimp policy, etc deprived the landless |
| Waqf                | Held by the state and administered by the Department of <i>Waqf</i> for religious purposes. Waqf is an Arabic word, which literally means tying up or dedication (to keep a property in safe custody protecting it free from private ownership). The system of <i>waqf</i> has been recognised According to the definition given in the Mussalman Waqf Validating Act  |

<sup>2</sup> Less than 1.5-acre of land owner.

|               |  |
|---------------|--|
|               | 1913 in India, waqf means the permanent endowment by a Muslim of any of his property for a purpose recognised by the Muslim Law as 'religious, pious or charitable'. It is in Muslim Law what nearly is 'bequeath' and 'bequest' in the Roman Law and ' <i>dan</i> ' in Hindu Law. All are endowments in some form or other. Personal property is endowed in waqf for religious, educational, or any other benevolent purpose under specific terms and conditions. In general, these terms and conditions in case of a valid waqf are: (1) it is a permanent arrangement, and cannot be done for a certain period; (2) it becomes immediately effective, and cannot be kept in abeyance; (3) it is an irrevocable legal contact; and (4) waqf property can never be confiscated. |
| Debottar      | Similar to a Muslim dedicator, a Hindu individual may also dedicate property for religious or charitable purposes. Such property is called debottar formed usually by will or gift. No writing is necessary for creation of debottar. But in case of an endowment created by will, the will must be a written document attested by at least two witnesses. No religious ceremony or formation of trust is required for purpose of debottar. All that is necessary is an unambiguous declaration that the property is set apart for this purpose. However, a trust may be created in favour of public religious charity.  |
| Leaseholder   | The right to use land for a fixed period which is owned by another.  |
| Leases        | Cash/temporary leasing agreements range from one to ten years of public or private properties.<br><br>Permanent lease means lease for 99 years that khas land distribution or settlement.  |
| Sharecropping | Sharecropper contract agreement must have for 5 years and are heritable. The sharecropper and the landowner each receive one-third of the crop; the remaining third is allocated based on each party's share for the costs of production. The sharecropper has a right of first refusal to purchase the sharecropped land at market price.   |

(Uddin and Haque 2009; Shafi and Payne 2007; GOB DOW 2008, Bangla Pedia)

### 1.3 Institutional land governance framework

Land administration and management is the realm of the Land Ministry. Only ownership of property transfer is issued under the jurisdiction of the Ministry of Law, Justice and Parliamentary Affairs.

The Ministry of Land have 4 divisions; (1) Land Administration, (2) Land Appeal Board, (3) Land Reform Board and (4) Directorate of Land Record & Survey (DLRS).

The Land Administration division is responsible for record keeping and updating, protection of public land-water bodies, Khas and water body management. It also deals with land tax fixation and collection, land transfers and land acquisition for public interest. It leases out public land and water body for limited year, is in charge of implementing the sharecropping law, and identifying alluvial or dilluvial land.

The Land Appeal Board is mainly responsible for resolving cases which had judgment by AC (land), ADC (Revenue) and Assistant Commissioner (Revenue). After the judgment of the Appeal Board, people could appeal at the judge court (under Law Ministry), which is the first step of judicial procedure. The Land Appeal Board has to resolve issues of tax fixation, mutation or records update and ownership settlement.

The Land Reform Board is mainly responsible for monitoring law implementation processes, facilitating study or collecting citizens' demand on any reform related to land management or administration. Accordingly the board make suggestions, recommendations or proposes alternative laws and send them to the Land Ministry. Accordingly, the Ministry takes the initiative to reform issues.

DLRS mainly responsible to prepare map & records according to the position/possession and documents. According to the manual, they concentrate more on position/possession then documents. DLRS does not correct position/possession and documents but only does prepare new map and records accordingly. Bangladesh is a museum of manual land record system;

DLRS is still using tools from the last decades; digitization of land record has been introduced only at very small scale and the process is very slow. Only 2 sub-districts have yet been completed.

#### 1.4 Gender

Regardless of the constitutional ban on the discrimination on the basis of gender, women in Bangladesh rarely have equal property rights and rarely hold title to land. Social and customary practices effectively exclude women from direct access to land (as a part of decision making process). Similarly, although national law accords men and women equal rights to access to property and land, family law and practices are barriers for women; women own very few assets. Their situation is further impaired by discriminatory inheritance laws and cultural norms. Daughters inherit half the share of property received by sons under Islamic law, and women a one-eighth share of their husbands' property and one-sixteenth of their sons' property (in case the sons predecease the mothers). In Hindu communities, women are always deprived from inheritance of any property. Overall, Bangladeshi women are unlikely to claim their share of family property unless it is offered to them. Women lack resources and knowledge of the law. Moreover, legal processes are complicated, corrupt<sup>3</sup> and hampered by cultural norms preventing from effectively using the law protecting their land rights (ADB 2004a; OECD, 2011).

#### 1.5 Land grabbing

Land-grabbing of both rural and urban land by domestic actors is a problem in Bangladesh. Wealthy and influential people have encroached on public lands with false documents and obtained court decrees to confirm their ownership, often with help of officials in land-administration and management departments (Uddin and Haque 2009, Feldman and Geisler 2011). Among other examples, hundreds of housing companies in urban areas have started to demarcate their project area using pillars and signboard before receiving titles. They use local musclemen with guns and occupy local administrations, including the police. Most of the time, land owners feel obliged to sell their productive resources to the companies at a price inferior to market value. Civil servants within the government support these companies and receive some plot of land in exchange. According to the Land Minister's statement of 04.02.2010 in Parliament; total 1.3 million-acre public land has been grabbed. The Land grabbing culture has been increasing because of non-transparent administration.

## 2 INTEGRATED WATER MANAGEMENT

### 2.1 Policy and legislation

Bangladesh hosts the world's largest delta where three Himalayan rivers reach the sea (Ganges, Brahmaputra and Meghna). Almost 80% of the country is considered floodplains and recurrent floods often destroy crops, infrastructure and housing, and erode agricultural land. Flood-control infrastructure has been initiated by government but is often ineffective. The expropriation of land has evoked opposition (USAID, 2010).

Bangladesh has developed in 1999 the National Water Policy and an Integrated Water Management Plan (IWMP) for 2000–2025. The 1999 Water Policy assigns water-allocation decisions to local administrative authorities. The IWMP addresses three major issues: (1) efficient use of water in the face of increasing scarcity; (2) providing all people with access to sufficient, good-quality water; and (3) ecologically sustainable use of the resource (Gupta et al. 2005; GOB 2008). The draft national water code of Bangladesh has been ready since 2010, but not yet been enacted into law.

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<sup>3</sup> TIB report 2011.

| Law  | Content   |
|--|---|
| The 1999 National Water Policy                                 | States that the government should develop a National Water Code to provide a comprehensive legal regime for the development, preservation and allocation of water resources.  |
| The 1927 Forest Act (amended in 2000)                          | Govern forests and forest products in Bangladesh.   |
| The 1994 Forestry Policy                                       | Seeks to bring 20% of the country's land under the reforestation programs of the government and private sector by 2015.   |
| Bangladesh Water Development Board Act or BWDB Act, 2000       | Is in charge of flood control, drainage and irrigation projects to increase productivity in agriculture and fisheries.  |
| SWMC Trust under the Trusts Act 1882 on the 24th December 1996 | Gave birth to what is now called the Institute of Water Modelling (IWM). Its main objective is the enhancement of the hydraulic and hydrologic knowledge base of the country to enable better planning of the country's water management investments. |

## 2.2 Institutional framework

The management and development of the water sector rests with the Ministry of Water Resources. The Water Resources Planning Organization is responsible for coordinating planning for all water resources programs and administration.

The administration of flood control, irrigation, erosion control and other water projects is with the Bangladesh Water Development Board with the Water Resources Ministry.

The Ministry of Environment and Forests hosts the Forest Department managing all government-owned forests. The 1992 Forestry Master Plan is a macro forest plan designed to address policy issues, institutional reforms, and environmental concerns.

The **performance of some government departments** has been poor; notably the forest department which is understaffed, involved in corruption cases. Moreover, work on forest policy, essential for watersheds, is consistently underfunded.

## 3 REALITIES ON THE GROUND

Access to land is **inequitable**. In rural areas 89% of landowners own less than 1 ha and thirty-nine percent have less than 0,2 ha. The number of **landless households** is growing (USAID, 2010). Cosmetic Land reforms have not redressed this situation despite tenancy reforms, imposed ceilings on landholdings, and provisions for the distribution of public land to the landless. Land governance is caught up with social, economic, and political power in Bangladesh. Moreover, land rights are insecure in large measure because of an inefficient, expensive, and corruption-prone system of land titling and registration (GOB BS 2008; Uddin and Haque 2009; USAID 2010; ADB 2004c; IMF 2005; ANGOC 2001; USAID, 2010).

The distribution of *khas* land to ineligible households, possession of government-allocated land by ineligible persons, elite and corporate land grabs of public land inhabited by landless people, unaccountable land administration and record management are among the common causes of land conflict. Overall **land grabs and illegal logging** by authorities and officials has reduced public confidence and support (ADB 2004b; Muhammed et al. 2008; World Bank 2006). 0). There is a demand in society to reverse land-grabs committed by elites and ensure due process.

The establishment of ownership rights over scarce land is highly competitive and **violence** is common (GOB BS 2008; ADB 2004c; IMF 2005; ANGOC 2001). **Land titling disputes** fall within the jurisdiction of the Ministry of Land but some disputes are resolved before an

informal dispute resolution body called a *shalish*, over which influential local leaders preside. The majority of both civil and criminal cases filed in the court system emanates from disputes over land and are linked to the system of land registration. Such disputes take extremely long to resolve, hampering most Bangladeshi of defending their land rights through the formal system (Uddin and Haque 2009; CARE 2003). It is therefore important to strengthen local and traditional conflict resolution bodies for alternative dispute resolution as well as to reform the laws, structures and accountability mechanisms.

Ongoing and increasing conflict in the **Chittagong Hill Tracts** region is related to the migration of settlers onto land held by indigenous people under customary law (Roy 2005; ANGOC 2001; World Bank 2010; CARE 2003; Uddin and Haque 2009; ISN 201) therefore need Cadastral Survey according to possession or position before 1980.

Ongoing conflicts over control of water-bodies is negatively impacting on life and livelihood of poor fishermen communities. There is a need to reform the water policy so as to allow for increasing fish-production while protecting the livelihoods of fishing communities.

## 4 RESOURCES AND OTHER INFORMATION

### 4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltpproducts/country-profiles/bangladesh/>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=BGD>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/BGD/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/BANGLADESHEXTN/0,,menuPK:295765~pagePK:141159~piPK:141110~theSitePK:295760,00.html>

### 4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

### 4.3 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: [http://www.fao.org/nr/water/infores\\_databases.html](http://www.fao.org/nr/water/infores_databases.html)
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>  
[http://www.fao.org/nr/water/infores\\_maps.html](http://www.fao.org/nr/water/infores_maps.html)

### 4.4 Portals and other resources

- [http://landportal.info/search/apachesolr\\_search/bangladesh](http://landportal.info/search/apachesolr_search/bangladesh)
- <http://www.landsa.org/search/?q=bangladesh>

### 4.5 Donor support programs

- The Asian Development Bank (ADB), the UK's Department for International Development (DFID), Japan, and the World Bank have developed a joint development strategy in Bangladesh, which includes improving land administration and land-use planning.
- DFID supports almost 300 NGOs that form the Association for Land Reform and Development (ILC 2009).
- The World Bank has partnered with the government to institutionalize participatory water management, strengthen water sector institutions, and maintain and improve operations of flood-control infrastructure.



#### 4.6 Civil society organizations working on land governance

##### Members of International Land Coalition from Bangladesh:

- [Association for Land Reform and Development](#) (ARLD). ARLD was established in 1991 and is the federating body of 273 NGOs, peasant's and landless organizations in Bangladesh, which are involved in the struggle to establish land rights, rights to food, rights to livelihood, and rights of the indigenous people of minorities. It is currently the main organization in Bangladesh working exclusively on land reform issues.
- [Association for Realisation of Basic Needs](#) –ARBAN: works a.o. on rights for landless and other disadvantaged and powerless people <http://www.arban.org/>
- [Community Development Association](#)

Other than ILC member ActionAid Bangladesh (AAB), Oxfam, Christian Aid, Bangladesh Legal Services and Trust (BLAST), Bangladesh Environmental Layer Association (BELA), Transparency International of Bangladesh, Ain O Shalish Kendra (ASK), Nijera Kori (NK) and Manusher Jonno Foundation (MJF) have been working for establishing land rights of women, poor & marginalized community through strengthening peoples movement, providing legal support, conducting study & research, sensitizing policy makers and media.

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