

CASE STUDY

Dinajpur District, Bangladesh

Twenty years of legal struggle to obtain ownership of public 'khas'

In 1994, the landless villagers of Rajarampur in Dinajpur district, Bangladesh, applied for access to public 'khas' land (government owned land available for allocation according to government priorities) that had been lying fallow for years. In 1995 they occupied 115 acres of this fallow land. The occupation was contested by local elites, who filed false claims of ownership. After 20 years of legal struggle and resistance against the local elites, the villagers obtained in 2012 confirmation from the court that the occupied land was public 'khas' land and received formal ownership titles for 52.44 acres.

PRINCIPAL ORGANISATIONS INVOLVED

Community Development Association (CDA)

LOCATION

Rajarampur Village, Dinajpur District, Bangladesh

TIMELINE

1991-2012

TARGET AUDIENCE

Civil society organizations, land rights activists, human rights defenders, think tanks, research organizations

KEYWORDS

Land grabbing, advocacy, pro-poor land reforms, access to land and natural resources

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GOOD PRACTICES

Towards making land governance more people-centred

This case study is part of the ILC's Database of Good Practices, an initiative that documents and systematises ILC members and partners' experience in promoting **people-centred land governance**, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information at www.landcoalition.org/what-we-do

This case study supports people-centred land governance as it contributes to:

- Commitment 1** Respect, protect and strengthen the land rights of women and men living in poverty
- Commitment 2** Ensure equitable land distribution and public investment that supports small-scale farming systems
- Commitment 9** Prevent and remedy land grabbing

Case description

Background issues

Bangladesh is one of the most densely populated countries in the world. With its population of 160 million, the majority of whom are dependent on agriculture for livelihood, the pressure of land is simply enormous. However, the structure of land ownership is highly unequal. This is a legacy of the absence of any meaningful land reform since the departure of the British in 1947. During the pre-partition period, land in the sub-continent used to be managed under the 'zamindari' system. Land used to be owned by the *zamindar* (literally meaning 'landlord') and peasants were to receive lease for agricultural production. Following the partition, the then Pakistan Government adopted the East Bengal State Acquisition and Tenancy Act (EBSATA) in 1951 to acquire the vacated land properties of the *zamindars* who previously had left to India. The lands acquired were thus declared as 'khas' i.e. properties under government ownership for which there were no living individual owners in the country.

Subsequently the then Government of Pakistan promulgated another law, Enemy Property Act (EPA), to confiscate the lands of Hindu minorities who had prior migrated to India. It came to be known as one of the most sinister legislations against Hindus, and was the key instrument in their eviction by the state from their ancestral land properties. The law continued to be enforced following the independence of Bangladesh, albeit in a modified name; Vested Property Act (VPA). It took more than 2 decades of persistent advocacy by the civil society to repeal this draconian law.

It was expected that these lands confiscated under EBSATA and EPA, would be distributed among the landless peasants. In reality, this was never comprehensively done and instead, much of these lands were usurped over time by a small coterie of powerful vested interest groups.

The present case involving the villagers of Rajarampur, situated in BirolUpazilla (sub-district) of Dinajpur district, northern Bangladesh, is illustrative of the struggle by the landless peasants to establish their rights over land. Like many villages in Bangladesh, the majority of the inhabitants are poor and most (80%) are landless and dependent on wage labour or sharecropping. The erstwhile *zamindar* of Rajarampur village left for India in the aftermath of the India-Pakistan war of 1965. Consequently, his land property amounting to about 115 acres and 7 large water bodies, were confiscated by the state under the EPA and declared as 'khas'. However, these lands and water bodies were illegally usurped by some influential individuals who started to sell them to various buyers. The landless villagers have had to carry out a long drawn struggle to establish their rightful ownership of these lands.

Solution

In the late 1980s, Community Developed Association (CDA) started working in Rajarampur village on a project for adult education. As part of its initiative, CDA facilitated the villagers in setting up a community-based association. The association, called 'RajarampurJonosongothon' composed of 120 members divided equally among male and female members, received training from CDA on various pertinent issues such as, human rights, organizational development, empowerment, livelihood security, etc.

Upon receipt of this training and in consultation with CDA, the Community Based Organisation (CBO) members took the decision to take possession of the land. They quickly built houses and also started fishery projects in the water bodies.

The land-grabbers at first tried to prevent the occupation of the land by the landless villagers by intimidation and physical violence. However, it did not deter the villagers in their determination. The land-grabbers also resorted to intimidation and physical violence towards the villagers and CDA staff. They also tried to harass CDA through their influence in the government.

At that point, the villagers with support from CDA took recourse before the court of law and filed a case through their CBO. Even this was not easy. At one point, the court delivered a verdict declaring that the land was technically government confiscated property under the VPA, and hence that the occupation by the villagers was illegal.

The villagers and CDA persevered with their legal course and CDA also strategized a media campaign involving the print and electronic media both at home and abroad. CDA organized demonstrations locally and launched a signature campaign addressed to the politicians and government officials, which collected 100,000 signatures.

On the other hand, the legal challenges were also thrown in, in equal measure by the land-grabbers, and they lodged several dozen false cases against the villagers and CDA. However, the perseverance of the villagers and CDA did yield the desired outcomes finally. The court quashed the false cases of the land-grabbers and in a landmark verdict in 2012, declared the land occupied by the villagers as 'khas' land and ordered the government to issue ownership documents to the villagers on these lands.

Currently, all the villagers have legal ownership documents over their land and are enjoying the benefits of their long struggle. This shows that the perseverance of legal action pays off.

Activities

The activities performed as part of the landless villagers' struggle to claim ownership of the land and water bodies, may be divided in the following phases:

- Initial phase: Getting organized and first contact with CDA (1987-1990)
- Legal fight: Filing of the case in the court and confrontation with the land-grabbers (1991-1996)
- Public mobilization: Media campaign, civil demonstrations, signature campaigns (1997-2011)
- Final victory: Court verdict and beyond (2012-present).

Initial phase: getting organized and first contact with CDA

This phase constitutes the start of CDA working with the villagers of Rajarampur. It started in 1987 when CDA undertook a project of adult education in the village.

CDA, upon assumption of its programme activities, also started to mobilize the villagers in claiming their rights and to help them in setting up a community based organization named 'RajarampurJonosongoton'. The organization was composed of 120 members with an equal number of male-female members. CDA followed this up with various forms of capacity building support, principally training and providing legal aid to the CBO members on relevant subjects such as human rights, empowerment and livelihood security. The support was provided from 1992 – 1994. With the awareness gained from the training, the CBO members decided to take possession in 1995 of the land comprising of 115 acres, which had in part been lying fallow including 7 water bodies.

Legal fight: filing of the case in court and confrontation with the land-grabbers

The decision of the Janosongothon members to occupy the land and water bodies faced an immediate challenge from a group of people who claimed to be the legal owners. Although in reality, the land was 'khas', confiscated under the Enemy Property Act (EPA) when the original owner left India following the Indo-Pakistan war in 1965, the claimants produced false ownership documents and started severe intimidation tactics to scare the CBO members. They even called the police and put a blockade on the village. As a result, the villagers were forced to stay inside the village and had to stop all their activities for weeks. The situation reached a critical point whereby the villagers were facing an imminent threat of starvation. CDA intervened again. It provided food and also legal and administrative assistance. This happened during the years 1993-1996.

Faced with this situation the CBO filed a case at the district court in 1994. CDA ensured facilitation to the CBO as well as legal aid. The CBO also submitted a petition to the Divisional Commissioner (a higher level government official than the district) with the assistance of CDA seeking administrative support from the government for their plight.

Meanwhile, the land-grabbers also continued their tactics of intimidation against CDA. They openly declared 'prize money' of 100,000 taka (about US\$ 1,400 at current exchange rate) to kill the concerned CDA staff. They also exploited their nexus with government officials and at one point the government issued a notice against CDA declaring the organization as an illegal entity and cancelling its registration.

Public mobilization: Media campaign, civil demonstrations, signature campaigns

CDA together with the CBO, launched a media campaign to draw the attention of the larger public and also the higher echelons of the government. CDA got in touch with about 22 prominent national and regional dailies and also the well-known foreign media like BBC and CNN. It also rallied its civil society networks at local and national levels to put pressure on the government and political parties. Further, it launched a signature campaign and collected more than 100,000 signatures, which were submitted to the government with a petition.

CDA's media campaign, civil society mobilization and public petition brought about a degree of calm vis-a-vis its relations with the government. The registration was re-instated and administrative sanctions were also revoked. However, the land-grabbers lodged more than a dozen false litigations in court against the CBO members and CDA.

At the same time in 1998, the court delivered a somewhat dubious verdict, which went against the rights of the landless CBO members. The verdict declared the occupied land as under the Vested Property Act (VPA) which also meant that its occupation by the landless CBO members was illegal.

Final victory: Court verdict and beyond

CDA and the CBO members persisted in their struggle and assiduously followed up their case in court. They appealed against the lower court's verdict in the higher court in Dhaka. At the same time, they continued to rally media and civil society in favour of their cause.

Finally, in 2012 after more than 2 decades of perseverance, the higher court delivered a verdict in favour of the landless CBO members. The verdict directed the government to issue ownership titles to the landless members and recognized their struggle as just and legitimate.

Importance of the case for people-centred land governance

The case may be taken as a template for strengthening the land rights of women and men living in poverty. It is also an example of prevention of and remedy against land grabbing. Finally, the case demonstrates the strong need to respect and protect the civil and political rights of human rights defenders working on land issues.

Changes

Baseline

At the start of CDA's initiative, about half of the population in Rajarampur village were functionally landless i.e. they did not own land beyond their homesteads. All of them were dependent on wage labour or sharecropping. The government had no policy over the 'khas' land distribution. Further, land reform was barely on the agenda of the government. In the subsequent years and decades, the government adopted a Khas Land Distribution Policy in 1997 and also a Land Use Policy in 2001, although implementation of these policies continues to remain patchy at best until today.

There are no precise statistics on the amount of available 'khas' land. AbulBarakat, a leading authority on agrarian economy in Bangladesh, estimates 5 million acres of 'khas' land in the country, of which 1.2 million acres are agricultural 'khas' land with an additional 1.2 million acres of 'khas' water bodies (Barkat et al. 2001). However, most estimates also report that the bulk of these 'khas' lands are outside the control of the government, concretely meaning that these are under illegal ownership of powerful individuals. The experience of the Rajarampur CBO members is a testimony to this fact, although in this case, the story ended in favour of the CBO members.

Achievements

In concrete terms, thanks to CDA's initiative, all the 120 CBO members currently have their own individual ownership titles over the 115 acres of land and the 7 water bodies. The land is divided in individual parcels by households whereas the water bodies are put under collective management of the CBO. Through this, the members undertake fishery projects and the profits are shared among all the members.

More importantly, the long struggle by CDA and its CBO members is one of many such incidences that took place in Bangladesh over the past decades and which directly contributed to increasing awareness among the general public on the issue of agrarian land reforms, distribution of 'khas' land among the landless poor households and their consequent livelihood security.

This growing awareness led to a larger debate among the policy-making circles, which contributed to the adoption by the government of the above-mentioned policies.

Considering the stiff competition over scarce land resources by an ever-growing population in the country, the majority of whom continue to depend on these resources for their livelihood, CDA's efforts should be appreciated in this broader context too. Further and most importantly, the changes that the ownership of land brought about in the lives of the CBO members genuinely transformed their life, ensuring their human rights and dignity.

Evidence

The biggest proof of the successful struggle by CDA and the CBO members is their ownership over the land and the water bodies.

CDA's struggle also contributed to the broader debate and subsequent policy changes in the administration of 'khas' land in Bangladesh. This has been documented quite widely in various NGO case studies and academic publications. Of the latter, the most notable is the monumental study coordinated by AbulBarakat, which was published as a book with the title 'Political Economy of Khas Land in Bangladesh' (Barkat et al. 2001).

Lessons learned

Lessons for civil society

These case provides invaluable lessons to the civil society organizations and activists:

- The cause of 'social justice' remains a higher call for activism. When CDA undertook mobilizing the landless CBO members, it could barely imagine the experience it would endure. At that time, CDA itself was new and hardly had any experience with the struggles of landless communities. However, its firm belief in social justice and the urge to establish the rights of the poor motivated CDA to continue.
- A collaborative approach with all the relevant stakeholders is necessary for the successful conclusion of any initiative. Despite CDA's determination land-grabbers were even more powerful, and alone, a civil society organization like CDA, stood barely any chance of success. What surely ensured CDA's success was the cooperation and support it received from various stakeholders; fellow civil society activists and organizations, media and allies in the government and political parties.
- Despite many loopholes and a negative perception, a legal recourse remains an effective medium to seek justice. The notion of 'rule of law' is seen as a fudgy idea, remaining on the side of the powerful and the mighty. However, notwithstanding the loopholes and the frustrations one endures seeking justice, it is still important to persevere. The success of the CBO members and CDA is testimony to the age-old dictum; "the perseverance of legal action pays off".

Lessons for policy makers

The growing assertion of the poor and marginalized for their rights is a reality across Bangladesh and also all over the world. The quest for social justice, human rights and dignity and decent livelihood is the driving force in this upsurge. Policy makers should be aware of the fact that an apparently isolated incident, however insignificant, can lead to broader changes if not properly understood and addressed, as CDA's case demonstrates. The lone struggle of CDA and its CBO members finally made important contributions to policy changes governing 'khas' land distribution and agrarian reforms in Bangladesh.

Challenges

The case demonstrates the conviction and tenacity of CDA and its CBO members, which finally paid off their expected results. The odds were overwhelmingly against CDA during most part of the struggle but its perseverance finally prevailed.

Most importantly, it is also its faith in the legal recourse, despite occasional setbacks at various intervals during the course of the case that ensured the definitive remedy to the cause of the landless CBO members.

Follow-up

The case study might be taken as an example of success in ensuring social justice for the marginalized communities against tremendous adversities. Success remains hardly guaranteed given the low level of awareness among the communities, an administrative and legal system mired in inefficiencies and corruption (Bangladesh has persistently ranked in the recent years among the top countries in Transparency International's Corruption Perception Index) and a very tenuous culture of rule of law. By the same token, it also gives hope for a better future for the poor and the marginalized.

Bangladesh may be a poor country with high socio-economic disparity but the activism of Bangladesh's civil society, which while weak and fragmented in many aspects, also remains vibrant and resilient and on most occasions acts as a bulwark against discrimination and inequality. The country's legal system may be inefficient and slow but as the case shows, with enough tenacity, it tends to deliver good-sensed verdicts to ensure and uphold the people's rights.

The case can offer an example for potential replication in other regions of the world. What is necessary to take into account here, is an inclusive approach that involves all stakeholders for strategy and a determination to continue with a long drawn-out process in terms of legal redress (any short-term approach is unlikely to yield the intended outcomes).

Supporting material

References and further reading

Barkat, A., Zaman, S. and Raihan, S. (2001) *Political Economy of Khas Land in Bangladesh*. ALRD, Dhaka.

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