

# **Draft National Land Policy**

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## **1. Introduction**

### **1.1. The setting**

The land policy of Bangladesh consists of layers of policies issued by various ministries. Except for the Land Use Policy 2001 and the two policies relating to *khas* land management, the policies pertaining to land are found scattered in different documents designed for specific sectoral purposes such as coastal zones, agriculture, and forestry. The policy documents relevant to land contain useful policy statements. At the same time, however, they also contain inconsistent and overlapping policy statements. There are also a number of important issues of land management and administration that these policy documents are silent about.

While the useful policy statements should be retained and carried over to form part of a national land policy, the deficiencies and gaps of the policy documents must be addressed. By so doing, the nation can rectify one of the primary factors impeding the realization of an integrated and multi-sectoral approach to land management and administration in the country.

The Government has been taking concrete measures to address the problems relating to land administration and management. At the same time, however, the Government recognizes that more needs to be done at the policy level to tackle crucial systemic anomalies. As it stands now, the complexity and magnitude of issues pertaining to land administration and management in Bangladesh cannot be overstated. The nature and volume of land disputes in the nation call for practical measures directed at improving the land administration and management system. For example, multiple claims to the same property are widespread. Land grabbing presents serious legal and governance related challenges. Significant number of the urban population live in informal settlements and lack tenure security and access to basic services. In rural areas, landlessness is a serious issue. Improper conversion of agricultural land for non-agricultural purposes adversely affects the environment and the agricultural economy of the country. Equitable allocation of state-owned land has yet to take firm root. The legal framework calls for improvement to properly govern the preceding and other related issues.

A close scrutiny of the legal framework for land brings to the fore gaps and deficiencies, which constrain the balanced role that the law should play in land management and administration in the current context of Bangladesh. The institutional set-up requires better coordination and integration of the land administration system, especially with respect to recording and registration of rights to land.

## **1.2. Rationale for a National Land Policy**

The following reasons took primacy for initiating the formulation of a National Land Policy:

- (a) The Government has been taking serious initiatives to improve the land management and administration systems. However, a more holistic reform agenda of land governance system in the country ought to be guided by a coherent national land policy that deals with all major issues in a comprehensive manner;
- (b) A national land policy is expected to serve as an effective and convenient tool for addressing all cross-cutting issues in a consistent and coherent way;
- (c) A national land policy helps to ensure consistency of policy statements pertaining to land;
- (d) A national land policy can facilitate effective implementation and inter-institutional coordination mechanisms; and
- (e) A national land policy provides easy reference to users of the land policy.

## **2. Declaration**

The Government has formulated this national land policy to provide general guidance to all concerned for the management and administration of land in a coherent, efficient, equitable, and sustainable manner. This national land policy is a harmonized policy in terms of transcending beyond sectoral perspectives. And as such it is intended to serve as a basis for coordination between relevant sectors and as general framework for areas that need to be followed up by development of sub-policies.

## **3. Policy Vision**

The vision of the national land policy is to facilitate the maximization of social and economic benefits of land to all segments of the society based on equitable, orderly and sustainable use.

## **4. Policy Objectives**

The overall objective of the National land Policy is to promote equitable and sustainable development. The specific objectives of the National Land Policy are to provide guidance on developing a legal and institutional framework that is necessary:

- (a) To provide every citizen access to land;

- (b) To promote equitable and efficient land allocation and land use planning systems;
- (c) To promote an efficient land administration and management system;
- (d) To promote land tenure security for all citizens.

## **5. Land Policy Principles**

The National Land Policy is premised upon the following core principles:

- (a) The land policy framework shall serve the diverse interests of the different segments of the society;
- (b) Any person's right to access to land must not be affected by any legal hurdle on account of personal matters such as gender or ethnicity.
- (c) Promoting institutional coherency and integrity is necessary to achieve an equitable, efficient and sustainable land management and administration system;
- (d) Transparency, accountability and community participation are important for effective land administration;
- (e) Land resources should be utilized for the benefit of the entire nation and efficiency of land use must be promoted by facilitating transparent land transfer;
- (f) Information on land ownership and user rights should be generally accessible to the public at designated offices;
- (g) Schemes for distribution of land ownership and other forms of access to land must be designed and implemented in a manner that protects the interests of the landless and poor as well as in a manner that ensures social harmony.

## **6. Land Policy Framework**

The Government has formulated the National Land Policy statements in accordance with its vision for establishing equitable, efficient, and environmentally sustainable land management and administration system.

These policy statements are meant to provide general guidance for managing and administering land in an equitable, efficient, transparent, accountable, and sustainable manner.

### **6.1. Land Tenure Classification**

The manner in which land tenure classification is provided under the existing laws and policies calls for revision. In particular, the definition of 'Government owned land' has been variably used in a way that does not strictly conform to the relevant constitutional provision. To promote efficient and transparent land management

system, providing land tenure classification in simple and clear terms is essential.

**Policy Statements:**

All land in Bangladesh shall be classified as private, state, public and community land and the definitions of each classification will be clearly stated and consistently applied throughout the body of land related laws. The following meaning shall be attributed to ‘private land’, ‘state land’, ‘public land’, and ‘community land’.

**(a) Private Land**

Private land denotes land held by an individual or other legal entity under freehold or leasehold tenure.

**(b) State Land**

State land refers to agricultural and non-agricultural *khas* land that the state manages on behalf of the public.

**(c) Public Land**

Public land denotes all land owned by the Government including its agencies and allotted for a specified public use. Public land may also be allotted for large-scale development projects implemented under public-private sectors partnership.

**(d) Community Land**

Community land denotes land lawfully or customarily held, managed and used by specific social or religious entities in a defined geographic location. To promote tenure security and sustainable utilization of land resources, the Government shall map and document agricultural land or pastureland owned and managed by a specific community and incorporate such land into the formal land registries.

**6.2. Land Management**

Some aspects of the land management system in Bangladesh call for updating. The existing reality requires effective legislation and institutional structure by which *State and public* land can be identified, evaluated, conserved, recovered, and distributed. The two distinct policies that were issued to provide guidelines on the identification and distribution of agricultural and non-agricultural *khas* land have been rendered ineffective due to lack of follow-on implementing legislation. The system requires more effective tools and methods that are appropriate to improve land use planning. The legal framework, practices and institutional arrangement that pertain to preventing inappropriate land use conversion should also be revisited to cope up with changing reality.

## **Policy Statements:**

### **(a) Private Land Management**

The Government shall promote and protect the security of tenure of private land owners and other legitimate interests in land.

The Government shall revise the existing provisions of the law on private land ownership to ensure that private land is owned or held in conformity with pertinent laws.

### **(b) State and Public Land Management**

As a custodian of the state and public land, the Government shall manage, conserve and use state land judiciously and in a planned manner; and distribute such land equitably to the landless and for other purposes that promote economic and social growth for the entire nation. The Government shall define by law the principles, rules and procedures for managing, allocating, conserving, and distributing state and public land.

### **(c) Inventory and Custodianship of State Land**

To promote lawful and efficient utilization of state land, the Government shall designate and keep an inventory of all state land and place it under the custodianship of the Ministry of Land to manage in trust for the people of Bangladesh.

### **(d) Inventory and Custodianship of Public Land**

The Government, through the Ministry of Land, shall designate and keep an inventory of all public lands and place them under the custodianship of concerned public authorities for a specified public purpose.

### **(e) Public or State Land Acquired Irregularly**

The Government shall facilitate the establishment of effective mechanisms for recovering and repossessing any state or public land occupied unlawfully or irregularly.

### **(f) Legal Framework for Public and State Land Management**

The Government shall develop and proclaim a legislation that adequately provides for, *inter alia*, the following matters:

- (1) an effective institutional structure by which state and public land can be identified, recovered, evaluated for its value and specified use, conserved for designated purposes, distributed, and managed so that they may be utilized on a sustainable basis;
- (2) rules and procedures for the surveying and mapping of state and public land;

- (3) rules and procedures for identifying reserves and other areas that must not be alienated;
- (4) rules and procedures for monitoring adherence of users to terms of allotments;
- (5) principles and rules preventing uses other than for the designated specific purpose;
- (6) rules and procedures for allocating and distributing state land to identified landless users;
- (7) Guidelines to prevent environmental degradation and to protect fragile ecosystems in relation to state and public land uses and leases.

**(g) Community Land Management**

The Government shall legislatively establish clear rules and procedures for the recognition, protection and registration of pastureland or other land owned by specific communities. The legislative measure shall envisage participatory processes in identifying and recognizing community ownership.

**6.3. Land Use Planning**

As it stands, land use planning in Bangladesh leaves room for improvement. Erratic housing developments and unnecessary conversion of arable land for non-agricultural purposes should be discouraged. Considering the high density of population in the country, judicious land use planning should be regarded as a strategic national interest.

**Policy Statements:**

**Multi-sectoral Planning Process**

The Government shall facilitate an integrated and multi-sectoral approach to land use planning by implementing the principle that all land development shall materialize based on duly approved plans developed and approved by competent authorities. The competent planning authorities shall develop plans in consultation with local communities and relevant public agencies so that the current and future needs of local communities and various public sector entities are considered, as appropriate.

**Urban Planning Legal Framework**

The Government shall reform the existing legal framework for urban planning to redefine different levels of plans together with the accompanying roles and responsibilities of respective national and local agencies. The revised legislation shall provide for four types of development plans: 1) the national development plan, 2) local plan 3) master plan, and 4) the detailed plan.

## **Planning Standards for Unplanned Areas**

A revised or new urban planning law should consider incorporating provisions that promote minimal planning standards to declared regularization areas in unplanned areas. This means, the legal amendments should aim at preserving existing layout in unplanned areas, unless there are compelling public interests that warrant planning alterations to the existing layout.

### **6.4. Land Use Planning in Rural Areas**

There is a need to promote development control in rural areas of Bangladesh. With unplanned exploitation of valuable agricultural land, villages are expanding and non-agricultural uses of land are gradually engulfing surrounding crop fields. It is of paramount environmental and agricultural concern that industries and factories have been constructed in the adjacent land of the owner's own residence. Development and expansion of human settlement and physical infrastructure occur in unplanned fashion. Appropriate legal mechanism to address such problems is needed.

#### **Policy Statement:**

To redress the lack of development control in rural areas, a new law shall be developed and proclaimed to guide and govern rural development – including housing and infrastructure development - in a planned manner. Such legislation shall be developed and proclaimed with the principal objective of preventing misuse of farmland and protecting the environment. In the development of such legislation the following matters, among others, shall be considered:

- (a) The process of land use planning and allocation of land for various purposes shall involve the active participation of the local communities and local government bodies that function at the District, Upazila and Union levels.
- (b) Land acquisition for public use purposes should be limited to the minimum required land for the specific purpose.

### **6.5. Unplanned Developments**

Significant proportion of the urban population of Bangladesh resides in property located outside the formally planned parts of urban areas. At a time of rapid urban growth, this poses significant challenges to the nation in terms of managing urban development. As things stand, unplanned developments are not formally recognized as part of the urban fabric which has resulted in a significant disconnect between the 'formal city' and the reality on the ground in terms of provision of adequate development attention whether in the form of orderly upgrading or the provision of meaningful interventions aimed at improving tenure security and living conditions.

## **Policy Statements:**

### **Upgrading Unplanned Developments**

The Government shall gradually upgrade unplanned developments formed on environmentally tenable land as certified by the relevant government authority and relevant municipality and endeavor to integrate them into the formal planning processes of urban areas. The Government shall promote land tenure regularization in these areas in collaboration with the concerned communities based on standards to be established by law.

### **Legal Framework for Regularizations Schemes**

A law and regulations shall be issued to govern the implementations of unplanned developments regularizations schemes. Such a law and regulations will, *inter alia*, govern the preparation of a draft scheme of regularization; community and public authorities' partnership in the process of preparing regularization scheme; the modality of approval and declaration of regularization scheme; and implementation of a scheme of regularization. The planning aspect of the issue of unplanned developments shall be dealt with by a reformed urban planning legislation.

### **6.6. Inappropriate Conversion of Agricultural Land**

There has been widespread conversion of agricultural land through extra-legal norms and procedures. In particular, housing development agencies have been creating more pressure in converting agricultural land for housing development. Such conversion does not only infringe on those whose livelihoods are intricately woven into the land, but often lacks any rational integration into the larger urban planning process. Although urban expansion is inevitable and may even be desirable at times, Bangladesh's supply of arable land is getting increasingly scarcer as a result of widespread conversion for unproductive purposes.

#### **Policy Statement:**

The Ministry of Land, in consultation with the ministries of Industry, Housing and Agriculture, shall take the initiative to introduce a bill to protect the country's limited supply of fertile land which is fundamental for ensuring the food security of the entire population in general and the survival of those segment of the people whose livelihood depend on agriculture. The bill shall aim at addressing the need to completely stop the unplanned acquisition or conversion of irrigable and fertile agricultural land for non-agricultural purposes. The law shall, *inter alia*, provide that fertile agricultural land producing two or more types of crop should never be used for non-agricultural purposes, such as housing, the construction of individually owned establishments and brick fields.

## **6.7. Environmental Sustainability**

Bangladesh has diverse ecosystems which include agricultural lands, non-agricultural lands, forests, wetlands, coastal ecosystems, national parks, and water bodies. The core problem in the conservation and management of these ecosystems is related to their unsustainable exploitation arising principally from conflicting land uses and inadequate enforcement of land resource management laws and guidelines. Moreover, the land management and administration systems in Bangladesh have not yet assigned priority to environmental issues with regard to the sustainability of natural resources. Degradation of land caused by natural and artificial causes such as inappropriate land uses and unsustainable exploitation, population pressure, lack of adequate flood controls, unplanned urban expansion, poor quarrying techniques, and deforestation has adversely affected land and land resources in Bangladesh.

The level of public awareness of environmental issue is also an issue that needs to be addressed. Environmental protection campaigns in the context of land use are most successful when supported and implemented by the general public. However, public awareness of environmental issues leaves a lot to be desired.

### **Policy Statements:**

#### **Environmental Impact**

Noting that land is a natural resource that is fundamental to the livelihood of the people, the Government shall take appropriate measures to protect land for the present and future generations. Land management and administration issues shall consider the environmental impact of all aspects related to land use, land allocation, and resource use and management.

#### **Fragile Ecosystems**

The Government shall protect fragile ecosystems by taking the following measures:

- (a) Develop legislation that integrates and balances the protection of fragile ecosystems and considers the needs of the local communities;
- (b) Implement zoning regulations for all eco-fragile areas such as forests, water bodies and coastal areas to protect them from unlawful encroachment by any person or organization and further degradation;
- (c) Develop legislative norms and procedures for rehabilitation and co-management of forests and pasturelands and management systems as well as sharing of benefits with local communities.

## **Environmental Public Awareness in Relation to Land Use**

The Ministry of Land shall, in collaboration with the Ministry of Environment and Forest and other relevant ministries and public agencies, initiate a campaign of environmental public awareness in relation to land to ensure that all citizens develop a level of environmental awareness required to support and implement environmental protection measures in relation to land use.

### **6.8. Land Acquisition**

Abuses in relation to land acquisition may occur principally due to the loopholes or deficiencies that exist in the pertinent legal framework, especially in relation to the purpose for which the Government may exercise its power of land acquisition and payment of compensation. As it stands, the relevant provisions of the law fall short of adequately defining the purpose for which the state's power of land acquisition may be exercised. Moreover, the existing legal framework does not provide for judicial review against any wrongful acquisition of immovable property by the Government. The non-existence of judicial remedy against inappropriate acquisition leaves those at the receiving end of power abuse defenseless.

#### **Policy Statements:**

##### **(a) Protection from Arbitrary Deprivation of Property Rights**

In consideration of constitutional and justice principles, no one may be deprived of property rights except in accordance with the law, and no law may allow arbitrary and forcible deprivation of property rights.

##### **(b) Land Acquisition**

The Government shall review the law on compulsory acquisition in order to provide that the pertinent authority may exercise its power of land acquisition under strictly defined legal procedures and rules and solely for the purposes of public use. The revised law shall clearly and strictly define the term 'public use' and also provide for land acquisition processes and procedures that are efficient, transparent and accountable. Further, the revised law shall provide that the power of land acquisition be exercised by the Government through the Ministry of Land.

##### **(c) Compensation**

The Government shall revise the relevant provisions of the law to provide for the payment of adequate, fair, timely and just compensation in the event of acquisition.

## **6.9. Land Databank**

Rising population and inequitable distribution of land have led to an increase in the demand for land and land based resources especially among the poor and the landless. The implementation of equitable and efficient allocation of land including distribution of land to the landless and vulnerable segments of the society as well as for productive economic use will depend on the availability of land.

### **Policy Statement**

The Government shall establish land databanks in order to facilitate the successful implementation of equitable and efficient allocation and distribution of land to the landless. The databank will contain all necessary information needed for periodic inventory and protection of state land.

## **6.10. Land Holdings Ceiling**

According to the State Acquisition and Tenancy Act and other provisions pertaining to land ownership ceilings for agricultural and non-agricultural land are 60 *bigha* and 100 *bigha* respectively. However, the provisions of the law dealing with ceiling on landholdings have not been fully implemented according to the letter and spirit of the relevant laws. The underlying reform agenda behind the ceiling provisions of the law was to promote equitable use of land and improve access to land, especially for the vulnerable segments of the society and for those whose livelihood depends on land. Considering the ever increasing pressure on land, the reform agenda behind the provisions on landholding ceiling is much more relevant today.

### **Policy Statement:**

#### **(a) Inventory**

The Ministry of Land shall establish and maintain a mechanism by which it conducts an inventory of landholding exceeding the legal ceiling.

#### **(b) Revisiting Ceiling Limit**

The Government shall revisit the existing provisions of the law to consider reducing the landholding ceiling limit.

## **6.11. Regulating Ethnic Communities' Rights**

The question of land in areas inhabited by ethnic communities is extremely contentious owing to its peculiar historical and legal roots. In spite of the potentially explosive situation surrounding this question, the Government has yet to take appropriate measures to

meaningfully address the land claims of ethnic communities. The relevant legislation inherited from the country's colonial past - and subsequent laws and policies - do not recognize the concept of land ownership under ethnic communities' customary laws and practices. Instead, the existing relevant laws and policies have established legal basis for land settlement rules and procedures that disregard the customary rights of ethnic communities.

**Policy Statement:**

The Government shall develop and proclaim a law that provides for standards and criteria by which the legitimacy and validity of ethnic communities' land claims are determined and formally recognized. The law shall envisage the vesting of community land in representative community based structures and adapt the system to adjudicate and recognize customary land rights. The law shall also incorporate indigenous land management norms and practices, and provisions that ensure respect of the rights of vulnerable groups and women.

**6.12. Land Grabbing**

Land grabbing has been one of the most problematic aspects of the whole land issue in Bangladesh. The act of land grabbing is often accompanied, preceded or followed by equally unlawful acts such as faking deeds and registration of property rights through corrupt practices. The accompanying unlawful acts complicate the land tenure issues concerning the grabbed land and often result in dispute and social friction. In both rural and urban areas vast areas of land have been appropriated by vested interests resulting in injustice in terms of the misuse of public resources by vested interests to the exclusion of others whose livelihood depend on land. The pertinent provisions of the penal have not been effective to deter land grabbing. Considering the range and complexity of cases of land grabbing, there is a dire need for a pragmatic and effective legislative measure to prevent or discourage land grabbing.

**Policy Statement:**

The Government shall enact a law to establish that no person who appropriates state owned, public, private, or community land can obtain a formal recognition to the land or any real property on the land and any real property will be liable to forfeiture.

The law shall also establish that any developer who acquired land from a grabber and subsequently developed it and transferred to other occupiers shall be presumed to have *de facto* acted as public agent in the sale. The implication of the presumption that the land grabber acted as public agent shall be obliging the land grabber to pay over to the Government the whole proceeds of the sale of the grabbed land or face sequestration of his assets.

The law on land grabbing shall distinguish cases of persons who acquired grabbed land in good faith and desperate squatters who occupied public land to accommodate themselves and their immediate household from cases where vested interests grab land to dispose of for profit or to use it for other purposes. To deal with the former categories of unlawful occupation of land, the Government shall consider enacting a regularization law that provides for standards by which the Government may grant secure tenure of real property.

### **6.13. Protection and Use of Coastal Land**

The vast stretch of sandy land that arises periodically from the seabed of the Bay of Bengal in the south of the country has not been protected or put to just and appropriate public use. Such land is often unlawfully grabbed by powerful elements and used in unplanned manner.

#### **Policy Statement:**

##### **(a) Immediate Legislative Measure**

To ensure appropriate and just use of coastal land and prevent misuse of such coastal land and islands the Government shall enact an effective legislation that provides legal and institutional tools to restore unlawfully appropriated or occupied coastal land and to prevent unlawful appropriation or occupation of such land in the future.

##### **(b) Long Term Strategy**

As a matter of long-term strategy, develop and implement a planning process based on a framework for the collection of baseline data on various land uses in the coastal belt, including inventory of critical ecosystems and natural resources, socio-economic assessments, population patterns, and existing resource use patterns.

### **6.14. Protection and Use of *char* land**

According to the Land Use Policy of 2001, landless victims of river erosion are given priority for char land distribution. However, it is recognized that areas of land that can be naturally gained through accretion processes may not be significant enough to solve the problem of landlessness caused by river erosion. Moreover, the government or land owners of the erosion-level areas who stay around their land usually face problems in regaining possession of the alluvium land. This is mainly due to non-existence of efficient *char* land identification and marking mechanism and widespread acts of land grabbing.

**Policy Statements:****(a) Rights of Previous Owners**

The previous owners of alluvium land shall be allowed to regain possession of their land within the timeframe prescribed by law.

**(b) Government Ownership of Alluvium Land**

The Government will assume ownership of alluvium land, if *char* land emerges from river or sea and there was no owner of the land before; or the *char* has emerged after a lapse of the time prescribed by law, irrespective of whether there was an owner of the land before. Such *char*, if deemed fit for settlement, shall be primarily used for the purpose of alleviating the problem of landlessness.

**(c) Marking and Identification of Char Land**

The Ministry of Land shall issue guidelines for periodic *diera* surveying and recording of alluvium and diluvium lines. The Ministry of land shall also put an efficient mechanism to implement the guidelines.

**6.15. Land Survey and Settlement**

The land settlement and survey aspects of the current land administration system in Bangladesh call for basic changes in ways that the current needs and dictates are addressed. The existing cadastral surveying system is characterized by procedures that are cumbersome and outdated. At present, land surveying in Bangladesh is conducted according to the Bengal Survey and Settlement Manual that was issued in 1935. The manual was issued in accordance with the Bengal Tenancy Act 1885. Although the Bengal Survey and Settlement Manual provide for survey standards, these standards and processes have not been updated for about 80 years and do not therefore envisage the latest technological and methodological developments. Therefore, the legal framework and practices require legislative and technical rationalization and strengthening to cope up with modern dictates.

**Policy Statement:**

The Government shall revise the Survey Act of 1875 to facilitate the introduction of modern surveying technology into the existing system, rationalize the survey authentication procedures and ensure that the procedures for demarcation and surveying for settlement purposes are conducted in a manner that is more participatory. The Ministry of Land shall cause the revision of the existing survey and settlement manual and guidelines in conformity with a revised land Survey and Settlement Act.

## **6.16. Land Settlement Procedures**

The legal framework and institutional arrangement for land settlement process in Bangladesh call for improvement to promote streamlined, expeditious and just settlement operations. Land settlement is currently conducted based on a manual, policies and rules and few provisions incorporated in the State Acquisition and Tenancy Act 1950 and Survey Act 1875, which are not adequate and responsive for the current needs of the country.

### **Policy Statement:**

The Government shall cause the review of the policies and laws related to land settlement to make the process of settlement transparent, just, accountable and efficient. The Government shall cause a paradigm shift from the existing practice of publishing *khatian* after the lapse of several decades to a legislative norm where land records are published in a reasonably prompt manner. To implement this policy effectively, the Government shall equip the pertinent authority with adequate human and material resources.

## **6.17. Land Dispute Resolution**

The situation of the land recording functions and responsibilities vested in different governmental entities affect property owners' security of tenure and often result in multiple claims over one and the same property. Land disputes are widespread, and as such, the existing land dispute resolution mechanisms and procedural rules require improvement to provide just and speedy resolution of disputes.

### **Policy Statements**

#### **Establishing Specialized Land Courts or Divisions**

The Government shall establish specialized land courts that will function as divisions of the district court and the high court with the objective of providing speedy, just and affordable disposal of land matters. The Government shall issue streamlined procedural rules to be applied by the specialized land divisions.

#### **Uppazila Level Dispute Resolution**

The Government shall establish a judicial land dispute resolution mechanism at the *upazila* level.

#### **Promoting Alternative Dispute Resolution**

The Government shall actively facilitate the use of Alternative Dispute Resolution (ADR) mechanisms to improve access to justice and reduce instances of delayed justice.

### **6.18. Land Registration**

The legal framework for land registration in Bangladesh establishes a deed based system where the system envisages recording of transactions in immovable property. In case of sale and purchase of immovable property, the recorded document proves transactions in land but do not amount to proof of ownership. The record of transaction has to be mutated by the Assistant Commissioner of Land (AC Land). And yet the Department of Land Records and Survey produces record of rights. Currently, the Registration Act, 1908 is not clear as to the appointment of an institution responsible for oversight of all the individual registries in the country. The law does not provide for maintaining a central registry either. It does not facilitate or attempt to ensure a steady flow of information between the different entities mandated to perform land recording functions. The overlapping and uncoordinated land recording functions and responsibilities vested in different governmental entities should be rationalized to achieve an integrated and coherent land registration system.

#### **Policy Statements:**

##### **Rationalizing Institutional Set-Up for Registration**

To facilitate coordination of the recording related functions of the different ministries with overlapping functions, the Government shall take appropriate measure to either legislatively coordinate the registration related functions of the Ministry of land and the Ministry of Law or administratively merge and bring the recording functions under the auspices of the most pertinent authority.

##### **Revising legal Framework for Land Registration**

The Government shall revise the existing registration law to establish clear operational rules and administrative framework for a coherent land registration system. The revised law shall also aim at providing a transparent system whereby property records shall be maintained in a transparent manner.

### **6.19. Maintenance of Land Records**

A bulk of the problems faced by property owners in exercising their legal rights emanate from the complexity and lack of integrity in the land record system. The amorphous land recording structure has performed poorly and has poor information system.

#### **Policy Statement:**

##### **Securing Sanctity of Records**

The Government shall ensure that land records are authenticated, documented, and their custody and sanctity secured. To facilitate efficient land transactions, computerization of the land registries shall

be undertaken and the information made available to all interested parties.

### **Countering Fraudulent Entries**

To avoid lending legitimacy to fraudulent entries in land registries, manual updating and physical verification shall precede computerization of land registries.

### **6.20. Land Distribution**

The Government needs to take measures to inject more equity, transparency, and accountability into the existing land allocation and distribution procedures. Land prices and pricing for available housing have skyrocketed far beyond the reach of most urban dwellers. There is a clear need to create and implement strategies to enhance the delivery of land for affordable housing options. Furthermore, access to rural land and to user rights is critical to the sustainability of rural families. The possibility of rural families to earn a living hinges on land allocation and rights to use state land. The rural landless are disadvantaged, and unable to earn income or accumulate capital assets. Land allocation must therefore ensure that the rural landless have access to sufficient resources to sustain themselves.

#### **Policy Statement:**

#### **Allocation and Distribution Principles and Procedures**

The Government shall introduce and implement transparent, equitable, and clearly defined set of principles and procedures for the allocation and distribution of land. The procedures must ensure transparency and accountability by the allocating authorities and must clearly define the powers and responsibilities of the allocating authorities and the rights of land applicants.

#### **Priority**

Land allocation and distribution shall be based upon need and the rural and urban landless will have priority.

### **6.21. Land Market**

The land market in Bangladesh is not supported by reliable and adequate information-base for transfer, lease and mortgage of interests in land. The land market which involves governmental and non-governmental actors is riddled with practices that often result in multiple claims over the same property. Furthermore, the land market system does not provide adequate safeguard against unfair and coercive market-driven evictions and displacements of small farmers and poor urban dwellers.

## **Policy Statements**

### **Equity in Land Markets**

The Government shall ensure that land markets shall work equitably to the benefit of all citizens so that the urban poor and the rural landless gain access to land market and are also protected from market-driven evictions and displacements.

### **Ensuring Transparency and Accountability**

The Government shall ensure transparency and accountability of the land market by revising the structure of the players in the operations of land transactions and by establishing accountability standards for all involved in the process of land transactions.

### **Revising Land Transaction Procedures**

The Government shall review land transaction procedures to make them more affordable, efficient, and less cumbersome for the land market.

## **7. Human Rights and Constitutional Issues and the Legal Framework**

The current legal framework for land contains a mosaic of overlapping, outdated and inconsistent provisions. Moreover, there are legal lacunae with respect to some aspects of the land law. Therefore, the legal framework, as it stands now, is not adequately responsive to the dictates of some of the most crucial land management and land administration issues, especially with respect to issues relating to human rights and constitutional matters.

### **Policy Statement**

The relevant land-related laws of Bangladesh shall be revised in conformity with this policy and the constitution.