

# **Land Acquisition for Climate Displaced Communities in Bangladesh**

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## **Chapter 1: Study Background, Objectives and Methodology**

### **1.1 Background**

It is essential that Bangladesh is adequately prepared to face the challenges of mass migration and displacement as a result of the effects of climate change. Climate displaced persons must be provided with adequate resettlement and rehabilitation schemes that ensure their basic rights. One of the key challenges will be to increase the availability of affordable, safe and well-located land that can be effectively utilized by climate displaced persons requiring new land resources. To facilitate the access of displaced people to public land it is important to assess land laws, policies and regulations and to explore the scope of utilizing public land for the resettlement and rehabilitation of climate displaced persons across Bangladesh.

Given this context, this report examines the legal and policy measures related to accessing the land required to ensure that all climate displaced persons are afforded rights-based and viable solutions to their displacement.

This report explores in detail the many legal, social, historical, political, economic and other factors involved in the land acquisition process in Bangladesh. The report also examines how land across Bangladesh can most easily, affordably and fairly be acquired and accessed by civil society groups and climate displaced communities in Bangladesh. The study will also assess the possibility of climate displaced persons accessing land through private or public donation, including by government officials, private individuals or corporations.

The Study concludes with a step-by-step analysis of how to acquire or access land in Bangladesh with a view to streamlining these processes for the benefit of climate displaced persons across the country.

## Chapter 2: Context Analysis

### 2.1 Destination of the Displaced: Major cities are the ultimate target

There is distinction between migration and displacement. In general, migration is considered as voluntary and displacement is considered non-voluntary. The International Organization for Migration (IOM) defines migration as:<sup>1</sup>

*“The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.”*

The term forced migration often connotes violent coercion and is used interchangeably with the terms "displacement" or forced displacement.<sup>2</sup> Someone who has experienced forced migration is a "forced migrant" or "displaced person". The IOM defines forced migration as *“a migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects)”*.

The currently accepted definition of an Internally Displaced Person (IDP) is:<sup>3</sup>

*“Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”*.

This definition includes all those forcibly displaced within their country due to the effects of climate change. This chapter discusses the destination and problems of displaced people of Bangladesh.

In Bangladesh, generally persons displaced in rural areas initially try to relocate within their village environment, then to neighboring villages or to nearby embankments or *char* land and move to urban areas when no other livelihood options are available in their known rural surroundings. Rural-urban migration has accounted for rapid

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<sup>1</sup><http://www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html#Migration>.

<sup>2</sup>[http://en.wikipedia.org/wiki/Forced\\_migration](http://en.wikipedia.org/wiki/Forced_migration).

<sup>3</sup> Climate Change, Migration and Displacement: Who will be affected? Working paper submitted by the informal group on Migration/ Displacement and Climate Change of the IASC - 31 October 2008.

urbanization in Bangladesh, with urban slums becoming increasingly populated by impoverished rural-urban migrants.<sup>4</sup> Most of the IDPs in Bangladesh are in fact climate IDPs. The pattern of rural-urban migration in Bangladesh is also characterized by these climate IDPs.<sup>5</sup>

Many of the people displaced as a result of Cyclone *Aila* in 2009 were forced to live on damaged embankments or high strips of land without adequate food and drinking water or proper sanitary facilities<sup>6</sup>. People displaced by extensive river-bank erosion across Bangladesh have in some cases been living on embankments for the past 3 to 10 years<sup>7</sup>, although some others have migrated to Dhaka and have found employment in the garment industry or rickshaw pulling<sup>8</sup>. The displaced people forced to live beside or on the embankments have stated they would prefer to move to Sirajganj city where they expect there will be a wider scope of work and less chance of river-bank erosion in the future.<sup>9</sup>

Many people displaced by climate hazards have become landless and unemployed, thus worsening their socio-economic situation. Fluvial islands, or *chars*, that emerge periodically, become the last hope for climate displaced persons. However, these *chars* often re-submerge due to the increased melting of the Himalayan glaciers and the subsequent increase in flooding, which in turn further displaces those people already affected by climate displacement. It is estimated that approximately 5 million people inhabit *chars* in the three major rivers of Bangladesh. When an alluvion is formed within a river, it becomes the property of the state (*khas* land) and only the government can distribute such land. The laws regarding *chars* are filled with ambiguities that can be exploited. For example, if a diluvian land re-emerges within 30 years, the original owner can claim their right over the land. However, in a country where rehabilitation programs are rarely successful, the requirement to wait 30 years is impractical and counterproductive.<sup>10</sup>

People displaced from rural areas tend to prefer to move to nearby divisional towns, whereas rural-urban migrants tend to prefer to move to Dhaka. The two largest slums in Dhaka house people from 40 districts out of the 64 districts in Bangladesh. Of these 40 districts, the majority of people living in these slums originally come from Comilla, Sherpur and Barisal Districts.

With this influx of migrants, Dhaka has experienced an eightfold increase in its population since 1970, whereby it now accounts for a third of the country's population

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<sup>4</sup> Ishtiaq, Asif & Mahmud, M.S., 2011, *Migration objectives and their fulfillment: A Micro study of the rural-urban migrants of the slums of Dhaka city*, GEOGRAFIA Online™, Malaysia Journal of Society and Space, 7 Issue 4 (24-29).

<sup>5</sup> Rahman, M.S., 2012. *The Internally Displaced People of Bangladesh: A Background Paper*, South Asian for Human Rights (SAHR) <http://www.southasianrights.org>.

<sup>6</sup> Roy, Dulal Chandra, *Vulnerability and population displacements due to climate-induced disasters in coastal Bangladesh*, available at <http://www.ehs.unu.edu/file/get/5410>.

<sup>7</sup> Field visit in Sirajganj (Khkshabari union, Sirajganj Sadar) where people lost their homestead due to erosion of Jamuna River.

<sup>8</sup> Usually women prefer to work in the ready-made garments industry while male prefers rickshaw pulling or construction work

<sup>9</sup> From FGD with the people living on embankment in Sadar Upazila of Sirajganj District.

<sup>10</sup> Rahman, M.S., 2012. *The Internally Displaced People of Bangladesh: A Background Paper*, South Asian for Human Rights (SAHR) <http://www.southasianrights.org>.

and is the fastest growing mega-city in the world.<sup>11</sup> Although Dhaka continues to attract large numbers of migrants, its vulnerability to flooding and cyclones brings into doubt its role as a destination for both temporary and permanently displaced people of Bangladesh. Dhaka's vulnerability to flooding is exacerbated by the fact that it is 2–3 meters above mean sea level, whereas most other urban areas in Bangladesh are at an elevation of 6–8 meters (Alam and Rabbani 2007).<sup>12</sup>

Similarly, Chittagong, the second largest city and the 'port city' of Bangladesh, also plays an important role in serving the rural-urban migrants of neighboring districts.<sup>13</sup> These two metropolitan cities have emerged as the main centers of economic activity in Bangladesh, attracting large numbers of migrants from across the country as well as in immediately neighbouring Districts. Greater congestion of these urban cities has already led to severe health, security, and resource issues for a large number of the urban poor.

Flooding and drainage congestion and increased heat stress are the major climate-induced vulnerabilities that will affect Dhaka.<sup>14</sup> These problems will most heavily impact upon the urban poor, who tend to live in flood-prone and water-logged areas with little or no access to drainage. Consequently, low-income urban populations will face large health implications, possibly even loss of life.<sup>15</sup> Rashid highlights that the urban poor were most affected by heavy flooding in 1998, due to losses in income-generating activities and poor services and infrastructure.<sup>16</sup>

## **2.2 Housing Crisis and Land Scarcity: Mushrooming of slums in the urban areas**

With a population of 154 million people, Bangladesh is one of the most densely populated (approximately 1,200 people per square kilometer) and lowest land-person ratio countries in the world. Land prices are high, natural disasters are frequent and sturdy, permanent housing is rare - barely 2 percent of the population in rural areas and 23 percent in urban centers.

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<sup>11</sup> *Poverty Assessment for Bangladesh: Creating Opportunities and Bridging the East-West Divide*, 2008, The World Bank Office, Dhaka.

<sup>12</sup> Alam, M. and M. D. Golam Rabbani. 2007. *Vulnerabilities and responses to climate change for Dhaka*, Environment and Urbanization, 19(1): 81-97.

<sup>13</sup> Ishtiaq, Asif & Mahmud, M.S., 2011, *Migration objectives and their fulfillment: A Micro study of the rural-urban migrants of the slums of Dhaka city*, GEOGRAFIA Online™, Malaysia Journal of Society and Space, 7 Issue 4 (24-29)

<sup>14</sup> UN-HABITAT, 2008, *Case Study: Dhaka's Extreme Vulnerability to Climate Change*, Nairobi, Kenya: United Nations Human Settlements Programme.

<sup>15</sup> Banks, N., Roy, M. & Hulme, D., 2011, *Neglecting the Urban Poor in Bangladesh: Research, Policy and Action in the Context of Climate Change*. BWPI Working Paper 144.

<sup>16</sup> Rashid, S. F., 2002, 'The urban poor in Dhaka City: Their struggles and coping strategies during the floods of 1998', *Disasters*, 24(3): 240-253.

In 2009, estimates suggested a shortage of approximately 5 million houses in Bangladesh. In urban areas, the annual estimated demand amounts to 300,000–500,000 houses. In rural areas, with an assumed 2 percent new household formation annually, the new demand could be as much as 3.5 million a year.<sup>17</sup> According to the Bangladesh House Building Finance Corporation (BHBFC), Dhaka is the hardest pressed in terms of unsatisfied housing demand. The housing needs of lower and lower-middle income groups are considerable and remain largely unfulfilled. The provision of Government housing has not managed to address the issue adequately. Paradoxically, the majority of housing supply caters to upper-income groups, and the market is glutted with new luxury housing units.<sup>18</sup>

Under these circumstances, the public sector, acting direct as provider and seldom indirectly as enabler, should assume a primary role in providing mainly for the have-nots. Planned development and land subdivision by the public agencies and real-estate developers has largely served the higher echelon. Yet the housing needs of about the top 10% has been met. In the process, rich and powerful people, and vested interest groups have appropriated all benefits, consciously excluding the poor migrating to the city from meeting their minimum socio-economic needs.<sup>19</sup>

Being one of the most densely populated countries in the world, it is not surprising that land has become increasingly scarce in Bangladesh. This is reflected in galloping land prices throughout the country but especially in the metropolitan cities. The rapidly expanding slum population and rising land prices in urban areas are indications of the increasing difficulties Bangladesh faces in providing people with adequate shelter.<sup>20</sup>

In slums, the population density is far higher than the other parts of the city, the sanitation system is lacking and there is a consistent scarcity of pure drinking water.<sup>21</sup> The majority of slums are located on privately owned land, illegally occupied *khas* land or on publicly owned land.<sup>22</sup> Slum dwellers pay high rents for living in the slums and they remain under constant threat of eviction.<sup>23</sup> In this context, the effective relocation of climate displaced persons across Bangladesh could be partially achieved through the distribution of public or *khas* (Government owned) land. It will be essential to create

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<sup>17</sup> Nenova, Tatiana. 2010. *Expanding Housing To The Underserved in South Asia: Market Review and Future Agenda*, The World Bank, Washington DC.

<sup>18</sup> Nenova, Tatiana. 2010. *Expanding Housing To The Underserved in South Asia: Market Review and Future Agenda*, The World Bank, Washington DC.

<sup>19</sup> Rahman, Mahbubur. 2011. *Government and Housing for the Poor: Policy and Implementation in Bangladesh*. <http://fpd-bd.com/wp-content/uploads/2011/06/GOVERNMENT-AND-HOUSING-FOR-THE-POOR.pdf>.

<sup>20</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.

<sup>21</sup> Ishtiaq, Asif & Mahmud, M.S., 2011, *Migration objectives and their fulfillment: A Micro study of the rural-urban migrants of the slums of Dhaka city*, GEOGRAFIA Online™, Malaysia Journal of Society and Space, 7 Issue 4 (24-29).

<sup>22</sup> Nahiduzzaman, Kh. MD. 2012. *Housing in the Urban Poor: An Integrated Governance Perspective, The Case of Dhaka, Bangladesh*, KTH, Royal Institute of Technology, Stockholm .

<sup>23</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.



rural livelihoods opportunities on or nearby this public or *khas* land, whilst also considering the local socio-economic context.

### 2.3 Land Grabbing

The grabbing of public land by influential people is a persistent problem in Bangladesh. Land grabs or land capture by Bangladeshi elites is mediated through privileged access to government through bribery and the coercion of land officials to transfer title to themselves and deploy gangs to harass resident owners, primarily peasant proprietors, to relinquish their holdings.<sup>24</sup>

Among other examples, hundreds of housing companies in urban areas have started to demarcate their project area using pillars and signboards prior to receiving titles. They use local musclemen with guns and with support from local administrations, including the police. Most of the time, land owners feel forced to sell their productive resources to the companies at a price inferior to market value.<sup>25</sup> According to a statement in Parliament by the Minister for Land on 4 February, 2010, a total of 1.3 million acres of public land has been grabbed.<sup>26</sup> Further, a significant portion of the 3.3 million acres of *khas* land is not within the control of the government due to illegal occupation and encroachments.<sup>27</sup> The Land grabbing culture has increased due to the non-transparent land administration system.<sup>28</sup>

#### ***Box 1: Eviction of slum dwellers from Bhashantek – A case study***

*Bhashantek, in the north of Dhaka, used to produce vegetables for the city's dwellers. But the farmers who lived in the area were forced to leave their lands. Bhashantek has undergone rapid transformation since the country's independence in 1971. The war of national independence devastated rural areas, so rural people, having lost all their resources and means of production, rushed to the cities in search of livelihoods. They took shelter in shacks and shanties built on both sides of railroad tracks, highways, embankments, bus stations and other empty or less populated areas. From 1973 to 1974, the government introduced initiatives to relocate these people and selected the Bhashantek area as relocation site. As more and more people came to Bhashantek for shelter, and families already relocated there grew in number, the area became unbearably crowded by the end of the 1980s. The government then initiated a relocation of a number of Bhashantek's inhabitants to Bauniabandh under Ward-5 of Pallabi thana within Dhaka metropolitan area. Low-lying land was filled up and settled with 2,640 families. But over time, Bauniabandh also became*

<sup>24</sup> Feldman S. and Geisler C. 2011. *Land Grabbing in Bangladesh: In-Situ Displacement of Peasant Holdings*. Paper presented at the International Conference on Global Land Grabbing 6-8 April 2011

<sup>25</sup> *Bangladesh: Food Security and Land Governance Factsheet*; 2012, IS Academia, The Royal Tropical Institute, Netherlands

<sup>26</sup> *Bangladesh: Food Security and Land Governance Factsheet*; 2012, IS Academia, The Royal Tropical Institute, Netherlands

<sup>27</sup> Saha, B.K., 2010, *Promoting Agrarian Reform* in Rehman Sobhan (ed.) *Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia*, Sage, Delhi

<sup>28</sup> *Bangladesh: Food Security and Land Governance Factsheet*; 2012, IS Academia, The Royal Tropical Institute, Netherlands

*overcrowded like Bhashantek. From 2003-04, the government declared that they would begin the construction of multi-storey buildings. The announcement gave a shred of hope to the area's inhabitants living in squalor. The Land Ministry was tasked with carrying out the program. The Ministry then issued a notice to the slum dwellers to evacuate part of the area. The people, in good faith and with hopes of receiving improved shelter, vacated around 50 acres (20 ha) of land in the area.*

*The Land Ministry appointed North-South Properties Ltd, a private developer, to construct the multi-storey buildings. Initially, they began work on six-storey buildings. Meanwhile, the government announced that 4,400 flats would be built during the program's first phase, of which 2,000 flats would be given to the Bhashantek slum dwellers and the remaining 2,400 flats allotted to third-class government employees. Bhashantek slum dwellers were utterly disappointed at this decision as they had, justifiably, expected the entire allotment of flats to be allocated to them. However, they followed the government's instructions. They prepared a list of those interested to take a flat and submitted it to the proper authorities. However, new rules were implemented to deprive the slum dwellers of their allotted flats. One of these rules was that the future owners of these flats would have to make a one-time deposit of Tk. 50,000 (USD 595.97) per flat. The government was fully aware that such a rule would be impossible for the impoverished slum dwellers to follow. The result of this farce was exactly what it was meant to produce – many slum dwellers were unable to book their flats, hence they lost their rights and a vested-interest group was able to take advantage of the situation.*

*From the beginning, North-South Properties Limited engaged in corrupt practices. Using forged documents, the company sold the same flats to multiple buyers. Eventually, the company's corrupt practices were revealed. The Government began to take action against them. Victims also started to demand reparation. Facing these charges, the company aborted developments and escaped. All the problems created by North-South Properties have yet to be resolved. When slum dwellers were suddenly forced to leave the slum areas, their means of livelihood were severely affected. They faced financial, social and political damage from eviction.*

**Source:** *Land Grab: Changing the terrain of land tenure. 2012. Association for Realisation of Basic Needs (ARBAN–Bangladesh) LOK NITI Vol. 18/1, 2012. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), Quezon City, Philippines.*

Ownership of land in Bangladesh is vested in either private individuals or entities of the State. *Khas* land is government owned land, which applies to agricultural, non-agricultural and water bodies. The estimates of *khas* land are open to contestation since land records are poor and open to legal challenge.<sup>29</sup> The estimated amount of total identified (based on official sources) *khas* land in Bangladesh is 3.3 million acres with 0.8 million acres of agricultural *khas* land, 1.7 million acres of non-agricultural *khas* land, and 0.8 million acres of *khas* water bodies<sup>30</sup>.

In a campaign brief, Land Watch Asia states that *Khas* land and *khas* water bodies cover some 2.1 million hectares, 24% of which are agricultural. Agricultural *khas* land covers some 321,323 ha, of which 43.47% has reportedly been distributed to landless households.<sup>31</sup>

### 3.1 Distribution of Agricultural *Khas* Land to Climate Displaced Persons: A potential option for mass resettlement

A significant part of the 3.3 million acres of *khas* land is not within the custody of the government due to illegal occupation and encroachments. Of immediate relevance to agrarian reform, 0.8 million acres of agricultural land (4% of the total agricultural land) and 0.8 million acres of water bodies, an important economic resource, can be put at the service of the resource poor. Again most of the agricultural land is illegally occupied.<sup>32</sup>

Moreover, there are State owned lands under the Water Development Board, Ministry of Railways, Roads & Highways, Ministry of Fisheries and Livestock and Ministry of Environment and Forest (MoEF) of the Government of Bangladesh. There are also hundreds of thousands of acres of new land that emerge each year from the rivers and sea in coastal areas through a process of massive siltation and accretion. A large amount of ceiling surplus lands<sup>33</sup> was kept under the ownership and possession of landlords in fake names. These lands, as per government rules, should be surrendered to the Government and all types of State owned land should be distributed to landless poor peasants<sup>34</sup>.

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<sup>29</sup> Saha, B.K., 2010, *Promoting Agrarian Reform* in Rehman Sobhan (ed.) Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia, Sage, Delhi.

<sup>30</sup> Barkat, A., Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka.

<sup>31</sup> *Bangladesh: The Fight for Land Rights Moves Forward*, Land Watch Asia, Campaign Update 2011, ALRD & SHED, Dhaka.

<sup>32</sup> Saha, B.K., 2010, *Promoting Agrarian Reform* in Rehman Sobhan (ed.) Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia, Sage, Delhi.

<sup>33</sup> According to The Land Reform Ordinance 1984, the Ownership ceiling of agricultural land is 20 acres (60 bighas).

<sup>34</sup> Uddin, M., K., 2002. *Needs for Land and Agrarian Reform in Bangladesh*. Paper presented in the Regional Workshop on Land Issues for Asia held on 4-6 June 2002, in Phnom Penh, Cambodia.

### 3.1.1 Policy to Distribute Agricultural *Khas* Land

The East Bengal State Acquisition and Tenancy Act 1950, which abolished the Zamindari System (Permanent Settlement of 1793) provided the basis for all subsequent laws relating to *khas* land.<sup>35</sup> Attempts at re-distributive reform through the establishment of land ceilings have been a feature of both the Pakistan and Bangladesh periods. However, whilst ostensibly designed to place land in the hands of the tiller and to return water bodies to those who fish them, these have largely been circumvented by the wealthy and powerful.<sup>36</sup>

After independence, the instruments of *khas* land distribution became the Bangladesh State Acquisition and Tenancy (Fourth Amendment) Order 1972, the Bangladesh Landholding Limitation Order 1972, President's Order LXI 1975 and the 1984 Land Reform Ordinance. The most important Government notifications relating to the settlement of *khas* land are the Land Reform Action Program 1987 and the Agricultural *Khas* Land and Settlement Policy 1997.

To assist the process of *Khas* land identification and its equitable distribution, Government policies and the regulatory framework - especially the 1984 Land Reform Ordinance and the *khas* land management and distribution policies of 1987 and 1997 - provided concrete directions towards establishing national and local level committees for overseeing *khas* land identification and distribution, identification of landless persons and a prioritization process as well as a procedure for raising public support for securing access to *khas* land.<sup>37</sup> One enabling law was the policy instituted in 1997 to distribute *khas* land to landless peasants, defined as landless families dependent on agriculture for their livelihood. This also prioritized certain groups, such as families of freedom fighters, families that had lost their land to erosion, and families whose lands were expropriated by the government.<sup>38</sup>

### 3.1.2 Ownership Ceiling of Agricultural Land

The ownership ceiling of agricultural land per family had been changed many times: from 33.3 acres (100 bighas) in 1950, 125 acres (375 bighas) in 1961, then again 33.3 acres (100bighas) in 1972 and 20 acres (60 bighsa) in 1984.<sup>39</sup>

However, a significant quantity of land could not be recovered because local and national land administration and wider legal and political bodies were often tightly under the grip of the landowning classes. Ironically only an insignificant portion of

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<sup>35</sup> Barkat, A. , Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka.

<sup>36</sup> *Land Policy and Administration in Bangladesh: A Literature Review*; 2003, CARE Rural Livelihood Program.

<sup>37</sup> Islam, Shahidul, 2011. *Access to khas land: Alleviating poverty*, <http://www.thedailystar.net/newDesign/news-details.php?nid=203802>.

<sup>38</sup> *Bangladesh: The Fight for Land Rights Moves Forward*, Land Watch Asia, Campaign Update 2011, ALRD & SHED, Dhaka.

<sup>39</sup> Barkat, A., & Zaman, S., 2002. *Khas Land in Bangladesh: The Nature of Adverse Inclusion of the Excluded and Doables* , Land, Vol. 9, ALRD, Dhaka.

cultivable land (under 1%) could be redistributed through these ownership ceilings. The land ceilings should be further lowered considering the increase of population, the scarcity of land and the need for distributive justice. If the land ceiling is lowered to 30-35 bighas<sup>40</sup> for each family and if there is strong political and administrative will on the part of the Government, the ceiling surplus land can be distributed amongst the landless and poor displaced people.<sup>41</sup>

In urban areas, the 1982 Land Reform Committee suggested a ceiling of 5 *Katha*<sup>42</sup> (334.5 square meters) for individual landowners in Dhaka<sup>43</sup>. This was never approved and, therefore, Dhaka and other urban areas in Bangladesh have no land ceiling. The 1984 Land Reform Ordinance also makes no reference to an urban land ceiling. Table 1 shows the land policy and administrative timeline in Bangladesh.

**Table-1: Land Policy and Administrative Timeline in Bangladesh:<sup>44</sup>**

<b>1972</b>	A land ceiling of 33.3 acres is re-established and various presidential orders provide for the distribution of <i>khas</i> land amongst the landless. It is expected that 2.5 million acres of excess land will be released, but in reality there is far less. Newly formed land vested in government, becoming a second type of <i>khas land</i> . Exemption from land tax granted for families owning less than 8.33 acres.
<b>1976</b>	A variety of land related charges are consolidated into the Land Development Tax (LDT), which covers the whole country except the Chittagong Hill Tracts (CHT), but deficiencies in the record system mean individual holdings cannot be checked and switches to more heavily taxed non-agricultural uses frequently go unrecorded.
<b>1984</b>	The Land Reform Ordinance limits future land acquisitions to 21 acres whilst retaining present ceilings. <i>Benami</i> (transferring to others for ceiling avoiding) transfers to relations are outlawed, but again evasion is easy. Legal recognition of the rights of share-croppers is given for the first time and share-cropping is established as the only admissible form of tenancy contract.
<b>Late 1980s</b>	Only 0.2% of value added in agriculture collected as LDT revenue, of which collection cost is two-thirds.
<b>Late</b>	The Muyeed Committee recommends that the functions of land

<sup>40</sup> 1 Acre=3 Bigha.

<sup>41</sup> *Land Rights and Poverty Alleviation*, 2005. Bangladesh Legal Aid & Services Trust (BLAST), Dhaka .

<sup>42</sup> 20 Katha = 1 Bigha.

<sup>43</sup> World Bank, 2007. Dhaka: Improving Living Conditions for the Urban Poor. Bangladesh Development Series. Paper No. 17. Dhaka: The World Bank Office, <http://www.worldbank.org.bd/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT>.

<sup>44</sup> *Land Policy and Administration in Bangladesh: A Literature Review*; 2003, CARE Rural Livelihood Program.

<b>1980s</b>	registration (Sub-Registrar) and records ( <i>tehsil</i> ) be brought together in a single office at the field level, but this is ignored.
<b>1988</b>	Cluster village programme resettle landless people on State land, but only 800 villages, with some 32,000 households, have been formed by 1996.
<b>1989</b>	The Board of Land Administration is split into the Land Appeals Board and the Land Reforms Board to deal with the ever-increasing volume of quasi-judicial appeals.
<b>1991</b>	A survey shows that 90% of the rural population is unaware of the 1984 reforms.
<b>1991</b>	A land administration manual lays down detailed instructions regarding the inspection and supervision of Union and <i>Thana</i> land offices.
<b>1992</b>	Farms of up to 8.33 acres are exempted from LDT. 8.33 – 10 acres are charged at BDT 0.5 per acre, and larger holdings at BDT 2 per acre.
<b>1997</b>	New Agricultural <i>Khas</i> Land Management and Settlement Policy introduced.
<b>1998</b>	The total <i>khas</i> land is found to be 750,000 acres (or 3% of the arable land area). But the actual amount remains unclear as a result of de facto private control arising from informal local settlements.
<b>2015-20</b>	Estimated date for the completion of a survey of land rights.

The Rajdhani (Capital) Dhaka Development Authority (RAJUK) and The National Housing Authority (NHA) have a policy not to allocate land parcels to anyone who already owns land in Dhaka, although it is possible to deceive these public agencies as verification based on obsolete land records is not possible.<sup>45</sup>

Table 2 below shows the various forms of land tenure in Bangladesh.

**Table 2: Forms of Land Tenure in Bangladesh<sup>46</sup>**

<b>Common Law Freehold</b>	Exclusive ownership of land for an indefinite period, estimated to apply to 69% of agricultural landholdings in 2005.
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<sup>45</sup> Rahman, Golam, 2008. *Town planning and the political culture of planning in Bangladesh*. Dhaka: AH Development Publishing House (AHDPH)

<sup>46</sup> *Bangladesh: Food Security and Land Governance Factsheet*; 2012, IS Academia, The Royal Tropical Institute, Netherlands

<b>Government Land/Public Land</b>	<i>Khas</i> land owned by the Ministry of Land, <i>Waqf</i> or Trustee lands are under the control of Ministry of Religion. <i>Khas</i> water bodies are owned by the Ministry of Land. Forest lands are completely owned and managed by the Ministry of Environment and Forest. Railway has its own purchased land under Ministry of Railway, as does the Armed Force Division under Ministry of Defense. Accordingly a number of Government Ministries and Departments have their own land and their own Estate Officer.
<b><i>Khas</i> Land</b>	<i>Khas</i> land is a large category of land that includes the following: surplus land above the land ceiling law; land owned historically by the state throughout the colonial period and under Pakistani rule; alluvial land; land without an owner; surplus or unused land; land acquired for the public interest; or auctioned land that has been distributed to landless families for 99 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.
<b><i>Waqf</i></b>	<p><i>Waqf</i> land is held by the state and administered by the Department of <i>Waqf</i> for religious purposes. <i>Waqf</i> is an Arabic word, which literally means tying up or dedication (to keep a property in safe custody protecting it free from private ownership).</p> <p>According to the definition given in the Mussalman <i>Waqf</i> Validating Act 1913 in India, <i>Waqf</i> 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'.</p> <p>Personal property is endowed in <i>Waqf</i> for religious, educational, or any other benevolent purpose under specific terms and conditions.</p> <p>In general, the terms and conditions of a valid <i>Waqf</i> are:</p> <ol style="list-style-type: none"> <li>(1) It is a permanent arrangement, it cannot be done for a certain period;</li> <li>(2) It becomes effective immediately, and cannot be kept in abeyance;</li> <li>(3) It is an irrevocable legal contract; and</li> <li>(4) <i>Waqf</i> property can never be confiscated.</li> </ol>
<b><i>Debottar</i></b>	Similar to a Muslim dedicator, a Hindu individual may also dedicate property for religious or charitable purposes. Such property is called <i>Debottar</i> and is usually formed by will or gift. No

	<p>writing is necessary for the creation of <i>Debottar</i>. However, in the case of an endowment created by will, the will must be a written document and attested by at least two witnesses.</p> <p>On 10 December 2012, th Government approved in principle the draft Debottar (Endowment) Property Management Bill 2012 having a provision for protecting the endowed property of the Hindus. A central management board would be constituted to look after the property. The Vice-Chairman of the Hindu Religious Welfare Trust will lead the board of management while a joint secretary-ranked official of the government would act as an administrator who would be picked up from the Hindus. The administrator will also act as the member secretary of the management board.<sup>47</sup></p>
<b>Leaseholder</b>	The right to use land (which is owned by another) for a fixed period.
<b>Leases</b>	Cash or temporary lease agreements range from one to ten years on public or private properties. Permanent lease means lease for 99 years that is <i>Khas</i> land distribution or settlement.
<b>Share cropping</b>	Sharecropper contract agreement must be 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.

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<sup>47</sup>The Daily Sun, 11 December 2012, *Debottar Property Management Bill 2012 draft okayed*, [http://www.daily-sun.com/details\\_yes\\_11-12-2012\\_Debottar-Property-Management-Bill-2012-draft-okayed\\_345\\_1\\_2\\_1\\_11.html](http://www.daily-sun.com/details_yes_11-12-2012_Debottar-Property-Management-Bill-2012-draft-okayed_345_1_2_1_11.html).



### 3.1.3 Objectives of Land Reforms

The objectives of the reforms as envisaged by the LRAP were:

*“[T]o ensure an equitable use of land and equitable distribution of income in order to increase national output, to utilize the full productive capacity of land; to rehabilitate landless farmers and to create job opportunities for them as well as to infuse a new life in the rural economy; and to reduce ovaries of population towards the urban areas from rural areas and to create an atmosphere which will attract them to live in a village”.*

In order to facilitate the distribution of *khas* lands, all *khas* lands were classified into three categories. The highest quantum of land to be divided in plots and when distributed, the highest quantum of land for each family as per classification was as follows:

- a) 1<sup>st</sup> class land - Triple-cropped land with irrigation facilities - 1.0 acre
- b) 2<sup>nd</sup> class land - Double-cropped land with irrigation facilities – 1.5 acres
- c) 3<sup>rd</sup> class land - Single-cropped land without irrigation facilities – 2.0 acres

According to Agricultural *Khas* Land and Management Policies 1997 (AKLMP) for the purpose of the settlement of *Khas* land a landless family will be considered as<sup>48</sup>:

*“The family which has neither homestead nor agricultural land, but family as dependent on agriculture”.*

All applications received within the fixed time limit were suggested to be scrutinized and all eligible applications are arranged in order to priority as follows:<sup>49</sup>

1. Destitute freedom fighter’s family;
2. Victim of river erosion (lost total land due to river erosion);
3. Widowed or divorced woman with workable son;
4. Family without a homestead and agriculture land;
5. Became landless due to government acquisition of land;
6. The family which has 10 decimal homestead, but not agricultural land yet dependent on agriculture.

According to the AKLMSP, the highest priority is said to be given to the destitute freedom fighter’s family (It was on the second priority in the Land Reforms Action Program-LRAP 1987. The highest amount of *Khas* land to be given will be 1.5 acres.

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<sup>48</sup> Rahman, M. Balizur & Ali Shamsar, 2009. *Jami-Jalar Bidhi Bidhan*, ActionAid Bangladesh

<sup>49</sup> Rahman, M. Balizur & Ali Shamsar, 2009. *Jami-Jalar Bidhi Bidhan*, ActionAid Bangladesh

### 3.1.4 Process of Accessing *Khas* Land

The transfer of *khas* land from the Government to an individual is a complex, lengthy and non-transparent process. According to relevant provisions, 5 months is needed to complete the process.<sup>50</sup> Currently an application passes through several Government offices including the Union and *Thana* level land offices along with the Sub-Registrar's office and usually takes up to 6 to 8 months. A lack of coordination (and motivation) between these offices and their staff create delays.<sup>51</sup>

The steps of the distribution of *Khas* land are as follows:

- a) Recovery or identification of agricultural *khas* land by *Upazila* Agricultural *Khas* Land Distribution and Management Committee and division of the available *khas* land into plots. Afterwards, the Committee will announce the distribution process of *khas* land through different media;
- b) Collection and submission of relevant application document by the AC (Assistant Commissioner) Land Office, need to ensure that forms are filled out correctly (the forms are available at no charge);
- c) Collection of landless certificates by the Union *Parishad* Chairman (this is required from the Ministry of Liberation War Affairs for freedom fighters if they apply for *khas* land), together with a joint photograph of husband and wife for the application;
- d) A Photocopy of national identity card, the landless certificate, a photocopy of the application with a joint photograph of husband and wife all need to be submitted with the original application form to the AC land office. The AC land office will keep the original copy of the application form along with other documents and the photocopy of the application form will be returned to the applicant with a number, date and signature.
- e) Applications will be verified by the AC land office with the assistance of the respective Union land office.
- f) A primary selection will be held in front of the each *Upazila* Agricultural *Khas* Land Distribution and Management Committee through interviews and meetings. Occasionally Committee members go to the Union level and verify applicants.

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<sup>50</sup> Rahman, M. Balizur & Ali Shamsar, 2009. *Jami-Jalar Bidhi Bidhan*, ActionAid Bangladesh

<sup>51</sup> *Khasland for the Poorest - Simplify the Process*, October 2011, Shiree Policy Brief, Dhaka

- g) Upon completion of primary selection, the Upazilla committee finalizes selection after carrying out an investigation.
- h) The UNO (Upazila Executive Officer) or AC land (Assistant Commissioner of land) will issue an order to the respective Union land offices to identify *khas* land and prepare sketch maps including measurements of the land in association with a surveyor and provide a physical authentication of the location of *khas* land.
- i) A case file for each application will be prepared by the Union land office with the above mentioned information and submitted to the AC land office.
- j) The AC land office, with the permission of the UNO, will submit the applications to the Upazila Agricultural *Khas* Land Distribution and Management Committee with a case number for each file for final approval.
- k) The Upazilla Agricultural *Khas* Land Settlement and Management Committee will examine each case within two months and then forward the application to the DC office.
- l) The DC will record the cases and submit the application to the District Agricultural *Khas* Land Settlement and Management Committee, who will assess those within one month and give approval. Those approved applications will then be sent back to the AC land office through UNO.
- m) The AC land will arrange registration of *khas* land deeds, called '*Kabuliat*', in favour of respective landless people.
- n) Upon completion of all of the above-mentioned formalities, the AC land and the Union land office will jointly hand over possession.

**Table 3: Accessing *Khas* Land and Possible Obstacles<sup>52</sup>**

Steps	What should happen	Possible obstacles
<b>Identification</b>	<ul style="list-style-type: none"> <li>• If the land is under ordinary or <i>diara</i> settlement the <i>amin</i> (land surveyor) records the area as part of the cadastral survey and notifies the assistant settlement officer who places it on the register.</li> <li>• In non-settlement areas the <i>Tehsildar</i><sup>53</sup> is responsible for identifying and recording any new <i>khas</i> land (e.g. arising through accretion).</li> </ul>	<ul style="list-style-type: none"> <li>• Much <i>khas</i> land is not properly surveyed or not surveyed until occupation is well underway.</li> <li>• It is often unclear whether land is <i>khas</i> or not.</li> </ul>
<b>Notification</b>	<ul style="list-style-type: none"> <li>• Microphone announcement by District Information Officer at big market places.</li> <li>• Beating of drums at all markets in <i>Upazilla</i> and in Union.</li> <li>• Notice on all public notice boards in <i>Upazilla</i>.</li> <li>• Publicity programme included in agenda of <i>Upazilla</i> meetings for two consecutive months.</li> </ul>	<ul style="list-style-type: none"> <li>• Those responsible for notification only pass word to contacts, friends and relations with some eligible and potentially interested parties not finding out at all, or until it is too late.</li> </ul>

<sup>52</sup> *Land Policy and Administration in Bangladesh: A Literature Review*; 2003, CARE Rural Livelihood Program.

<sup>53</sup> Union level land official who is responsible for local level land related affairs, including land record keeping and revenue collection.

Steps	What should happen	Possible obstacles
Application	<ul style="list-style-type: none"> <li>Interested parties fill out an application form stating what type of landless household they are and providing various other details.</li> <li>Two members of the local elite (typically a UP chairman, member or school teacher) must sign the application form.</li> </ul>	<ul style="list-style-type: none"> <li>Uneducated people cannot fill in the form themselves and are either deterred from applying or incur obligations to people who help them.</li> <li>Elite signatories demand bribes or a share of land produce for supporting an application.</li> <li>The <i>Teshildar</i> demands a fee for providing and completing or accepting the form.</li> <li>False applications from larger land owners are accepted because they are powerful and/or pay a bribe.</li> </ul>
List Names	<ul style="list-style-type: none"> <li>Qualifications of applicant are checked by <i>Teshildar</i>.</li> <li>A list of all suitably qualified persons is prepared.</li> </ul>	<ul style="list-style-type: none"> <li><i>Teshildar</i> or UP chairman may require a bribe.</li> <li>Applications are (often falsely) screened out for being filled out incorrectly.</li> </ul>
Selection	<ul style="list-style-type: none"> <li>The most qualified candidates are selected using the established criteria by the <i>Teshildar</i>, UP chairman and AC (Land).</li> <li>Details are posted same day on <i>Upazilla</i> notice-board.</li> </ul>	<ul style="list-style-type: none"> <li>Bribes are paid to pass the selection stage both by legitimate and illegitimate applicants.</li> </ul>
Recording	<ul style="list-style-type: none"> <li><i>Teshildar Kanungo</i> surveys the land and registers it with AC (Land).</li> <li>The holding number of the <i>Khas</i> land is placed on the application by AC (Land) and UNO.</li> <li>The file is sent to the DC for approval.</li> </ul>	<ul style="list-style-type: none"> <li>Bribes must be paid at each stage.</li> </ul>

Steps	What should happen	Possible obstacles
Distribution	<ul style="list-style-type: none"> <li>Deeds (<i>kabuliyat</i>) are issued granting title to the land for 99 years by AC (Land).</li> </ul>	<ul style="list-style-type: none"> <li>The number of applications exceeds the available plots and many are unsuccessful.</li> <li>Certificates are only handed out after payment of bribe.</li> <li>Land is given to ineligible people.</li> </ul>
Utilization	<ul style="list-style-type: none"> <li>The recipient cultivates the land.</li> </ul>	<ul style="list-style-type: none"> <li>Influential person (IP) IP is already in possession and blocks access.</li> <li>IP files a competing claim (often supported by false documentation).</li> <li>IP, <i>Tehsildar</i>, or UP chairman or member seize or demand a share of the produce.</li> </ul>
Follow up	<ul style="list-style-type: none"> <li>If obstacles are encountered, the case goes back to the <i>shalish</i><sup>54</sup>, land office or court for resolution.</li> </ul>	<ul style="list-style-type: none"> <li>Influential persons bribe officials to swing the outcome in their favour.</li> <li>Influential persons use or threaten force to deter recipient from proceeding.</li> <li>Expense proves prohibitive and an impoverished recipient gives up.</li> </ul>

**Note:**

- (a) Such difficulties may not be encountered in all instances. There are also a very few examples that influential persons and officials are acting in accordance with the law and the interests of the disadvantaged.
- (b) Bribes are typically required for this and other *Khas* land related procedures.

### 3.1.5 Retention of *Khas* Land

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<sup>54</sup> A kind of arbitration, usually practiced in rural level

Some people do gain access to *khas* land through a complex, sometimes unfair process, however, more than half of them cannot retain their allocated land, nor establish their rights on the lands. Studies showed that on an average, only 46.3% have complete retention over *khas* land.<sup>55</sup> The remaining 53.7% have either partial or complete non-retention of over *khas* land. One in three landless poor people were not able to retain even the minimum possible benefit of *khas* land distributed to them. Only 11.5 percent of the agricultural *khas* land has been effectively owned by those for whom the land is meant for the landless and poor with priority to the destitute freedom fighters, and 88.5 percent are illegally occupied by the rich and powerful. The high extent of partial retention of and complete non-retention are determined by various factors, some of which are inherent to the structure.<sup>56</sup>

Though there is provision in the law to form cooperatives on large compact blocks of *khas* land, this has not worked in the past for various reasons. The main reason being the illegal occupation of large blocks of *khas* land by influential people. They use all means of deception to occupy the *khas* land through illegal and false documents, use coercive power, illegally occupy the *khas* land long before the distribution of the same.<sup>57</sup>

### **3.1.6 Provision for Cooperatives on *Khas* Land**

The Land Reforms Action Programme (1987) recognized the importance of forming cooperatives on *khas* land. In relation to cooperative or cluster villages, the LRAP states that:

*“The cooperative is more acceptable than the individual with regard to development assistance and management following settlement”* (Section 133).

Further, Section 134 of the LRAP states that:

*“[The] coexistence of like-minded people can build up an effective resistance against any opposition. Efforts are to be made to create cluster villages comprising the rehabilitated landless people wherever possible in line with the following directives, with the aim of retaining control over land by the rehabilitated people, to face natural and social resistance and to create and develop an environment conducive to normal life”.*

In this context the LRAP 1987 suggested that:

- Wherever land amounting to 20 acres or more was available together, a cluster village is to be created.

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<sup>55</sup> Barkat, A. , Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

- Such cluster village can be created on less than 20 acres of land, if other favorable conditions were present.
- The *Upazila* Engineer on request from the *Upazila* Committee would prepare a plan of the proposed village on the land selected for developing the cluster village after a thorough survey (section 143).

Under the provision of cooperatives on *khas* land, public or private land parcels could be transferred to the community directly through establishing community managed Land Trusts which could benefit of climate displaced persons and communities.

***Box 2: Grabbers Feast on Relief and Rehabilitation Department Lands in Nilphamari***

*A considerable portion of 3,602 acres of land owned by government's Relief and Rehabilitation Department in four upazilas of the District has gone into the hands of illegal occupiers due to a lack of proper monitoring. The then Government of Pakistan purchased the lands (through requisition) during 1947-1952 for sheltering people who migrated from India in the face of communal riots there. Of the lands, 3,031.83 acres are in Dimla upazila, 543.10 acres in Sadar upazila, 22.50 acres in Jaldhaka upazila, and 4.41 acres in Saidpur upazila, said sources of the Department concerned.*

*"A good number of Indian refugees were sheltered in small portions of those lands but most of it remained unutilised until the independence of Bangladesh," said Aftabuddin Ahmed, Upazila chairman of Dimla. "After 1971, a section of unscrupulous people gradually encroached upon those lands and started handing over the 'possession' to others in exchange for money. For this, buyers and sellers usually make unregistered deeds on government stamps, which have no legal value," he informed. A number of people in collusion with a section of dishonest land officials even made false land ownership documents and sold those lands through registration in local upazila land registry offices. During the last land survey, some people allegedly got large areas of the government lands recorded as private property through bribing a section of land officials but no action was taken although several written allegations were submitted to the higher authorities in this regard.*

*Project implementation officers (PIO) of the Upazilas concerned are responsible for looking after the lands under the Government's relief department. But they remain busy mostly in implementing different Government projects and due to a manpower shortage, they have very little capacity to do anything about the lands, sources said. Several attempts by the district administration to recover the occupied lands saw little result due to various reasons while a section of local political leaders back the illegal occupiers. Authorities during the last caretaker government in 2007-2008 took drastic steps to recover the encroached lands but the initiative later discontinued. According to the present market value, the price of the 3,602 acres of government land would be at least Tk 500 crore, land department sources said. Sadar upazila Vice Chairman Shahid Mahmud suggested that the government fix up the value of those lands and release it from the occupiers to hand it over to them through deeds. A seven-member committee has been formed with the ADC (Revenue) as president and the DRRO as member*



secretary to recover the occupied lands. As per direction of the ministry concerned, the committee, which is obliged to hold a meeting every month, is collecting all the particulars of every plot of land belonging to the relief department and recording them in registers to take further course of action, he added.

**Source:** The Daily Star, 11 June 2012, Dhaka;

<http://www.thedailystar.net/newDesign/news-details.php?nid=237802>.

### 3.1.7 Conversion of *Khas* Land for Public Purposes and Commercial Use

Bangladesh is at the crossroads between being primarily an agro-based economy to becoming a middle-income, industrial-growth based economy. To become a middle-income nation, the industrialization and modernization of the labor force and production processes must be high priorities.

Internationally, Bangladesh is considered as an economically viable investment destination, attracting FDIs and remittances. Foreign investments are often in collaboration with the government as well as the private sector.<sup>58</sup> Steady economic growth over the past few years has likewise posed its own challenges on land rights in Bangladesh. Agricultural land is being diminished due to conversion into export processing zones, residential developments, infrastructure development and other government projects. Much of the converted land is *khas* land, which the government ought to be distributing to landless persons and which could be used for the relocation of climate affected communities.<sup>59</sup>

### 3.2 *Khas* land (Non-Agricultural) Distribution Policy: Provisions for climate displaced persons

The Policy of Distribution and Administration of Non- Agricultural *Khas* Land 1995 defined the Non-agricultural *Khas* land as follows (Non-agriculture *Khas* land shall include the land of):

- 4 metropolitan areas;
- Every municipality area;
- Every thana sadar;
- All agricultural land inside the above mentioned area;
- Any land outside the above mentioned areas that are not agriculture land.

Section 3(d) of the policy provides very little access of poor to the Non-agriculture *Khas* land. It only allows the land to be distributed among the family who have become destitute by natural disaster or any family legally resettled by the government.<sup>60</sup>

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<sup>58</sup> Siddiqui, S. & Ahmed, S. N., *Dui Bigha Jomi*, vol.3, Issue 6, June 2009, Forum, A Monthly Publication of Daily Star, Dhaka. <http://www.thedailystar.net/forum/2009/june/bigha.htm>.

<sup>59</sup> Land Watch Asia, Campaign Update, 2011. *Bangladesh: The Fight for Land Rights Moves Forward*, ALRD & SEHD, Dhaka

<sup>60</sup> *Land Rights and Poverty Alleviation*, 2005. BLAST, Dhaka.

### 3.3 Alluvial Diluvian Land laws

According to section 86 of the 1950 East Bengal State Acquisition and Tenancy Act, if land is lost due to river erosion it can be given back to the original owner but on the condition that resurfacing of the land must occur within 20 years and in such cases the original owner may get the land back by paying rent as settled by the revenue officer and the original owner must not possess land of more than 375 bighas. After the independence of Bangladesh, through the Presidential Order 135/137 of 1972, some amendments were made to the 1950 State Acquisition and Tenancy Act. By 1972 all alluvial land was brought under *khas* possession. Right and title to diluviated land by the original owner was abolished. The transformation of *Shikasty* land (emerged land that had been lost or eroded previously) also proved beneficial because it provided a legal deterrent to the violent practices of *Jotdars* (local land lords) who sought to establish ownership claims on all newly risen land in their area of influence.

The Alluvion and Diluvion Land Laws were again changed on 13 July 1994 by the P.O. Order No 15/1994. The salient features of this order are:<sup>61</sup>

- If the *Shikasty* land reappears within 30 years then it will be brought under the possession of the original owner;
- The land owner has to apply for exemption of revenue and collect receipt;
- Land ceiling for the original owner to get *Shikasty* land limits to 60 Bighas;
- If the *Shikasty* land reappears after 30 years the land will be brought under the Possession of Government;
- If the char is formed artificially and not naturally, government will enjoy absolute ownership of the land;
- Newly appeared *Charland* will be brought under the ownership and control of the Government.

### 3.4 Government Land Acquisition

The Ministry of Land is entrusted with the management of all land in Bangladesh. Different government agencies are also bestowed with land for their respective development projects. The Ministry of Land has the legal right to acquire land on behalf of an implementing agency (requiring body) and the use of that piece of land lies within the terrains of the implementing agencies. Resettlement matters are dealt by the Land

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<sup>61</sup> *Land Rights and Poverty Alleviation*, 2005. BLAST, Dhaka.

Acquisition wing of the Deputy Commissioner's Office in cooperation with the implementing body.<sup>62</sup>

### 3.4.1 Government Land Acquisition: Legal framework

Provisions regarding possession of land and land acquisition are clearly mentioned in the constitution of the People's Republic of Bangladesh. The provisions under Article 42 of the Constitution regarding property rights give citizens the fundamental right to own, acquire, hold, transfer or otherwise dispose of property. The same article empowers the State to acquire any piece of property if required for public purpose or public interest on payment of proper compensation.

Article 42 of the Constitution states:

1. *Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property and no property shall be compulsorily acquired, nationalized or requisitioned save by authority of law.*
2. *A law made under clause (1) shall provide for the acquisition, nationalization or requisition with compensation and shall either fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court on the ground that any provision in respect to such compensation is not adequate.*

In Bangladesh, the legal frameworks were based on the principle of "eminent domain," or the right of the State to expropriate for the sake of public good (including, electricity, water and roads). Eminent domain legislation is based on the principle that affected persons need to demonstrate legal rights to land in order to obtain compensation.<sup>63</sup> Currently, the legal instrument for expropriating lands for public purposes is the Acquisition and Requisition of Immovable Property Ordinance 1982. According to the Ordinance:<sup>64</sup>

*"Whenever it appears to the Deputy Commissioner that any property in any locality is needed or is likely to be needed for any public purpose or in the public interest, he shall cause a notice to be published at convenient places on or near the property in the prescribed form and manner stating that the property is proposed to be acquired. Provided that no property used by the public for the*

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<sup>62</sup> Siddiqui, S. & Ahmed, S. N., *Dui Bigha Jomi*, vol.3, Issue 6, June 2009, Forum, A Monthly Publication of Daily Star, Dhaka. <http://www.thedailystar.net/forum/2009/june/bigha.html>.

<sup>63</sup> Pittaluga, F. & Sabah, M., *Bridging the infrastructure gap*, The Daily Star, June 26, 2010. Dhaka, <http://www.thedailystar.net/newDesign/news-details.php?nid=144132>.

<sup>64</sup> Ministry of Land, People's Republic of Bangladesh, *The Acquisition and Requisition of Immovable Property Ordinance, 1982*; [http://bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=619](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=619).

*purpose of religious worship, graveyard and cremation ground shall be acquired (Section 3)".*

When any property is required temporarily for a public purpose or in the public interest, the Deputy Commissioner may, with the prior approval of the Government, by order in writing, requisition it:

*"Provided that no such approval shall be necessary in the case of emergency requirement of any property":*

*'Provided further that, save in the case of emergency requirement for the purpose of maintenance of transport or communication system, no property which is bona fide used by the owner thereof as the residence of himself or his family or which is used either for religious worship by the public or as an educational institution or orphanage or as a hospital, public library, graveyard or cremation ground shall be requisitioned. Where an order made under sub-section (1) has been served, the Deputy Commissioner may take possession of the requisitioned property (Section 18)".*

### **3.4.2 Government Land Acquisition: Problems and challenges**

There are some unique features of land acquisition in Bangladesh, including:

1. Land is very valuable because of the high density of population;
2. In such a densely populated country, land is more than an asset, land appears to be an indicator of power and pride;
3. The attachment of the people to ancestral land is very deep, no compensation could mitigate the feeling of loss of ancestral land.<sup>65</sup>

#### **Box 3: Socio-Economic Hardships Due to Land Acquisition for Flood Control**

*Flood control projects involve acquiring substantial amounts of land for embankment construction. Land acquisition causes immense economic and social suffering to the poor households who lose their land. Among the worst sufferers are small agricultural landholders who lose their homestead land. Because of the loss homestead land, which in many cases was their sole property, people become homeless and are compelled to migrate elsewhere. Obtaining financial compensation is a lengthy process and does not make up fully for economic losses because of land price inflation. More importantly, the social costs are not compensated for by financial compensation schemes, and there is high dissatisfaction among people who are affected by land acquisition. HIFAB and MARC (1992)<sup>66</sup>, under the flood action plan (FAP) -15 study, assessed the economic and social impacts of land acquisition in*

<sup>65</sup> Talukder, Md. M. Alam, 2006. *Land Acquisition Policy in Bangladesh: A Case Study on the Land Acquisition Activities of Tangail District*, The Centre for Governance Studies, BRAC University, Dhaka.

<sup>66</sup> HIFAB International and Multidisciplinary Action Research Centre "Final Report of Land Acquisition and Resettlement Study(1992) "

*six BWDB projects throughout the country. Household surveys in these six projects showed that 38% of households had lost their land and 4% had lost their homestead.*

Source: Rasul. G & Chowdhury, A K M Jahir Uddin, 2010, *Equity and social justice in water resource management in Bangladesh*, Gatekeeper, 146, IIED.

Economic development relies on the construction of new physical infrastructure to cater to the increasing demands of a growing population. Infrastructure development, in turn, often requires the acquisition of land and other assets that are privately owned; every inch of land in Bangladesh is occupied, lived on, cultivated, extracted, utilised in one form or the other, legally, extra-legally, and/or illegally.<sup>67</sup> Such acquisition adversely affects the socio-economic well-being of the people whose assets are acquired as well as the communities that they live in. The impact of land acquisition includes physical relocation, disruption of livelihoods and the potential breakdown of communities.

### **3.4.3 Government Acquisition: Further displacement of communities**

The 1982 Land Acquisition Ordinance is the only legal instrument for obtaining land for infrastructure development. Currently there is no cohesive resettlement policy in effect. While it is estimated that an average 20,000 to 30,000 people are affected on a yearly basis by infrastructure development projects, close to 1,000,000 are 'involuntarily resettled' by river erosion - the key driver of landlessness and rural-urban migration in Bangladesh.<sup>68</sup>

The findings of a study on land acquisition entitled "*Land Acquisition Policy in Bangladesh: A Case Study on the Land Acquisition Activities of Tangail District*" were.<sup>69</sup>

- a) 92% of the project affected people (PAP) are dissatisfied with the estimated compensation;
- b) 36% of the PAP, did not get entire estimated compensation for multi-dimensional complexities;
- c) 84% of the PAPs overall condition worsened after land acquisition;
- d) 58% of the PAPs had to shift their homestead after land acquisition;
- e) The recipients spend 9.38% of the total compensation as extra money.

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<sup>67</sup> Siddiqui, S. & Ahmed, S. N., *Dui Bigha Jomi*, vol.3, Issue 6, June 2009, Forum, A Monthly Publication of Daily Star, Dhaka. <http://www.thedailystar.net/forum/2009/june/bigha.htm>.

<sup>68</sup> Pittaluga, Fabio; July 13, 2010, *Land, infrastructure, and affected people--Owners must be compensated for acquired land*, The Daily Star, Dhaka, <http://www.thedailystar.net/newDesign/news-details.php?nid=146460>.

<sup>69</sup> Talukder, Md. M. Alam, 2006. *Land Acquisition Policy in Bangladesh: A Case Study on the Land Acquisition Activities of Tangail District*, The Centre for Governance Studies, BRAC University, Dhaka.

Further, the Ordinance presents significant challenges in its application, including:<sup>70</sup>

- a) Complexities in determining legal claims over lands; only people who can demonstrate legal title to lands are eligible for compensation;
- b) Compensation rates are often inadequate, and no assistance is provided to affected people to move elsewhere;
- c) Existence of many squatters (or illegal occupants) that are part of the fabric of Bangladeshi society and many of whom are the victims of river erosion;
- d) Furthermore, forced evictions are not indicators of democratic processes, as they often result in a "re-cycling" of poverty rather than eradication. And it is often the poorest sections of the Bangladeshi population who are affected, because there is no possibility of voicing their concerns;
- e) Effectively, there is no resettlement policy to facilitate people's movement from the areas of impact to other zones. In practice, this means that compensation alone does not allow people to retain the same standards of living in other locations, and in many cases their situation is exacerbated;
- f) The concepts of "public purpose" which may be widely understood in the common use of the terms require a stricter definition to avoid the risk of triggering expropriation laws to acquire land for dubious purposes under that garb (for example, malls and commercial spaces). In the absence of a clear definition of what is included as a 'public purpose', the State risks favoring one or more citizens to the detriment of others, where the poor and voiceless are often silenced by larger vested interests - thereby reproducing a structurally unjust society.<sup>71</sup>

### **3.5 Rehabilitation of Displaced People to *Khas* Land: The role and struggle of NGOs and CSOs in Bangladesh**

The overall policy of the government favored NGOs to take up land issues on the development agenda, however, few NGOs had been intensively involved in mobilizing the poor on land issues. The LRAP recognized the role of NGOs in *khas* land distribution in the following sections:

*Nominated non-government organizations will help the administration in both stages of pre and post land settlement at the ministerial level to render*

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<sup>70</sup> Pittaluga, F. & Sabah, M.; *Bridging the infrastructure gap*, Economic Observer, [http://www.economic-observerbd.net/admin/images/4\\_Fabio%20Pittaluga.pdf](http://www.economic-observerbd.net/admin/images/4_Fabio%20Pittaluga.pdf).

<sup>71</sup> Pittaluga, Fabio; July 13, 2010, *Land, infrastructure, and affected people--Owners must be compensated for acquired land*, The Daily Star, Dhaka, <http://www.thedailystar.net/newDesign/news-details.php?nid=146460>.

*assistance and cooperation to specific activities of the land reform cell established in the ministry; to participate in the propaganda work related with distribution of khas land; and to provide expected assistance in monitoring, evaluation, research and work of the program (Section 120);*

*Nominated non-government organizations were envisaged to assist the administration in both stages of pre and post land settlement at the lowest or local level (Section 121).*

NGOs and CSOs also can play proactive roles as members of *Upazila Agricultural Khas* land Settlement and Management Committees and also at the District level; however, those members are to be nominated by the Government and the government tends to nominate 'Government sponsored NGOs'.<sup>72</sup>

In 1987, the Government formed *Guccha Grams* (clustered villages) for landless people. Several NGOs took the opportunity to cooperate with the Government on the land distribution tasks. This cooperation has continued, furthermore, NGOs have assisted the government in its program of *Adarsha Gram* (ideal villages) which aim to provide comfort by constructing houses for the distressed poor.<sup>73</sup> NGOs also rehabilitated the displaced and landless people establishing *Gucchagram* (cluster village) through purchasing land with financial support from INGOs.<sup>74</sup>

In addition to the rehabilitation of displaced people through establishing cluster village, the NGOs of Bangladesh have been using a number of strategies and processes to recover and distribute *khas* land among the landless poor; including, mobilization, identification and redistribution of *khas* land, legal aid, lobbying and advocacy.<sup>75</sup>

Around 200 NGOs are working to promote the land rights of landless people in the country. The Association for Land Reform and Development (ALRD) has 260 local and national NGO partners which mobilize policy makers, public representatives, politicians and media, to initiate positive pro-poor policy formulation and effective implementation initiatives. Nijera Kori works on issues related to land tenure, agricultural wages, *khas* land distribution, lobbying with government, grassroots mobilization, capacity-building and awareness building. Samata works to assist landless people in gaining access to *khas*

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<sup>72</sup> Barkat, A. , Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Dhaka: Association for Land Reform and Development.

<sup>73</sup> Manzurul M., *South Asia's Experience in Land Reform: The Role of NGOs, the State and Donors*, Independent University Bangladesh, Dhaka, [citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.197..](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.197..)

<sup>74</sup> See Box 5.

<sup>75</sup> For details see: Barkat, A., Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development (ALRD), Dhaka

land and water bodies. It's Land and Agrarian Network for Development (LAND) engages in social mobilization around land rights and related local administrative reform.<sup>76</sup>

The role of NGOs in creating mass awareness on the issues of poverty eradication and access to *khas* land, assisting local administration in the process of *khas* land identification and distribution and in providing legal support to the extreme poor landless families can be applauded for accelerating.<sup>77</sup>

It was found that more than one third of beneficiaries reported having had some sorts of assistance from CSOs (NGO, peasant organization, and political parties). Beneficiaries sought assistance mainly during the distribution (not during the listing work) of *khas* land and in the process of disturbance created by the illegal occupants in case of problems faced in taking possession of the *khas* land or during the harvesting.<sup>78</sup>

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<sup>76</sup> *Securing the Right to Land, A CSO Overview on Access to Land in Asia*. 2009. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), Quezon City, Philippines, [www.angoc.org/dmdocuments/SRL\\_Bangladesh.pdf](http://www.angoc.org/dmdocuments/SRL_Bangladesh.pdf).

<sup>77</sup> Islam, Shahidul, 2011. *Access to khas land: Alleviating poverty*, <http://www.thedailystar.net/newDesign/news-details.php?nid=203802>.

<sup>78</sup> Barkat, A., Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development (ALRD), Dhaka.



**Box-4: Distribution of khas land among the landless poor: the experience of Samata**

Samata was formed in the aftermath of the liberation war of Bangladesh and like most NGOs, its organization and work has evolved over time. In 1976, some of the local youths of the village of Bishnupur, Khetupara union in Santhia thana, organized a youth club and occasionally involved themselves in small scale and temporary relief efforts. Following this, they set up a development organization, which followed many of the aims and objectives of the community development programmes undertaken throughout the country at that time (infrastructure development and emergency relief). It also however reflected many of the weaknesses of the projects that benefited only the rich and middle income peasants. The nomenclature "Samata", which in Bengali means equality, symbolized both the spirit and philosophy of the new organization, and sought to challenge the prevalent rural power structure that systematically disenfranchised the poor. Its focus was exclusively on the landless poor of the area. Shortly after its registration with the Department of Social Welfare in 1983, Samata's activities were given national and international prominence as a result of its struggle to free 1,200 acres of *khas* land (land under the ownership of the government) situated in the Ghughudah Beel. This area of *khas* land was an important material resource, which had been illegally occupied by certain local influential persons and which by right should have been given to the landless poor. Although the Government laws awarded such land to the landless, the strength and contacts of the powerful elite were such that the same laws were easily manipulated in their favour.

The struggle to free *khas* land became significant for a number of reasons. First of all, it served to show that if the poor could be organized and united, they could exert considerable pressure to actually change the power structure and resist the threats, violence and political manoeuvrings of those who opposed change. This was an important source of encouragement to other groups of poor peasants in Bangladesh. Secondly, in response to the struggle, Samata engaged an NGO coordination council for land reform established in 1987. This was in effect the first major NGO forum (and the predecessor to the present Association for Land Reform and Development-LARD), which brought together like-minded organizations in an attempt to deal with a specific issue. Finally, this brought to light a particular development methodology, the logic of which offers crucial insights into current development practice and theory. Land grabs or land capture by Bangladeshi elites is mediated through privileged access to government through bribery and the coercion of land officials to transfer title to them selves and deploy gangs to harass resident owners, primarily peasant proprietors, to relinquish their holdings.

## Chapter 4: Rehabilitation of Climate Displaced Persons: Government Policies and Initiatives

### 4.1 National Policies and Institutional Frameworks

The national policies and institutional frameworks of Bangladesh are not sufficient to protect climate displaced persons.<sup>79</sup> The national policies and strategies concerning climate change and environmental issues, including the National Environment Policy 1992, the Coastal Zone Policy 2005, the National Adaptation Programme of Action (NAPA) 2005 and the Bangladesh Climate Change Strategy and Action Plan 2009 indicate the climate change problems. But there are no clear indications how population displacement problems will be addressed in these policies.<sup>80</sup>

As experienced in Cyclone *Aila*, there are weaknesses and inefficiency in managing and responding to natural disasters in Bangladesh. A large number of people have been displaced from their homes as a result of Cyclone *Aila*. There are no proper and adequate rehabilitation programmes for the displaced people.<sup>81</sup> In addition, there is no clear indication in the government Sixth Five Year Plan FY2011-FY2015, titled Accelerating Growth and Reducing Poverty on how to rehabilitate climate displaced people.

In the backdrop of such a situation, the Government of Bangladesh is implementing programs to rehabilitate landless people through distributing *khas* land including houses under Guchhogram (cluster village) and Abashan/Asrayan projects. The cluster village project was initiated in 1972 to rehabilitate the assetless, rootless and landless families caused by cyclone and river erosion in the Char Areas of Noakhali District (greater) as a pilot project on government *khas* land of the country. The rehabilitation programs for assetless and landless families were followed through various land reform initiatives focusing on the distribution of *khas* land to landless families. Since that date the 'Cluster Village' or 'Adarsha Gram' (Ideal Village) approach to land reform and poverty alleviation has been included in all relevant planning documents of the Government of Bangladesh.<sup>82</sup>

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<sup>79</sup> Roy, Dulal Chandra,, *Vulnerability and population displacements due to climate-induced disasters in coastal Bangladesh*, Centre for Geoinformatics (Z\_GIS), University of Salzburg, Austria.

<sup>80</sup> Akter, T. (2009): *Climate Change and flow of environmental displacement in Bangladesh*, Unnayan Anneshan-The innovators, Dhaka, Bangladesh.

<sup>81</sup> Roy, Dulal Chandra,, *Vulnerability and population displacements due to climate-induced disasters in coastal Bangladesh*, Centre for Geoinformatics (Z\_GIS), University of Salzburg, Austria.

<sup>82</sup> Government of the People's Republic of Bangladesh, Guchhogram (CVRP) Project, <http://www.guchhogram.gov.bd/>.

Following upon the recommendations of the Land Reforms Committee of 1982, the Land Reforms Ordinance and the Land Reform Rules were promulgated in 1984 and 1987 respectively which provided momentum in land distribution initiatives. In 1988, the Adarsha Gram project was launched to address the challenge of landless settlement. This project was jointly financed by the Government and the European Commission.<sup>83</sup> The concept of cluster village was proposed in the Land Reform Action Program 1987 as follows:<sup>84</sup>

*“A portion of land e.g. 0.08 acre will be allocated to per family for homestead. The number of residents will be determined according to the availability of land in each village. Each village will have a name that sounds nice, the design and specific project structure in conformity with other cluster villages may be supplied if the Ministry is approached for the creation of cluster village. However, the Ministry hopes that the Deputy Commissioners will create cluster village according to their own choice in the perspective of respective areas (sections 144-146).”*

The Ministry of Land is implementing a program under which at least 20 landless families are being given *khas* land in each *upazila*. A total of 6,397 landless families in 436 *upazilas* have been given nearly 2,185 acres of *khas* land as of July 2009. In addition, 71,032 landless families have been rehabilitated through providing *khas* land, including houses under Adarsha Gram I and II projects. Similar rehabilitation programs have targeted 10,650 landless households under the Climate Victims Rehabilitation Project (CVRP) from January 2009 to June 2012. In addition, the rehabilitation of 9,500 households is in progress under the Char Development and Settlement 3 Project.<sup>85</sup> The official claims about the amount of distributed *khas* land would be about 40 percent less than what official sources claim.<sup>86 87</sup>

The objectives of the CVRP are to settle the climate victims who are landless, homeless, floating or victims of river erosion on *khas* land or donated land with accommodation and to make all such rehabilitated families the owners of a piece of land. The deeds of ownership are awarded jointly in the name of the wife and husband to achieve gender parity and empowerment of women<sup>88</sup>.

A *Guchhogram* is constructed on a minimum of 2 acres of land. In each village a minimum of 30 families are rehabilitated. Each of the family receives a minimum of 0.04 acres of land for their homestead. Each family is provided with a 300 square foot house, a kitchen and a sanitary latrine. Adequate provision is made for safe drinking water

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<sup>83</sup> Rahman, M.S., 2011, *An evaluation of Ashrayon Project at Debidwar, Comilla in Bangladesh*, North South University, Dhaka.

<sup>84</sup> Cited from Barkat, A., Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development (ALRD), Dhaka.

<sup>85</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.

<sup>86</sup> Barkat, A., Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development (ALRD), Dhaka.

<sup>87</sup> Study report says that statistics on the amount of distributed *khas* land is at least 40 percent more than the amount of land actually distributed by the government

<sup>88</sup> Government of the People's Republic of Bangladesh; Guchhogram (CVRP) Project; [http://www.guchhogram.gov.bd/index.php?option=com\\_content&task=view&id=462&Itemid=481](http://www.guchhogram.gov.bd/index.php?option=com_content&task=view&id=462&Itemid=481).

through the provision of tube-wells. Each family is provided with micro-credit and appropriate training for carrying on income generating activities through the Bangladesh Rural Development Board (BRDB). Further, adequate facilities for primary health care, education, family planning and building social awareness are provided to the residents through different nation building organizations.<sup>89</sup>

#### **4.2 Problems associated with Rehabilitation in Cluster Villages**

In addition to the Government rehabilitation programs, some NGOs have also rehabilitated displaced persons in an approach similar to the government programs. The numbers of rehabilitated persons by government and non-government sources are very few. This rehabilitation approach helped the landless poor people to be the owner of houses, address and identity of living in an area. Studies show that there are some limitations of these rehabilitation programs; these are<sup>90</sup>:

- Lack of access to resources has made the projects' achievement modest and its beneficiaries dependent on others;
- Distribution of insufficient and unsuitable land for cultivation;
- Failure of NGOs to contribute significantly in creation of income generation activities;
- Self-employment process did not take into reality due to lack of capital and training;
- Allocation of inadequate land;
- Insufficient credit facility;
- Inappropriate training provision;
- Departure of beneficiaries from project location;
- Remoteness of project location.

In a mid-term evaluation report of the *Adarsha* Gram project conducted by the Promotion, Planning, and Monitoring Unit (PPMU) under the Ministry of Land of Bangladesh Government, it was found that the beneficiaries were rehabilitated in insufficient land which in most cases was unsuitable for cultivation purposes. The report also stated that the activities carried out by the NGOs for livelihood support of the beneficiaries failed to contribute significantly.<sup>91</sup> In the final evaluation it was mentioned that failure in selecting proper target groups, inadequate completion of registration deeds and a lack of monitoring caused the relative failure of the project.<sup>92</sup> These problems continue to exist with the present rehabilitation programs. Further, reports about irregularities, nepotism and corruption about the CVRP and other programs have also been published in the newspapers.<sup>93</sup>

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<sup>89</sup> Government of the People's Republic of Bangladesh, Guchhogram (CVRP) Project, <http://www.guchhogram.gov.bd/>.

<sup>90</sup> Findings from field observation, FGD & Rahman, M.S., 2011, *An evaluation of Ashrayon Project at Debidwar, Comilla in Bangladesh*, North South University, Dhaka.

<sup>91</sup> Rahman, M.S., 2011, *An evaluation of Ashrayon Project at Debidwar, Comilla in Bangladesh*, North South University, Dhaka.

<sup>92</sup> Rahman, M.S., 2011, *An evaluation of Ashrayon Project at Debidwar, Comilla in Bangladesh*, North South University, Dhaka

<sup>93</sup> Newspaper reports.

**Box 5 : Communication Facility is Very Important for Livelihood of Cluster Villages**

*A cluster villages was established in Ramu Upazila of Cox's Bazar during the Earshad regime (1987-1988). The displaced landless people from the neighboring areas were rehabilitated on 20 acres of land. 40 families were resettled there and now there are 60 families residing in this village. During the rehabilitation process they received tube wells, a house with 2 bundles of tin for the family and some food support. After that the Union Parishad (UP) provided some toilets. Various NGOs' started working with the villagers on health, microfinance and other issues.*

*According to the villagers, soon after they were rehabilitated there was a change of Government and they did not receive any legal papers. Local UP chairman's and council member assisted them with retaining their allotted land. Replying to a question "whether it is possible for them to sell this piece of land to someone else or not?" They replied that most of the allotted families are still living here and very few families sold their land. As they do not posses any legal documents, they can hand over the position of the land against very small amount of money. Most of them are day labors, they work in the field, and some of them cut woods from the forest.*

*The advantage of this area is that it is well connected with good road communication; village markets and hills are not that far for here. If they want to go to Cox's Bazar for any work they can get transport easily. Now there is a local community health clinic in the area. For better treatment they have to go to Ramu or Cox's bazaar. Before rehabilitation, they lived in remote areas. Most of them were wood-cutters or day laborers. Now it is easy for them to get wood and work because the hills are close by and they can go to Ramu or Cox's bazaar to look for jobs. Wood collection from the hills is seasonal work, but still they can look around for alternative job options from this area. So they are better off now than their previous location.*

Through focus group discussions and interviews with rehabilitated persons under different government rehabilitation projects, the participants identified the following merits of the projects:<sup>94</sup>

- The cluster village provided them shelter, identity and address. Most of the beneficiaries are landless, displaced and floating caused by river erosion;
- Some of them received loans from NGOs;
- One day in every month the Government Doctor visits the cluster village and provides prescriptions and medicine free of charge;

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<sup>94</sup> FGD and interview with the cluster village people under CVRP project

The problems identified by the participants in focus group discussions and informal interviews were:

- The village is located in a remote location with poor communication links;
- There is no primary school located near the village. The drop out rate of children from school is high, around 50%;
- There is no health care clinic located near the village;
- There is no market area near the village;
- The villagers have not yet received a deed of title to the land and they are unsure when they will receive it;
- Seasonal unemployment is a major problem;
- Maintenance is another major problem in the cluster village; it was found in one cluster village that five tube wells out of six were dysfunctional and local authorities were not taking care of them. This led to a lack of safe drinking water for the village.

**Box 6: To Comply with the Conditionality of Donors, Sometimes We Create New Problems, Habibullah Bahar, Director, Manab Mukti Sangstha**

*Manab Mukti Sangstha (MMS), a local NGO based in Sirajganj District; established a cluster village to rehabilitate the people displaced by river erosion in Tahkurpara village, Rajapur Union under Belkuchi Upazial of Sirajganj District. The cluster village was established in January 2012 with the financial support of Practical Action, an international NGO, in 52 decimal of purchased land. The displaced people from the adjacent four villages are living here now. The beneficiary selection process was transparent; at first a list of landless people was prepared and made primary selection by MMS from the list and validated it by the local community leaders. 25 families have been rehabilitated in this cluster village, with 2 decimals of land allocated for each family. A cow shed and a seed store was built to protect the livestock and seeds in the rainy season. After the rehabilitation, MMS provided them with goats and handlooms, however, the deed of land has not yet been provided. They are under observation as there is chance to sell the land. There is samity facilitated by MMS each family saving 10 Taka in a week.*

*This cluster village is located in the middle of a char; there is no market, school or health center in this village and also it does not have good communication links. Villagers have to travel by boat, however, they do not have their own boats. These problems become severe during the rainy season; they can't go to the market, to educational institutes or the health center. 3 families out of 25 have already been left the village due to communication problems.*

*Mr. Habibullah Bahar, Director, MMS opined that the livelihood opportunity of rural and urban poor people is very important to the selection of rehabilitation locations. The demand, capacity and scope of employability of the beneficiaries needs to be checked. He expressed that these were not done in this cluster village. To comply with the conditionality of donors, sometime we create new problems.*

In terms of rehabilitation of displaced people, the concerned government officials and elected representatives of the local government bodies underscored the following issues:

- In most cases Government projects are suggested by the top policy makers; this often means that the local administration face problems while implementing these projects;
- In the process of rehabilitation, the local administration receives pressure from local MPs in site selection of cluster village; sometimes MPs also make a request for allotment;
- In most cases in the rehabilitation program, the approach is top down. Rather, planning should be conducted with proper consultation with local people and the local administration in a view to integrating the scope of utilization of local natural resources;
- The increased participation of CSOs and the representatives of displaced communities in all stages of the distribution of *khas* land should be ensured;
- CSOs and NGOs could play a major role in these villages by setting up education, health care and capacity building activities;
- There should be comprehensive development planning involving intensive participation of stakeholders from site selection to rehabilitation process, integrating local natural resource based small-scale industrialization adjacent to the site area in order to ensure employment for the people. For example, coir, coconut based industry and fish product based industries could be set up.

**Box 7: Income generation for the rehabilitated communities through utilizing local resource management**

*Salpapur and Kutubganj are two ideal villages under Mahesh khali upazila of Cox's Bazaar district. Mahesh khali is a very exceptional island, endowed with natural resources. It can be self sustainable and run without any support from the outside world. This island produces a bulk amount of fish and salt; there are also hills and plain land available for crop cultivation. The local administration is trying to utilize these resources to enhance the income of rehabilitated persons through imparting*

*training from government youth training centers and providing micro credit support.*



## Chapter 5: The Way Forward

It is essential that policies and strategies relating to climate change recognize the severity of the climate displacement crisis as well as provide for adequate rehabilitation of climate displaced persons.

A concerted effort is required from the Government as well as from civil society to provide sufficient assistance to the most affected individuals and communities.

- a) For the rehabilitation of climate displaced persons, there should be a comprehensive rehabilitation policy in place.
- b) A concerted effort is needed to investigate the exact amount of land and assets, as accurately as possible, that remain under public ownership and control. This would then set the stage for a major policy initiative to relocate these assets under the permanent control or ownership of the landless people. A sizable part of these public assets may be located at urban areas which could be utilized to address the housing needs of the urban poor. The main issue for policy resolution would be to identify how such public lands should be distributed among the displaced people.<sup>95</sup>
- c) Around five million people inhabit fluvial islands, or *chars*. There are land laws and policies to allot such land to the poor and the landless, but in reality the interest of the poor is rarely preserved. The vested interest groups in both rural and urban areas are in *de facto* and *de jure* possession of these lands with the help of money and muscle.<sup>96</sup> When an alluvion is formed within a river, it becomes the property of the state or *Khas* land and only the government can distribute such land. Even in such cases, the influential locals manipulate the legal frameworks and deprive the displaced. Violence in the *Char* lands is thus quite visible in Bangladesh. Ambiguities and loopholes are also common regarding the laws concerned with disappearance and raising of lands.<sup>97</sup> There should be a coordinated effort from government and CSOs to distribute *char khas* land to the landless people.
- d) The majority of climate displaced persons now reside in slums. In the cities, the slum dwellers pay a high rent for staying in the slums and they remain under constant threat of eviction. It has been alleged that the authorities evict slum dwellers without providing alternative shelters. The High Court gave clear directions to stop the forcible evictions of slums without proper legal notice and resettlement; slum dwellers in major cities regularly face such forceful eviction. It is therefore mandatory for the government to

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<sup>95</sup> Saha, B.K., 2010, *Promoting Agrarian Reform* in Rehman Sobhan (ed.) *Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia*, Sage, Delhi.

<sup>96</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.

<sup>97</sup> Rahman, M.S., 2012. *The Internally Displaced People of Bangladesh: A Background Paper*, South Asian for Human Rights (SAHR) <http://www.southasianrights.org>.

recover and protect public lands from illegal occupation and use the *Khas* lands for meeting the growing demands of the urban poor on a priority basis.

- f. Climate displaced persons could be rehabilitated in the non-agricultural *Khas* land.
- g. The rehabilitation of displaced persons by government and non-government sectors are, to date, insignificant in terms of the total number of displaced persons. Importantly, livelihood problems remain after the rehabilitation of displaced persons. It has been observed that current rehabilitation approaches are on an *ad hoc* basis. Few people are being rehabilitated whereas a large number of people are being displaced. There should be a rights-based solution to this problem. There should be initiatives to generate sustainable employment opportunity for the rehabilitated climate displaced persons.
- h. As the world's most densely populated country, land is a scarce resource in Bangladesh and the loss of agricultural land is continuing at the rate of about 1 percent per year because of the diversion of agricultural land to multiple uses and river erosion.<sup>98</sup> Every year the amount of agricultural land is decreasing. At present 63% of land is under agriculture; its portion needs to be increased for food sovereignty.<sup>99</sup> It is a nation only slightly larger than England, 55,000 square miles, with a population of approximately 160 million people (England has 51 million). This gives Bangladesh a density of more than 3,000 persons per square mile, the highest density among non-insular countries or city-states in the world. It is estimated that the country has approximately nine million hectares of cultivable land but population pressure suggests that by 2025 as much as 50 percent of that land will be taken over by human settlement<sup>100</sup>. The total country should be under zonal planning and there should be planned urbanization both in rural and urban areas with multi-storied buildings in rural areas. In Bangladesh, housing is a problem not only for the displaced people, it is also the problem of poor and lower-middle classes in rural and urban areas. Without addressing the problem of affordable housing for all, there will be enormous displaced and shelter-less people in the country. The Ministry of Land formulated a National Land Use Policy in 2001 which highlighted the need for carrying out a National Land Zoning Program for integrated planning and management of the country's land resources. However, the institutional structure for

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<sup>98</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.

<sup>99</sup> *Sustainable Land Management: Bangladesh Context, Round Table Discussion*, The Daily Prothom Alo, Dhaka, 14 Feb. 2012.

<sup>100</sup> SAMATA. 2006. *Land Conflict in Bangladesh: A Resource based on News Clippings Published in National Dailies in 2004*. Dhaka: National Policy Advocacy Cell, SAMATA. Cited from Feldman, S., & Geisler, C., *Land Grabbing in Bangladesh: In-Situ Displacement of Peasant Holdings*, Paper presented at the International Conference on Global Land Grabbing on 6-8 April 2011 at the Institute of Development Studies, University of Sussex.

implementation is lacking.<sup>101</sup> The Land Use Policy needs to be revised and updated addressing these critical issues.

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<sup>101</sup> 6th Five Year Plan FY2011-FY2015, GED, Planning Commission, Government of Bangladesh, 2011.