

Discussion of 'Institutional Challenges in Land Administration and Management in Bangladesh'

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Poorly functioning institutions undermine the functioning of land markets in many developing countries. This chapter provides a rich description of these problems in Bangladesh and offers reform suggestions. Once prominent in traditional academic literature and development policy discussions, these issues have received less attention in recent decades. This is unfortunate, as they continue to be important in low-income countries in South Asia and sub-Saharan Africa. Improper record keeping and lack of transparency undermine security of land rights, as well as transactions facilitating the transfer of land to more efficient farmers and non-agricultural uses in the process of structural transformation. In countries neighbouring Bangladesh, such as India and China, the implementation of land reforms have been shown to have significantly impacted the growth of agricultural productivity, and the evolution of inequality and poverty.

This chapter provides a detailed and informative review of these problems in the context of Bangladesh, including comparisons with other Asian countries.

The set of areas covered are divided into two main topics:

1. land policies (land redistribution, tenancy protection, and land sales) and land administration (land records, sales and transfers, and taxes);
2. land acquisition for non-agricultural purposes by government and private industry, with the related issues of compensation and SEZs.

The former topic is relevant for development within the agricultural sector, while the latter pertains to the non-agricultural sector and structural transformation from agriculture to industry and services. I discuss each of these in turn.

Rural Development

Section III describes the evolution of laws pertaining to land ceilings, redistribution, and tenancy protection in Bangladesh. Section IV focuses on problems

in land administration and enforcement, with a detailed explanation of organisational structure. Various weaknesses are highlighted: the lack of digitisation of land records; poor infrastructure; human resource problems (such as lack of training and skills, and low motivation); and the overlapping jurisdictions of different divisions, resulting in lack of coordination. The discussion clearly illustrates how these weaknesses reduce land security, inhibit land transfers, and promote corruption. Data from household surveys indicate that corruption and lack of transparency are pervasive. Comparisons with neighbouring Asian countries on land registration delays and the quality of land administration shows the situation in Bangladesh to be considerably worse than in those countries.

One would like to learn more about these problems, and in particular their consequences for rural development in Bangladesh. For instance, when were the last cadastral surveys completed? For the country as a whole, how much land has been acquired under the land ceiling rules, and distributed? How many sharecroppers were registered? I am not sure if there are any statistics readily available on these, which might be compared with neighbouring countries or regions (such as West Bengal in India, which, in conjunction with Bangladesh, historically constituted a united province until the partition of 1905, engineered by the colonial British authorities). Some facts noted in passing suggest a very low extent of implementation of land reforms. For example, the progress achieved with respect to the distribution of vested land in the 1970s was far lower than expected; only 0.2% of agricultural value added was collected in the form of land taxes during the 1980s. The recommendations of the Muyeed Committee on the rationalisation of land administration were ignored. About 90% of the rural population in 1991 were unaware of their entitlements under the existing legislation.

Additional research is probably needed to create a systematic database on land reforms implemented and to answer important questions relating to the evaluation of land policies in the past as regards rural development in the Bangladeshi context. While these are probably beyond the scope of this chapter, I list some questions below, in the hope that future research efforts will be directed towards answering them. I mention in this connection the work of Abhijit Banerjee, Paul Gertler, and Maitreesh Ghatak (*Journal of Political Economy*, 2002), which showed a significantly higher growth of rice yields in West Bengal compared with Bangladesh during 1978–1994, ostensibly owing to substantially greater success in implementing tenancy reform laws.

- (a) How did the land distribution change over time, and what role did land reform policies play? How active is the land market? Have land markets equalised or dis-equalised landownership?
- (b) It appears that many of the regulations in place are intended to protect small and marginal households in the rural sector, who are poor and comprise a large fraction of the population. In evaluating the implications

of existing land regulations, one therefore needs to understand whether these redistributive policies retard or enhance economic growth. Are small farms more or less productive than large farms? How much agricultural tenancy exists? What are the nature of tenancy contracts, the regulations they are subject to (e.g. crop shares or eviction rights of landlords), and the effects of such regulations? Are there increasing returns to scale in farming? To what extent do scale effects depend on differential access of small and large farmers to credit, technology, infrastructure, or marketing? How smoothly does the market for leasing or buying land function? Are there restrictions on outsiders buying land? What are the effects of land policy on migration to the urban sector?

- (c) To what extent are landholdings fragmented? What are the productivity effects of fragmentation? If this is a serious problem, is there any scope for the Bangladesh government to coordinate land consolidation efforts?
- (d) This chapter indicates many dimensions on which land policies are poorly implemented, owing to lack of transparency, poor land records, and low motivation of land administration officials. As in neighbouring West Bengal, only a small fraction of land collected for redistribution has actually been distributed to the poor. More details of the implementation process would throw more light on the underlying reasons. For instance, who decides on how to select beneficiaries, and on what basis? What happens to the undistributed lands: do they lie fallow or are they used in some way (if so, by whom)? If implementation has been a major problem, to what extent is this a result of weak political will, rather than weak institutions?
- (e) Related to the question of political will, what are the political economy effects of land concentration? Do those with large landholdings exercise disproportionate power by virtue of their access to politicians and political parties? If so, what effects does this have on tax evasion and local government revenues, on the allocation of local infrastructure, or the implementation of land regulations? Is there scope for wider reforms of electoral processes and empowerment of local governments in Bangladesh which may improve the implementation of land policies?
- (f) How important are water management problems, such as groundwater extraction, irrigation/electricity pricing, or conservation incentives? Are there serious problems of sustainability, for example encroachment on forests, and other common properties? How is the rise of the water level near the coast affecting neighbouring farming and fishing communities? What policies are being considered to help them adapt and possibly to resettle in the future?
- (g) What is the potential for the development of modern export-oriented agribusiness? What restrictions currently apply on ownership of land by large firms or foreigners? Can a multinational corporation invest in agribusiness, acquire land, and operate large farms, hiring local labour? Are

there restrictions on contract farming? Do land regulations constrain the growth of agribusiness? If there has been any significant agribusiness development in Bangladesh (e.g. in fishing or specific cash crops), what have their growth and distributional impacts been?

Land Acquisition for Industry and SEZs

The remainder of this chapter provides many interesting details about SEZs in Bangladesh and raises a number of important policy questions concerning land acquisition and compensation policy.

I think it is useful to distinguish between two issues here. The first concerns broader aspects of SEZ policy, which do not necessarily have anything to do with land policies *per se*. SEZs typically include the provision of infrastructure and subsidies, the relaxation of labour/environmental regulations, and fast-track approval on a preferential basis for large investors in manufacturing and services. The aim is to attract and stimulate investment by relaxing constraints and regulations that are pervasive in the economy. By its very nature, this creates a dual system. The authors raise concerns about differential access between small and large investors, between those oriented towards the domestic market and those oriented towards the export market, and between regions. This suggests an underlying tension between efficiency/growth objectives and equity/fairness goals that Bangladeshi policy-makers need to confront. Could it be better to focus on growth and to foster special privileges favouring large, export-oriented investors and urban centres, and then expect the resulting benefits to gradually trickle down to the rest of the economy via migration and internal trade?

The second set of issues concerns the specific problems created by poor land administration institutions, which this chapter discusses in detail. Complications owing to poor land records and lack of transparency are illustrated by this chapter's Sreehatta Economic Zone case study. The land authorities deliberately created problems that enhanced corruption and delays, such as informing both the prior and current owners. Problems arose with market price assessment procedures, raising the question whether they should include rehabilitation costs. Some of the problems seem similar to those in West Bengal that I found in my research (in the 2012 article with Maitreesh Ghatak, Sandip Mitra, and Anusha Nath that the authors cite). Those problems arose from failure of land records to verify land quality, thinness of land markets (which makes it difficult to assess the market price for comparable properties), and undervaluation of properties owing to incentives among owners to evade stamp duty on land transfers. However, the West Bengal study did not indicate corruption in the compensation process to be as important as the authors suggest is in the case of Bangladesh. This is broadly consistent with the poorer quality of land administration in Bangladesh reported earlier in this chapter.

Before concluding, let me raise some additional questions regarding land acquisition and compensation policy for academics and policymakers in Bangladesh to consider, in the wake of the West Bengal experience:

- i. Should compensation to owners of acquired properties be related to market price? How should market price be assessed? At which point of time (relative to the acquisition date) should market price be assessed? These tend to arise for the following reasons. After land is acquired and makes way for industrial or real estate development, property values tend to rise. Previous owners often claim it is unfair to let all the benefits of property appreciation accrue to the new investors. Moreover, linking the compensation amount to future appreciation would reduce the incentive for previous owners to hold out and litigate, thereby reducing delays.
- ii. How should rules and procedures for government acquisition of land and provision of compensation to owners be designed? For instance, should procurement auction-based mechanisms be used to allow existing owners more autonomy? What should be the minimum proportion of owners whose assent is necessary for an acquisition to be authorized? To what extent should local governments, communities, and non-governmental organisations be involved in the acquisition process? Is there scope for flexibility regarding form of compensation (e.g. lump sum payments, shares in property within the SEZ, training/employment in SEZ firms, or indexed annuities)? Such procedures can alleviate the hardship on previous owners who tend to be displaced and lower the political resistance to land acquisition.
- iii. How should tenants and workers be compensated? Their livelihoods are disrupted by land acquisition, thereby raising inequality and poverty, and threatening the political viability of the transition process. The design of rehabilitation and resettlement policies is perhaps the most critical, and most difficult, aspect of policy design and implementation. The 2011 Land Acquisition Bill passed in India mandated tribunals to listen to and adjudicate on these concerns, besides mandating high minimum compensation levels. These are widely viewed to have contributed to the post-2010 growth slowdown. This is yet another manifestation of the growth-equity trade off that each society has to confront.