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**CONCEPTUAL ISSUES RELATED TO CLASSIFICATION OF LAND TENURE SYSTEMS IN BANGLADESH\***

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**ABSTRACT**

Census, surveys and research studies conventionally identify three tenure classes - owner-operators, part-tenants and tenants - in Bangladesh. Some sources identify two more classes-part-operators and absentee owners. Conceptual deficiencies of these 3 or 5 type tenure classifications are discussed and alternative conceptual framework is suggested for identifying and classifying tenure relationship. Applying the suggested framework, 17 different tenure relations were identified in a sample of 385 farms.

**I. INTRODUCTION**

Recent statistics on land tenure in Bangladesh suffer from two major deficiencies: (1) the various census and surveys providing information have used quite dissimilar classifications, (2) the various dissimilar classifications together are inadequate to abstract all the tenure relationships prevailing in rural Bangladesh.

Only tenure relationships in privately held and cultivated land covering more than 90 percent of total cultivable land will be discussed. Acquisition and distribution of Khas land by the government and land ownership by various government and semi-government agencies will not be discussed mainly because these will involve a thorough review of the various land reform measure undertaken since 1950 and also because reliable data on these are not available at hand.

**II. REVIEW OF LAND TENURE CHARACTERISTICS**

**Land Tenure Relationships up to 1950**

A feudalist production relation (Zamindari system) was instituted in Bengal, as elsewhere in India, by the colonial government via the Permanent Settlement Act of 1793. The major objective of the Act was to create a class of loyal landed aristocrats (Zamindars) and thus decentralize the system the system of revenue collection which had become costly to the colonial government in terms of manpower, money and time. The Act was later subjected to various amendments, initially giving the Zamindars more rights and powers and in later years curtailing the rights of the Zamindars, creating more intermediaries under them and giving more rights to the cultivators. By the end of the

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the government had their revenue fixed in perpetuity under the 1793 Act. Apart from the state, the following categories of people were connected with and had different interests in land (Abdullah 1976): (a) The Zamindars—they were the actual proprietor of land and they let out land on rent to various categories of ‘ryots’ or to the various categories of ‘tenure holders’. (b) Tenure holder—these were intermediate rent collectors between the Zamindars and the ryots. The inфеudation and sub-inфеudation reached to such an extent that in some places there were as many as 50 grades of tenure holders. (c) Ryots at fixed rent (also called occupancy ryots or superior tenants) enjoyed permanent, heritable and transferable rights in their land. (d) Non-occupancy or under ryots (also called inferior tenants) had contractual agreement for less than twelve years, had no heritable and transferable rights, had no right to sublet without prior permission of those whose tenants they were, had to pay about double the rent paid by occupancy ryots, and were liable to eviction at the expiry of contractual period or at non-payment of rent. (e) Bargadars or sharecroppers were tenants at will renting in land on a year to year basis on oral contract paying generally 50% of gross produce. (f) Agricultural labourers—those who lived on agricultural wages.

#### *Land Tenure Relationships After 1950*

After partition in 1947, Zamindari system was abolished by the East Bengal State Acquisition and Tenancy Act 1950. The main objectives of the Act were to abolish all rent receiving interests between the government and the actual cultivator; to give permanent, heritable and transferable rights to ryots (later called Maliks); and fix the ceiling on land ownership at 33.33 acres per family. The Act was later subjected to various amendments. As a result, new tenure relationships emerged in Bangladesh agriculture and relative importances of these relationships have undergone changes over time. However, such changes cannot be clearly discerned from available statistics on tenancy because of conceptual differences and deficiencies with respect to that information. The nature of these deficiencies will be discussed below.

#### **Tenure Classification I**

A number of sources have identified three types of tenure: (a) Owner-operators—those cultivating own land, (b) Owner-cum-tenants—those owning some land and renting additional land from others, (c) Tenants—those renting all the land cultivated (See, for example, Pakistan 1962, Bangladesh 1972, Alamgir 1975, Jannuzi and Peach 1977). Available information on these is shown in Table 1.

This system of classification is based on whether cultivated land is owned and/or rented but it does not show the sources of land rented by owner cum-tenants and tenants.

#### **Tenure Classification II**

Jabbar (1977a) and Hossain (1977) have identified two sources of land rented by owner-cum-tenants and tenants and they classified tenure relationships into five classes including the three identified in Classification I. The additional classes are (a) Absentee or non-cultivator owners – those owning but not cultivating any land<sup>2</sup>, (b) Part-operators—those cultivating part of the own land and renting out the rest.

Information on four classes, other than absentee owners, is shown in Table 2. Although Jabbar (1977a) identified absentee owners as a class, he could not provide any

quantitative evidence on this because his sample consisted of farms, not households. Hossain (1977) reported that in samples of 118 and 114 households respectively 6 percent and 3.3 percent did absentee owners own 6.2 percent and 4.4 percent of the total land owned by the respective samples. About 19 percent of the land rented by tenant households in the samples came from the absentee owners.

Tenure classifications I and II are subject to two more limitations. First, land mortgage should be considered an element for defining the tenurial status of a farm but this was not done in the above classifications. In reality, there are six elements to be considered when defining tenurial status of a farm and these are land owned, land rented out, land mortgaged out, land rented in, land mortgaged in and land cultivated. As such cultivated land equals land owned minus land rented out and/or mortgaged out plus land rented in and/or mortgaged in<sup>3</sup>. Second, all the studies have defined tenure system implicitly assuming full year tenancy duration. Actually rental terms may permit tenancy duration of a few months (for a single crop) to more than a year, but the total duration may last for several years as a result of periodic renewal of contracts<sup>4</sup>. Such variation in duration is also true in case of mortgaged land<sup>5</sup>. Therefore the proportion of farms giving out and taking in land on rent and mortgage and the proportion of farm area rented and mortgaged may vary from crop to crop within a year and also between years (Jabbar 1978, p.11).

### **Tenure classification III**

The shortcomings of classifications I and II were taken into account in a study by Jabbar (1977b). In a sample of 385 farms (not households, as such absentee owners were excluded) distributed over 9 districts, 17 different tenure categories were identified. Table 4 shows the average amount of land per farm for the six elements defining the tenurial status of the 17 categories and also the proportion of farms in each category. The following features emerge: (1) 18.7 percent of farms in one category cultivated all the owned land; 22 percent of farms in three categories (2-4) have given out part of their owned land on rent and/or mortgage and cultivated the rest; 23.8 percent of farms in 9 categories (5-15) have given out part of owned land as well as taken in additional land for cultivation; 32.3 percent of farms in three categories (14-16) owned some land and took in additional land for cultivation; and 2.3 percent of farms in one category took in all the land cultivated and owned none. (2) Taking renting and mortgaging items separately, 26.5 percent of farms in eight categories have rented out land but 47.4 percent farms in nine categories have rented in land; 28.7 percent of farm, in eight categories have mortgaged out land but 19.9 percent of farms in eight categories have mortgaged in land; 46.7 percent of farms in 13 categories have given out land on rent and/or mortgage while 58.4 percent of farms in 13 categories have taken in land on rent and/or mortgage. (3) Farms renting out and/or mortgaging in land were generally large owner compared to those mortgaging out and/or renting in land<sup>6</sup>.

Taking the year as a whole, 47 percent farms have given out land and 58 percent farms have taken in land. Of the total area cultivated during the year, 19.7 percent was taken under renting and 4.4 percent under mortgaging; the remaining 76 percent was cultivated by the land owners themselves. Separate information on different types of mortgage could not be collected. Proportion of farms taking in land and proportion of area taken in (on rent and/or mortgage) was seen to vary between crops (Table 5).

Sharecropping has been the predominant form of tenancy arrangement. In 1960, 16 out of the 18 percent of land rented were under share rent<sup>7</sup>. About 92 percent of total rented land in 1977 was under share arrangement. Half crop sharing with very little or no input sharing is the common practice. In 1977, 93 percent of the rental contracts were for half crop sharing and in 99.9 percent cases, the inputs were provided by the tenants (Jannuzi and Peach 1977, Tables D-VI and D-II. Zaman (1973), in a study of selected farms in Thakurgaon and Phulpur, found good evidence of input sharing in the case of high yielding crop varieties.

### **The Status of Landless**

By definition, a landless hired worker is a tenure class or category<sup>8</sup>. With the exception of Hossain (1977), none of the sources reviewed so far has, however, treated landless workers as a tenure class. Landlessness has either been treated as a separate topic or been discussed in relation to size of land ownership. As a result, there are definitional differences. Available information on landless are summarized below.

According to the 1960 Census of Agriculture, 17.52 percent of the total civilian labour force were 'landless agricultural labourers' and the 1968 Master Survey of Agriculture reported 20 percent as 'landless labourers' (Pakistan 1962; Bangladesh 1972). The average size of family of landless labourers is generally smaller than those of other groups of rural households. Hence, landless households as a proportion of total rural households would be higher than the figures quoted in the above sources. In 1974, 24.4 percent and 9.7 percent of 118 and 114 sample households respectively from Phulput and Thakurgaon were 'landless workers' (Hossain 1977. p. 341). In an IRDP survey conducted in 1973-74, out of 7710 rural households in 12 districts, 37.6 percent were reported as 'landless', landless being defined as those households having no farm land and having home stead land not exceeding .33 acres. However, about a third of these landless households were 'agricultural labourers' others being engaged in non-agricultural labour, business, fishing, service, weaving and begging, for their main or subsidiary occupations (Abdullah et al. 1976, pp. 212-214). The 1974 Census of Population reported 24.9 percent of the rural agricultural population as 'agricultural labourers' (Bangladesh 1977). According to the 1977 nation wide Land Occupancy Survey, 11.1 percent of the total households (8.1 percent of total population) owned no land, either homestead or other land; 32.8 percent of the total households (27.1 percent of total population) owned no cultivable land but some of them owned homestead land; taking land ownership up to 0.50 acre also as landless, total landless households amounted to 48.1 percent (32.8 + 15.3) with 41 percent of population. However all landless households/population may not be agricultural labourers (wage earners) as indicated by the IRDP survey.

Despite conceptual differences between sources, the evidences suggest that landlessness has more than doubled in about 17 years. The landless were never identified as a priority group in the land redistribution programme under the 1950 Act. Only in the 1972 amendment to the Act, landless were included in the priority list but it is highly unlikely that they have or will benefit much as a result of this inclusion.

### III. CONCLUSIONS

After the abolition of the Zamindari system as a result of the East Bengal State Acquisition and Tenancy Act 1950, new tenure relationships have emerged in Bangladesh Agriculture. While the basic nature of these relationships have changed very little since 1950, the relative importance of various sub-relationships (tenure classes or categories) are likely to have changed substantially mainly because of various amendments to the 1950 Act and also because of various socio-economic, primarily market, forces. The actual pattern of such changes cannot be discerned accurately from available information because of conceptual inconsistency and deficiency of the various sources providing information.

The following conclusions may be drawn from the review of available statistics and concepts: (1) to identify all possible tenure relationships, 'households' rather than 'farm' should be taken as sampling units. (2) To identify tenurial status of household, information on 8 elements covering a full year need to be collected. The elements are; Land owned at the beginning of the year, land mortgaged out, rented out, sold, and mortgaged in, rented in and purchased. Amount of land cultivated during the year equals to owned-sold-mortgaged out-rented out + purchase + mortgaged in + rented in. All possible tenure relationship from absence ownership (owning but out cultivating) at the one end to landless worker (neither owning nor cultivating but earning wage from working on land) at the other end will be included in this classification. (3) In Bangladesh, most farms produce a number of enterprises and nature and extent of tenure relationships may vary substantially from one enterprise to another. Therefore, detailed tenure relationships with respect to individual enterprises need to collect. In this case, information on six elements other than purchase and sale of land need to be collected.

#### Notes:

1. Jannuzi and Peach do not actually show owner-operators as a category but show two categories: owner-cultivator (23 percent) –those cultivating own land with family labour only, and owned-manager (38 percent) –those cultivating own land with family and hired labour. For conceptual consistence, these two categories are merged and treated as owner-operators in this paper. However, tenure classification on the basis of whether family or hire labour is used seems meaningless because evidence from a large number of Farm Management Studies suggest that farms, whether owners or tenants, using only family labour are rare. Even very small farms hire some labour during the peak periods. One of the most common form of labour hire is labour exchange whereby a number of farmers jointly work in each others fields by turn.

2. The main objective of the East Bengal State Acquisition and Tenancy Act 1950 was to abolish all rent receiving interests in land between the government and the actual cultivator, but this objective could not be fully realized because of the following reasons: (1) some Zaminders and intermediate rent collectors below them were able to retain ownership of land having registered and recorded it in the names of their relatives. (2). The Act put the ceiling on land ownership at 33.33 acres per family but the family was defined very vaguely as consisting of 10 members of whatever relations. This seems evident from the fact that in 1947 while presenting the "East Bengal State Acquisition

Tenancy Bill”, 3000 families were reported to have possessed more than 66.66 acres of land. After passing of the bill into Act, only 439 (a different source mention 529) rent receiving interests owning more than 33.33 acres were acquired by the government. The remaining families evaded the Act by dividing a joint family into a number of single families and by transferring land accordingly. According to one estimate, 105,600 acres of land were transferred in an effort to evade the ceiling (Siddiqui 1978). (3) In 1961 the ceiling on ownership was raised to 125 acres and some of the land resumed by the government was restored to the original owners. Yet only 0.08 percent of farmers were found to cultivated more than 40 acres in 1961 and also in 1968 implying that large owners sublet their lands (Table3) (4) The Act did not recognize sharecropping as subletting and there was no provision in the act which compelled the cultivator to be physically present in the land. The Act laid down that land could be transferred only to bonafide cultivators but there was no way this could be ensured. Many middle class urban dwellers, particularly petty service holders, have acquired land.

3. The 1950 Act prevented mortgaging of agricultural land for raising agricultural loans in any form other than by the system of complete usufructuary mortgage for a term not exceeding 15 years. This provision was amended in 1972 to the effect that any transaction, on the application of the debtor to the sub-division Magistrate, would be treated as a complete usufructuary mortgage for a period not exceeding 7 years with the provision for restoration of the land to the debtor before the expiry of said term on refund of the money in proportion to the unexpired period of the term (Siddiqui 1978, p. 97-8). There is a bank, known as ‘The Cooperative Land Mortgage Bank’ with 19 branches in 19 district Headquarters which offer specialized credit to land mortgage to free their land. However, it will be evident that neither the Act nor the bank helped the mortgages much.

4. The 1977 Land Occupancy Survey found that of all households involving tenancy 31 percent reported tenancy duration of one year or less, 40 percent reported duration of 2-3 years, 12 percent reported 4-5 years and 17 percent reported 6 years or more (Jannuzi and Peach, 1977, Table D-VII). Those reporting longer durations probably had to renew contracts periodically. It may also be mentioned here that rental terms, including tenancy duration, are usually verbal contracts.

5. Two kinds of mortgage are generally found in Bangladesh: (a) Khaikhalashi, in which the mortgagee obtains the right to cultivate land for a specific period in exchange for a specific sum of money which reduces (usually by a constant amount) every year and the mortgager regains the possession of the land after the land after the entire money has been exhausted or by repaying the balance, if permitted, under mortgage terms; (b) Daisudi, in which the mortgage value does not reduce and the mortgage can regain possession only by repaying the entire amount (sometimes with interest). Mortgage terms, particularly in case of Daisudi (also called Kotboandhak), are usually documented in some way (Jannuzi and Peach, 1977).

6. National level information on the pattern of land ownership is available only for 1977. Of the total sample households 32.79 percent were landless, 29.10 percent owned 0.1-1.0 acre, 15.78 percent owned 1-2 acres, 15.64 percent owned 2-5 acres, 4.94 percent owned 5-10 acres, 0.99 percent owned 10-15 acres and 0.76 percent owned over 15 acres. Top 1.75 percent households owned 19.3 percent of total cultivable land (Jannuzi and Peach, 1977, Table D-II). This pattern may not be the true reflection of the real situation because in 1972 the ceiling on ownership was reduced from 125 to 33.33 acres but many

families were found to own land above the legal limit although such ownership could not be easily identified legally (Jannuze and Peach, 1977, P. 76).

7. Cash renting was banned under the provisions of the 1950 Act. Evidence from various sources suggests that it still exist. Cash renting takes various forms in different parts of Bangladesh, In some places, land is leased on cash advance on and annual basis, as in Barisal and Mymensingh, in other places a fixed amount of paddy per acre is paid even in case of crop failure. The two systems are also found to coexist in a particular area.

8. “Land tenure refers to the possessing of rights to the use of land. People hold varying kinds of right in the use of land and said to belong in different tenure classes. Although it is difficult to rank tenure classes according to the degree of rights which are held, we generally recognize that the owner-operator without debt has the most freedom of action with respect to the use of his inputs. At the other end of the scale of rights in land are found the hired farm laborers and sharecroppers. Between these two extremes are share tenants, mortgaged owners, part-owners, and numerous combinations of these groupings” (Bishop and Toussaint, 1958, .153).

**Table1:** Proportion of Farms under Different Tenure Classes and Proportion of Land Area under Renting in Bangladesh

Tenure Class	% Farms by Year			
	1960	1968	1974	1977
Owner-operator	61	66	67	61
Owner-cum-tenant	37	30	27	2732
Tenant	2	4	6	7
All classes	100	100	100	100
Proportion of land Are under renting (%)	18	17	25	23

Source: Pakistan 1962; Bangladesh 1972; Alamgir 1975; Jannuzi and Peach 1977.



**Table2:** Proportion of Farms under Different Tenure Classes in Selected Areas

Tenure class <sup>a</sup>	Phulpur		Thakurgaon		Mymensingh	Rangpur	Dinajpur
	1969	1974	1969	1974	1974	1974	1974
Part-operator	18	7	23	22	5	15	46
Owner-operator	26	56	26	24	72	42	18
Part-tenant	53	29	42	43	23	43	30
Tenant	2	8	9	11	—	—	6
All Classes	100	100	100	100	100	100	100

a. The class named used here are those used by Jabbar (1977a). The corresponding names used by Hossain (1977) are respectively: Cultivator-landlord, pure owner, mixed tenant, tenant. Part-tenant and mixed-tenant are same as owner-cum-tenant mentioned in other studies.

- None.

Source: For phulpur and Thakurgaon (Hossain 1977); For other areas (Jabbar 1977a).

**Table3.** Cumulative Percentage of Farms and Farm Area by Size of Land Cultivated, 1960 and 1968.

Size class in acres	1960		1968	
	% farms	% farm area	% farms	% farm area
Under 0.5	13.10	0.95	12.26	1.15
0.5-1.0	24.34	3.25	24.96	4.14
1.0-2.5	51.64	16.26	56.63	21.32
2.5-5.0	77.94	42.64	82.95	51.29
5.0-7.5	89.33	61.94	92.15	61.06
7.5-12.5	96.53	81.08	97.40	84.58
12.5-25.0	99.59	95.20	99.56	95.53
25.0-40.0	99.92	98.11	99.92	98.83
40.0-Above	100.00	100.00	100.00	100.00

Source: Pakistan 1962; Bangladesh 1972.

**Table 4:** Acres of Land Owned and Cultivated per Farm and Proportion of Farms by Tenure Category, 1977

Tenure Category	Owned	Rented out	Mortgaged Out	Rented In	Mortgaged In	Cultivated		% farms
	1	2	3	4	5	6=1-2-3+4+5		
1	4.06	—	—	—	—	4.06	18.7	<u>18.7</u>
2	8.51	3.56	—	—	—	4.95	12.2	
3	2.91	—	0.51	—	—	2.33	6.5	
4	6.28	??	1.09	—	—	3.26	4.2	<u>22.9</u>
5	10.17	4.20	—	—	0.90	6.87	3.2	
6	2.98	—	0.39	—	0.32	2.91	1.0	
7	5.19	1.57	0.53	—	0.55	3.65	1.8	<u>6.0</u>
8	6.61	2.71	—	1.80	—	5.70	1.6	
9	1.99	—	0.46	1.37	—	2.33	12.7	
10	2.06	0.49	0.24	1.88	—	4.71	1.0	<u>15.3</u>
11	5.64	2.16	—	1.90	0.88	6.26	1.0	
12	2.81	—	0.55	1.42	0.19	3.92	1.0	
13	6.83	4.65	1.00	1.17	2.67	5.01	0.5	<u>2.5</u>
14	1.51	—	—	1.50	—	3.01	20.8	
15	1.51	—	—	—	1.38	4.14	4.9	
16	1.69	—	—	1.20	0.46	3.35	6.5	<u>32.3</u>
17	—	—	—	2.79	—	2.79	2.3	<u>2.3</u>
All Categories	3.89	0.77	0.17	0.72	0.16	3.71	100	100

—None

Source: Jabbar 1977b.

**Table5:** Proportion of Farms Giving out and Taking in Land and Proportion of Area Given out and Taken in By Crops, 1977

	Aman	Aus	IRRI	Boro	Jute	Tobacco	All
% farms giving out land	—	—	—	—	—	—	47
% Producers taking in land	47	42	41	35	36	30	58
% owned area given out	—	—	—	—	—	—	24
% cultivated area taken in	22	25	27	38	23	18	24

- not available.

Source: (Jabbar 1977b).

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