



Landless people's access to *Khas* land in Bangladesh: Challenges and recommendations

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Abstract

Land constitutes a key source of livelihood and employment all over the world as a large proportion of the population is involved and depends on agriculture or fisheries as a living. Whereas land is closely interlinked with food security, nevertheless many households are landless or have limited access to land. In Bangladesh a large part of population is landless. Access to khas land refers to the ability to use khas land. The government of Bangladesh has taken various steps in different times to distribute khas land among landless people for reducing the poverty. Proper distribution of khas land among poor and landlessness is time need as it will ensure access to khas land for landlessness. It empowers poor and landless people, strengthens networks that give them a voice and contributes to a more participatory in economic development of Bangladesh. But access to khas land by landlessness in Bangladesh is yet to ensure for many reasons. The government policies of redistribution of khas land are not being executed properly. A proper access to khas land will also to prevent and reduce the crime. This study will basically focus the history of khas lands and present scenario of them in Bangladesh. It will also discuss in-depth the major obstacles of access to khas lands by landlessness. The author at last will provide some recommendations which will help government, government agencies, lawyers and scholars to meet challenges.

Keywords: landless people, access, khas land, challenges in Bangladesh

Introduction

Land is the most noteworthy source of survival, most imperative natural strength and is fundamental to the bulk population for its livelihood and other thing necessary for human beings. About 70 % inhabitants of this country are directly related with agricultural production and more than half of the residents of the country is landless poor and also majority of the people do not possess any land. But it is true that 80% of the land is owned by only 10 % of the total population mostly by bureaucrats, politicians, social elites and influential ^[1]. Poverty has become a chronic problem for Bangladesh. Poverty originates from the unjust nature of social order and from economic and political inequality within the society. So to reduce and alleviate poverty we must address the issues as well as change and reform the system, law and policy that deprive poor, especially landless poor. Landless people in Bangladesh are more than 68% ^[2]. As long as the number of landless continues to grow, Bangladesh's economy will remain fragile and the majority of its people will remain in poverty. There are more than 10 million bighas of distributable khas land in our country ^[3] and is potentially available to be claimed for cultivation by those with no land and the number of landless poor families is around 10 million also ^[4]. A proper khas land management system will undoubtedly ensure the fortune of these poor landless families ^[5]. It can be said that proper distribution of khas resources to the landless poor can be the best means for reduction of poverty in Bangladesh and for national development. However, this paper will discuss the major factors that distorts the proper management of khas land among landless people and also bring some recommendations to overcome.

Objectives of the study

The main purposes of this study are to create awareness between the ruler and the ruled especially among the landless people who are being deprived from their fundamental needs. To point out the question of creating a responsive administration system regarding the distribution of khas lands among the landless people. The objectives are following-

1. To evaluate the historical background and present scenario of khas lands in Bangladesh.
2. To critically analyze the existing khas land retention and distribution policy of the government.
3. To find out the challenges in ensuring the access to khas lands by the landless people.
4. To suggest an effective distribution policy of khas lands to the government.

Methodology

The study data are collected from various research articles, books, legal instruments and websites of Bangladesh and from both primary and secondary sources. This article is mainly written on the basis of qualitative technique. The following are the sources-

- This study has been done on the basis of objective approach centered on the accessible to literature.
- Various National and International instruments especially khas land policies of Bangladesh
- Government, NGO and welfare organizations relating to khas land
- Data are collected from notable khas lands authorities and authorities on law, different journals, daily newspapers, internet etc.

Literature Review

During the preparation of this article, author studied through a decent number of legal instruments and research articles which deal mostly with the problems of the people whose basic needs have not being fulfilled by the government especially there right to homestead and lands and the failure of the society as well as the government to ensure these rights of the landless people. The author has deeply analyzed a number of qualitative research articles and policies of the government on khas lands. So far as the author is concerned, there are very few articles written on the access to khas land by the landless people of Bangladesh.

Explanation of Khas Land, Landless People and Access to Khas Land

1. Khas Land

Etymologically, the term 'khas land' means land owned, possessed and held by the government or 'the land which is at the absolute management and disposal of the government.'^[6] The land cultivated directly by the zamindars were termed 'Sir or Khas' land to distinguish it from land which was allotted to sub-intermediaries for cultivation^[7]. The word 'khas' is of Persian (Iranian) origin. Khas Land means government owned fallow land, where nobody has property rights. It is land which is deemed to be owned by government and available for allocation according to government priorities. Thus, khas Land is government owned land. According to Section 2(15) of State Acquisition and Tenancy Act, 1950 "*khas land or land in khas possession* in relation to any person, includes any land let out together with any building standing thereon and necessary adjuncts thereto, otherwise than in perpetuity." This concept applies not only to agricultural land, but also to other assets, such as non-agricultural land and water bodies. Now a days khas land refers to land which has not been settled and which remains in the khas possession of the government by way of vesting in it by operation of and by act of the parties^[8].

2. Landless People

Landlessness in Bangladesh has both historical and structural roots. Several socio-economic factors lead to landlessness in the rural countryside, such as inheritance, climate change and economic pressure. The term '*landless people*' is used to refer to people who do not have any land for farming or who are prevented from owning the land that they farm by the economic system or by rich people who own a lot of land. The definition of the landless people varies but the Government of Bangladesh in the agricultural Khas Land management and Settlement Policy, 1997 defines them as those who "do not have homestead or agriculture land while their livelihoods depend on agricultural activities"^[9]. According to the Land Management Manual 1990, the following persons will be treated as Landless during allocation of Khas land *i.e.* a) *Any agriculture dependent family that has no homestead and agricultural land*, b) *Any agriculture dependent family that has homestead but no agricultural land* c) *Have both but less than 50 acre*^[10]. The Government of Bangladesh has redefined the landless as anyone who owns fewer than 10 decimals of land^[11]. The majority of the 165 million population of Bangladesh live in villages and rural societies of which more than eighty percent are directly or indirectly dependent on agriculture and land related activities^[12].

3. Access to Khas Land

Access to khas land refers to the capability of using the land and other natural resources, controlling their sources and transferring the rights to the land and taking advantage of other opportunities relating to land. Only agriculture based landless families in which one or more members are involved with cultivation are entitled to khas land. Enhanced access to khas land includes three main facts. *I.e.* (i) *strengthening land tenure security and land rights*, (ii) *increasing the amount of land that people have access to*, and (iii) *improving the productivity of land*. Actually *access to khas land* means and includes giving settlement of *khas* land by the government permanently or on yearly lease basis to the extreme poor and landless people. The government of Bangladesh decided some decades ago to face the issue of distributing *khas* land and started divvying out a small amount of *khas* land to landless people. Landless families were targeted as the main beneficiaries for *khas*land.

History of Khas Land in Bangladesh

The concept of khas land *i.e.* government owned land is a primitive one but firstly come to light after the First World War^[13]. The concept evolved with a strong basis after the Second World War. In Indian sub-continent, the term, 'khas land' become famous during medieval period^[14]. From primitive time the laws regarding land did not change very much but with the passage of time the payment of the share of the produce to the sovereign or king or his representatives and the king's right to distribute unused lands to others without disturbing the existing possessions of cultivators^[15]. During the British period the government could lease out the khas lands on fixed revenue to others^[16]. The lessees of such lands could themselves cultivate the same or get the same cultivated through *bargadars* (sharecroppers) who had no rights to the land beyond getting half of the produced. On 12 August 1765, the East India Company was granted Diwan rights by the Mughal Emperor 14 and on 22 March 1793, Lord Charles Cornwallis, Governor General of the Company, declared Decennial Settlement that made 'Zamindars' and 'Talukdars' permanent proprietors of the land under their respective control^[17]. Landlords were allowed to own their property subject to regular payment of revenue to the government. Their right was made both heritable and transferable. Subsequently Regulation No. 17 of 1793 was enacted, that provided, on the failure of the raiyats to pay increased rent, all the immovables, including standing crops was made liable to attachment and sale by the landlords without the intervention of the court. Revenue-free lands known as 'Lakhiraj' were partly recognised under the *badshahi* and non-*badshahi* *lakhiraj* Regulation of 1793^[18]. The government reserved the right to settle lands outside the area of permanent settlement that were treated as *khasmahal*. To protect the interest of raiyats the British government enacted the Rent Act of 1859 (Act X of 1859) that provided that a raiyat possessing any land continuously for 12 years or more shall acquire occupancy right in that land and shall not be evicted there from if he paid the rent for that land. But that provision was not applicable to annual tenants cultivating khas lands of zamindars, talukdars and occupancy raiyats^[19]. The Survey Act of 1875 was enacted to determine the boundary of a village and to prepare a Mouza or village map showing there in every plot of land with its area and to record the name of the tenant and the superior landlord, the nature of tenancy, share, possession,

revenue, or rent payable for the same. Demand for abolition of the 'Zamindari' system led the formation of the Land Revenue Commission¹⁵ with Francis Floudas its chairman in 1939 that submitted its report in 1940 recommending acquisition by the government of all rent receiving interests^[20]. Its recommendations led to the passage of the East Bengal State Acquisition and Tenancy Act of 1950 that abolished the 'Zamindari' system and also provided for acquisition of all rent receiving interests inland and acquisition of Khas lands in excess of 100 big has from each family^[21]. When the ceiling of land to be retained by a family was increased from 100 bighas to 375 bighas during the Martial Law rule of Pakistan, the number of landless peasant sincreased. But immediately after the Independence, the government of Bangladesh exempted peasants from paying rent of agricultural lands up to 25 Bighas per family, reduced the ceiling of land per family again up to 100 bighas, and provided for vesting the excess land in the government for distribution along with other government khas lands to landless peasants^[22]. The Land Reforms Ordinance 1984 fixed the ceiling of acquiring agricultural

land per family up to 60 bighas henceforth by purchase, inheritance, gift, or any other manner^[23]. If we critically analyze the short story mentioned above, we can say that any land becomes khas land if it vests any how absolutely to the government. Any land can be vested to the government by two ways. I.e. a) by contravention of any provisions of land related laws and b) By leaving any land voluntarily.

Amount of Khas Land in Bangladesh

There is no accurate information on how much Khas land is available at present. As per official data^[24]. Bangladesh has 3.30 million acres of khas land, of which 0.8 million acres are of agricultural Khas land, 1.7 million acres are of non-agricultural Khas land, and 0.8 million acres are of Khas water-bodies. Moreover, the actual amount of Khas land would be higher than 3.3 million acres, as intimated by various stakeholders. In Bangladesh, the number of landless farm-households is 6-7 million. Thus, it is possible to give each landless household at least 0.50 acre of khas land^[25].

Table 1: Khas land in Bangladesh^[26]

Division	Agricultural Khas Land (acres)	Non-agricultural khas land (acres)	Khas water-bodies		Total Amount of Khas land and Khas water bodies in Bangladesh (acres)
			Closed (acres)	Open (acres)	
Dhaka	207135.97	62282.00	1714.53	110801.15	397365.65
Chittagong	156734.31	1339115.43	11279.48	3149.13	1538558.20
Sylhet	129764.12	120491.82	72746.94	26196.49	349199.37
Rajshahi	163007.96	125945.72	21232153	71727.45	573002.66
Khulna	51714.01	36728.04	27407.00	33626.49	14475.54
Barishal	94952.45	1790.92	4834.33	210838.67	149475.37
Bangladesh	803308.80	1686354.00	345736.20	4846619.38	3320017.50

It is very difficult to give accurate data on how much *khas* land is available at present. Because of the lack of precise updated inventory, these figures continue to be cited even in the most recent reports.

Access to Khas Land by Landless People in Bangladesh: Laws and Reality

Land is scarce and is an important resource, therefore, establishing ownership right over land was always highly competitive, in which violence, speculation and other deceptive means were common. Land forms the basis of our social, economic and political power structures. Our contemporary history of land reform is essentially the history of acquisition and distribution of Khas Land. When any land vests absolutely in the government, it remains under the absolute control and management of the government.

It is stated earlier that access to khas land means capability to use the land by the landless people. The government of Bangladesh has started the program of distributing khas land in 1972 but it has been strengthened in 1987. However at present distributing khas land for ensuring access to land by the landless people is a sensitive issue and the government has put emphasis on the distribution of khas land to landless. For this reason different policies have been adopted by the government, *viz*;

1. The Land Management Manual, 1990

It is the first formal instrument in which the government of Bangladesh has stated the procedures for the identification^[27], distribution and settle mentibility^[28] of available khas

lands. A list of identified khas land has to be prepared and published^[29] and appeals or objections if any regarding the list, have to be settled by the government^[30]. Then khas lands illegally possessed by the land grabbers will be recovered^[31]. After completing the foregoing procedure, applications for the settlement of khas lands will be called for^[32] and submitted applications will be scrutinized^[33]. After scrutinizations, a preference list^[34] will be made by the district commissioner in collaboration with the upazilla land officer. The landless people must be given priority in making the preference list^[35]. The preference list^[36] will be among the poor family of a martyred and injured freedom fighter, family losing all lands due to recess of river or sea, family of a poor widow who has capability to cultivate land or a lady left by her husband or a poor family having no support, family having no homestead and agricultural land, family having no agricultural land but having homestead of 10 decimals or less land and family losing all lands due to acquisition of land^[37].

After completing the whole procedure, the concerned office will recommend to give settlement to landless people as per the preference list^[38].

2. The Non-Agricultural Khas Land Management and Settlement Policy, 1995

Non-agricultural khas lands are managed, controlled and settled under this instrument. Non-agricultural khas lands are given under settlement basically for homesteads of landless people for free, for religious institutions, graveyards, orphanage home, educational institutions and co-operative farming at the cost of 10% price of the market

value^[39]. If settlement terms and conditions are violated, the settlement will be cancelled by the concerned authority^[40].

3. The Agricultural Khas Land Management and Settlement Policy, 1997

This instrument provides three tier committees^[41] across the country for the management and settlement of agricultural khas lands. The committees are:

- a. National executive committee for the management and settlement of agricultural khas lands. This committee consists of 25 members and is led by minister, ministry of land as its chairman^[42]. It's a policy making body and it meets at least once in every three months and evaluates the progress^[43].
- b. District committee for the management and settlement of agricultural khas lands. This committee consists of 11 members with an MP^[44] as an advisor and is led by deputy commissioner as its chairman^[45]. It evaluates and supervises the works of the subordinate committee^[46].
- c. Upazilla committee for the management and settlement of agricultural khas lands. This committee consists of 15 members with an MP and theupazilla chairman^[47] as advisors and is led by UNO^[48] as its chairman^[49]. This committee actually has to do all the field level works e.g. identification and separation of khas lands, taking applications and making recommendations for settlement of khas lands^[50].

If these policies are analyzed, we will get the process of ensuring access to khas land to the landless people.

4. The Khas Land Settlement Policy for Hotel-Motel, 1998

Any khas land situated in any tourist area of Bangladesh may be given under settlement for establishing hotel-motel zone under this instrument which will ensure the maximum utilization of the land resources. There are many land laws in Bangladesh that relates to the poor. The law regarding alluvion and diluvion, the non-agricultural use of land, the distribution of khas land and its use, recovery of land from the person who owns more than ceiling limit or from illegal possession both in urban and rural areas and many other things are related to the poverty of Bangladesh. Land rights and land management have direct relation with poverty situation in Bangladesh. The land administration system in Bangladesh is corrupt, inefficient, unreliable and also contains systematic weaknesses and dysfunctional elements that intensified suffering and the poverty rate among the poor people. The marginal farmers and the sharecroppers have the legal rights on papers, but these rights can neither be exercised nor be enforced.

Challenges to Access to Khas Land by Landlessness

The proper distribution of *khas* land among the landless people could not be established and also retained their right over *khas* land for various reasons. The main challenges among them are as follows:

1. The size of the trap of "illegal occupancy" of khas land is huge. The strength of the trap is deeply ingrained into the politico-economic structure of our society where dominance of the rich and local influential in connivance with the land officials over the poor and landless is a reality beyond any doubt.

2. The land grabbers use all means of deceptions to occupy the khas land illegally - false deeds and documents, use coercive power, illegally occupy the khas land long before the distribution of the same etc.
3. The official list of landless for khas land distribution is imperfect and biased in favour of the non-eligible people, to a large extent.
4. Procedural complications and administrative barriers are also major problems in getting allotment of Khas Land.
5. The local influential played some significant part in not being selected to get khas land. Without bribing the local influential and land officials it is difficult to get enlisted as landless to get khas land.
6. The rampant corruption in khas land distribution indicated through the presence of bribes at various stages of distribution of khas land.
7. The poor and landless beneficiaries of khas land are neither well informed nor well organized.

Recommendations and Concluding remarks

Based on the analysis of the whole situation and discussions with many relevant persons, the following suggestions are presented for considerations:

1. *All khas* land - agricultural, nonagricultural and water bodies - should be identified immediately. Information pertaining to the problems of identification of *khas* land should be published. Mis-classification of *khas* land should be stopped
2. *All khas*land distributed and distributable should be recovered from the illegal Occupants, as soon as possible.
3. The committee for the identification of *khas* land should be reorganized. The representatives of peasants' organization, agricultural labour, political parties, NGOs, social organization, school teachers should be included in the committees at all levels.
4. Measures should be taken to minimize the influence of the local influential and officials in the committee who exercise corrupt practice.
5. *Khas* Land Management Committee at the national level, and a *Khas* land Management and Distribution Committee at the district level with strong presence of peasants and landless representatives are needed.
6. The District Committee should be empowered to investigate the disputes over *khas* land and give decision about ownership. In addition, this committee will report to the Land Ministry of any misdeeds committed by any government officials regarding *khas* land.
7. The participation of the poor and their formal and informal institutions/organizations in the process of identification, selection, distribution, and utilization of *khas* land should be maximized.
8. Mechanisms need to be devised to ensure effective retention of *khas* agricultural land by the landless poor which have already been distributed.
9. All information relating to the distribution of agricultural *khas* land should be published in the daily Bangla Newspapers, telecasted and broadcasted, and be disseminated up to grassroots level.
10. A *Khas Land Bank* should be set-up to preserve all types of records on *khas* land by types, locations, distribution status, status of dispute resolution, and so on.

Conclusion

Land is the scarcest of all resources. Competition for land was always acute. Land in many respects forms the basis of our power structure. The acquisition and distribution of khas land have been included as important part of the Land Reform Policies of the Government of Bangladesh. Land related laws are complex both in terms of language and contents. The network of vested parasitic group comprising of local influential's have emerged as a great threat to proper distribution of khas land. The proper management and settlement of khas land is an urgent necessity both for the welfare of the state and citizens of our country. The settlement and management procedure of khas land is a lengthy and also a very complex process. To make the process more fruitful it is necessary to identify khas lands properly, time to time survey must be conducted and official records must be kept on the availability of khas lands. There is no doubt about the potentiality of khas land as a sustainable means to ensure food security among the landless especially while looking through resilience and gender lens. The distributions of khas land should be maintained principal pathway to benefit the poor, landless, marginalized and destituted peasants to improve their livings through their hard works and moreover for the betterment of the country.

References

1. Rio + 20: Bangladesh National Report on Sustainable Development, May 2012, 4
2. <https://tbsnews.net/bangladesh/number-landless-people-declining-bangladesh>, accessed on 16.10.2020
3. Political Economy of Khas Land in Banglades. Barkat, A, 21.
4. Barkat *et al* 2001, p 65 reporting LRAP 1987
5. <http://archive.thedailystar.net/2003/06/19/d30619150288.htm>, accessed on 11.10.2020
6. Section 76 of the State Acquisition and Tenancy Act, 1950
7. Land System in India: A Historical Review, Rekha Bandyopadhyay, <https://www.jstor.org/stable/4400592>
Accessed: 08-09-2019 04:09 UTC
8. Dr. Mohammad Towhidul Islam. "Lectures on land law" Northern University, Bangladesh, p. 218
10. HELVETAS Swiss Intercooperation (2016): Support to landless people to gain formal access to
11. State-owned khas land. Available at: http://www.landcoalition.org/sites/default/files/documents/resources/c0087-helvetasbangladesh_case_study_v20151117_0.pdf (Accessed: 03.08.2020)
12. Land Management Manual, 1990
14. Ibid
15. Available at: https://ethz.ch/content/dam/ethz/special-interest/gess/nadel-dam/documents/mas/mas-essays/MAS%20Cycle%202014%20-%202016/Essay_Aline%20Herrera.pdf (Accessed: 03.08.2020)
16. Available at: <https://www.blast.org.bd/content/publications/land-rights.pdf> (Accessed: 03.08.2020)
17. Ibid
18. Ibid
19. Ibid
20. Ibid
21. Ibid
22. Ibid
23. Ibid
24. Ibid
25. Ibid
26. Section 4 of The Land Reforms Ordinance 1984
27. https://minland.portal.gov.bd/sites/default/files/files/minland.portal.gov.bd/files/4901efe0_9b04_43db_8c55_5ce76cd649d1/Dec-2015.pdf
28. Available at: <https://www.blast.org.bd/content/publications/land-rights.pdf> (Accessed: 03.08.2020)
29. Barakat, Zaman & Raihan, Political economy of Khas land in Bangladesh, Page-86
30. Article 44-46 of the Land Management Manual, 1990
31. Article 43 of the Land Management Manual, 1990
32. Article 47 of the Land Management Manual, 1990
33. Article 49 of the Land Management Manual, 1990
34. Article 51 of the Land Management Manual, 1990
35. Article 55 of the Land Management Manual, 1990
36. Article 57 of the Land Management Manual, 1990
37. Article 56 of the Land Management Manual, 1990 & Article 11 of The Agricultural Khas Land Management and Settlement Policy, 1997
38. Article 54 of the Land Management Manual, 1990
39. Supra note 17
40. Ibid
41. Article 59 of the Land Management Manual, 1990
42. Article 3 of The Non-Agricultural Khas Land Management and Settlement Policy, 1995
43. Article 5 of The Non-Agricultural Khas Land Management and Settlement Policy, 1995
44. Article 3 of The Agricultural Khas Land Management and Settlement Policy, 1997
45. Article 3(a) of The Agricultural Khas Land Management and Settlement Policy, 1997
46. Article 3(b) of The Agricultural Khas Land Management and Settlement Policy, 1997
47. MP means Member of Parliament. In Bangladesh, the representative of people of a constituency is known as MP
48. Article 4(a) of The Agricultural Khas Land Management and Settlement Policy, 1997
49. Article 4(b) of The Agricultural Khas Land Management and Settlement Policy, 1997
50. Upazilla Chairman is the head of Upazilla Council in Bangladesh elected through direct popular election.
51. Upazila Nirbahi Officer (UNO, or Upazila Executive Officer) is a non-elected Administrator in every Upazila of Bangladesh. UNOs are Senior Assistant Secretary of Bangladesh Civil Service (Administration) Cadre. They act as executive officer of the upazila under the elected posts.
52. Article 5(a) of The Agricultural Khas Land Management and Settlement Policy, 1997
53. Article 5(b) of The Agricultural Khas Land Management and Settlement Policy, 1997