
Report on the Workshop on the Sources of Khas Land, legal bindings for it's distribution and Suggestions

Sustainable access to land equality (SALE) project

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Uttaran Training Centre, Tala, Satkhira



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Introduction

Since 1985, Uttaran, an NGO, has been striving to establish the rights of poor people in the South-West regions of Bangladesh. During the operation of this development project, Uttaran has observed that providing the poor with productive elements can help eliminate poverty to a great extent. With the ownership of productive elements, their sources of income become multifarious. The productive element-the small piece of land-changes their social, cultural and psychological behavior. Statistics show that there are about 33lac acres of khas land in Bangladesh. Due to the legal bindings these land cannot be distributed among the landless people. For this UTTARAN SALE project has organized this workshop called **Sources of Khas Land, legal bindings for its distribution and Suggestions**. Mr. Jahangir Alam Siddiqui, Training & Advocacy Officer of the SALE project welcomed everyone present in the workshop. The workshop was presided over by Mr. Shahidul Islam, Director, Uttaran while Mr. Md. Faikuzzaman Chowdhury, Joint Secretary, Ministry of the Public Administration of the Peoples Republic of Bangladesh joined as the chief guest and special guest Mr. Md. Zillur Rahman, Assistant Officer (Settlements), Land Records and Statistics Department. Also present were people of different classes and occupations and leaders of land rights movement.

Mr. Shahidul Islam started his speech after welcoming everyone saying "Bangladesh has developed a lot in various sectors after becoming a free country. Still a large number of people are living under the poverty level. The lives of these people can be alleviated by the proper and fair distribution of khas land owned by the government. Uttaran has been working towards this goal for long time. With the aid of UTTARAN many families have gained ownership of government owned khas land. UTTARAN wants to share its knowledge and experiences in this regard all over the country. Elites of the country have come forward to work with and help Uttaran from their heart and Uttaran would like to thank them for this." He said, "We are happy to have with us today learned lawyers, teachers, journalists, freedom fighters, farmers' representatives and leaders of the land right movement. I'd also like to thank our chief guest, honorable Joint Secretary of the Peoples Republic of Bangladesh Mr. Faikuzzaman Chowdhury, who has made time for us in his busy schedule. Our chief guest has been working on khas land for a long time and has a lot of experience and publications on this. We also have long standing hands on experience in working with landless people which we'll also exchange with him today. All of us present in the workshop shall pitch in our well thought ideas to make this workshop successful and meaningful. I strongly believe that the ideas and comments of the participants of the workshop shall help allocating the khas land to the landless people to a great extent."

Chief guest's speech and ideas:

Honorable chief guest Mr. Faikuzzaman Chowdhury said, "Firstly I would like to thank Uttaran for giving me the opportunity to participate in this workshop. We have many learned lawyers here among us today. You are all aware that all legal disputes regarding land properties should be handled by the law and justice department. The survey department determines the ownership. When any area is under survey, no case shall run in the court regarding any land of that area. Because during survey, the court visits the land and takes decisions after visual inspection. Dewani court may decide for one type of entitlement while the survey department may decide other types. The judge decides the title sitting at the court. The survey department practically measures everything and issues entitlement. After finishing the khatiyon, the copies are circulated to the district attorney, local land authority and the actual owner. For government owned land Assistant Commissioner (land) sends all documents to the registry office and assistant judge for record correction. For land related issues, the collector files the cases who also helps the settlement officer in court matters." After the brief introduction, the chief guest Mr. Faikuzzaman Chowdhury showed everyone a presentation titled '**Sources of Khas Land**' which is presented below:

Ideas on Khas Land Sources:

The Khas land in our country originated from the S A Survey. The government through '**The State Acquisition and Tenancy Act, 1950 (East Bengal Act)**' abolished the Jamindari System and acquired all land from them and corrected the records under the tenants name as per the possession and documents. During this shift, Landlords and semi-landlords were left out and the raiyats were included in the records



while the owners were allowed to take possession of a certain amount of land. Apart from that certain amount of land (outside the ceiling) the left over land, marketplaces, _____ land, abandoned land were taken under the jurisdiction of the government and enlisted as state acquired khas land. The landlords took to unfair means to get hold of the left over land (outside the ceiling). Due to the governments' negligence and irresponsibility of the landless people, the surveyors updated the S A records under the previous landlords' names. As a result, only a few land were declared as khas land.

Khas land during the survey:

The surveyors gathered the previous records from the collector and started the survey. The list included government owned properties as well. From the list, those land which have already been allocated by the government were excluded and the remaining were recorded as class one khas land. The surveyors also recorded the land that was not demanded by the land owners as state acquired khas land. Also if any owner was absent and the previous owners have no address or if they were owned by the government, that land was also recorded as state acquired khas land. Land in the rivers without any proper owner was also declared as state acquired khas land. As per the clause no 20 of the tenancy act (i) any land in a hat or bazar (ii) any fishery other than a tank constructed solely by process of excavation (iii) any land consisting of forest (iv) any land actually in use for a ferry shall be recorded as land in khas possession acquired by the state. Land used in mass purpose like roads and highways, rivers, ponds are also acquired by the state as khas land. Land or properties bought by the government is also recorded as class one khas land.

Khas land

As per clause no 86 of the Act, if any land goes underwater and rises again after 30 years, that land should be deemed as khas land acquired by the state. Also if the total land area of the newly risen land is more than 60bighas than the extra land should also come under the possession of the state as khas land. The 87th clause states that if any new land rises in the river or sea (without any previous owner), then all those land shall be declared as state acquired khas land.

Properties outside the ceiling:

The state acquisition act of 1950 states in it's 90th clause that a family can possess a maximum of 60bighas of land. The remaining land have to be surrendered to the state. The family shall receive compensation from the state for those surrendered land. But if anyone conceals the information and keeps possession of more than 60bighas of land, than those land shall be state acquired without any compensation.

Lawarish Property:

The 92nd clause of the act says that if anyone dies without any proper will or descendant then their land should be deemed as state acquired khas land. Also if any one surrender their 'jote' after an agricultural year, then those land should also become state acquired khas land. If anyone doesn't pay the land development tax and leaves their land uncultivated for 3 (three) years in a row then those land sould also become state acquired khas land. Also if someone who is not a farmer becomes an owner as a descendant and leaves their land without any cultivation for more than 5 (five) years in a row then those land too become state acquired khas land.

Excess land inherited:

As per clause no 91, if anyone comes to inherit some land and their total land property is summed up over 60 bighas then the excess land should be surrendered to the state. For their surrendered property, the state shall compensate to them. However, If they don't and the state becomes aware of it, then they won't receive any compensation.

Unused land of the raiyat:

This has already been discussed above that as per clause no 92(C) & 92(D), that if anyone leaves their agricultural land without producing any crop on it for 3 (three) years in a row or 5 (five) years in a row after inheriting, their land shall be recorded as state acquired khas land.

Surrendered land by the raiyats:

As per clause no 92(B), any land surrendered shall become state acquired khas land.



Sub-leased land seized by the government:

As per clause no 93, if anyone leases their land like the old zamindari system, their entire leased property shall be seized and become state acquired khas land.

Property bought by the government:

The state may buy out land properties for its own purpose through acquisition. Also if anyone fails to pay the land taxes or if their land is put on auction for other obligations to the government and no third party buyer is available, the government can buy out those land as the certificate holder and become class one state acquired khas land.

Abandoned property:

If anyone leaves their agricultural land without producing any crop on it for 3 (three) years in a row or 5 (five) years in a row after inheriting, the revenue officer can declare them as state acquired khas land as per the tenancy act. If anyone leaves the country without handing over their property to anyone, their land also become state acquired khas land. Also any other abandoned uncultivable land like, houses, buildings, industrial buildings also become state acquired khas land.

Land of the Indigenous People:

The 97th clause of this act declares that if any land owned by the indigenous people are bought by anyone other than another indigenous people by trickery and later discovered after investigation, then the revenue officer shall immediately cancel the documents and return the land to the original owner. If the owner or any successor is not available then it will be recorded as state possessed khas land.

Land acquired by the clause no 20:

As per clause no 20, (i) any land in a hat or bazar (ii) any fishery other than a tank constructed solely by process of excavation (iii) any land consisting of forest (iv) any land actually in use for a ferry cannot be owned by any person and shall be recorded as land in khas possession acquired by the state.

Kachari (Chamber of the Zamindar) Property:

As per clause no 3 of the act, any kachari used for tax collection of the zamindar has become khas property of the state without any obligation.

He continued saying 'khatiyon no 1 clarifies which land is khas land. If we go to the union office, we can get the khas land information from the register no 8. Government officials create most of the problems for mismanagement of land properties. During survey many broker come are seen in the village areas. If we can create awareness among everyone, miscreants cannot play their tricks. People should be aware what is to be done under which act during survey for a successful survey.'

Other Khas land:

Land in use by WAPDA is sanctioned to the Water Development Board. So these land cannot be distributed among the landless people. Also marketplaces are khas properties and cannot be distributed among landless people as well. If anyone lives in a marketplace, he may get a sanction of half shatak land but he cannot build any permanent structure in it.

Open Discussion:

The chief guest asked the participant to express their comments on his presentation. This discussion brought up many important issues. Like-

* We have many policies for khas land but a lot of them has not been allocated yet. The limitations in those policies have not been fixed yet. Also no actions have been taken against those who have not followed the policy properly.

* During survey no case regarding disputes over land shall run in the court. However, in Tala, Satkhira this law has not been maintained. Many original owners possess their land but S A record was not updated with



their name. As a result they were declared as khas land and distributed among the land less people which is causing clashes and conflicts between both.

* Approximately 80% land of this area is used for shrimp cultivation. As per the policy, land inside the perimeter shall be allocated to the farmer doing the cultivation. If it's so, then how can landless people get access to these khas land? Moreover the present government has ruled out that until landless people have been marked, no khas land shall be allocated but the government has not taken any proper steps for it.

* No one can take possession of khas land but for allocation the occupier is given priority. Such double faced policy is illogical.

* At present, khas land are allocated as per S A record. But the survey results are not updated on the settlement documents making it difficult for the allottees to change the record and mutation. Many people give false information and take allocation of khas land and gets away with it unpunished.

* Same land is allocated to two different person with the help of bata lines. Rich people use poor to get allocation. While the poor cannot afford it due to bribery issues. Many people use fraudulent methods to take ownership after 50 years. Why even fresh land are not allocated?? We need to find out what legal actions can be taken against those who are against it. How to take back the land from those who has taken allocation with false information.

* We have our laws and policies which is mostly favoring the mass people. But the law is not effective. The Khulna District Khas Land Management and Allocation Committee has no effective role play. The members of the committee sign the documents enlisted by the officers. If they physically examined the sites before signing such mistakes could have been avoided.

* For some unknown reasons, government officials keep silent even when miscreants take over the khas land. This encourages them to take over more land.

* The indigenous race 'Munda' have been cheated by other communities and deprived of their land. What's the remedy for this? Later to this question the chief guest answered that it was a clerical mistake which the AC (land) can rectify. He also said that everyone should obey the law and anyone disobeying shall be made bound to abide by it.

The discussion has raised hopes for the below:

- The legal limitations in the government policies for distributing khas land shall be removed to expedite the initiatives taken by the government.
- Modernization and correction of the land laws.
- The government should take action against the corrupt officials and put them on trial.
- The allottees should receive all the cooperation after the allotment so that they are not harassed by others.
- Those who have taken possession land with illegal documents should be punished and proper candidates shall have the allotments.
- If necessary land specialists should be consulted for the correction of the laws and raised in the parliament.
- All cases related to the khas land should be resolved soon. Taxation in these land should be easier.
- Records of khas land should be updated and made available to all. Landless people should be identified by the government.

In his conclusion, the chief guest said, 'I'm honored to have the opportunity to discuss these issues with the learned lawyers and elite citizens present here. I'm really flattered to have spent the evening with you all. And many thanks to UTTARAN for the workshop.'

