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*LEGAL AND ADAMINISTRATIVE ASPECTS OF LAND REFORM MEASURES AND AGRARIAN WELFARE IN BANGLADESH**

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ABSTRACT

This paper presetts an analytical overview of the agrarian reform measures which resulted from the commendations of the Land Reforms Committee, 1983. The recommendations have beet gives legislative shape, first in the Land Reforms Ordinance, 1984 and secondly in the Agricultural Labour (Minimum Wages) Ordinance, 1984. The overview is presented in respect of the ownership ceiling on land, protection of the rights of the sharecropper, legally establishing the minimum wages for agricultural labourers, establishing a decentralised and strengthened survey and settlement administration, initiation of stops to expandthe resource base of local government institutions.

I. INTRODUCTION

Despite expectations to the contrary, political sovereignty, based initially on a socialistic commitment, has not brought about economic liberation for Bangladesh. Over the past two decades, programmes of rural development have not fulfilled the rising expectations of the poor. Poverty, both in rural and urban areas, continues to multiply in the face of growing population, constantly reducing the per capita food consumption which is already at much reduced levels. In Bangladesh, many areas are constantly under the threat of famine.

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The critical policy issues in Bangladesh in the field of rural development are closely related to the agrarian sector of the economy. At the present stage of our development it is difficult to quantify the issues. There may not be any technological impediment to the development of agro-based economy. The technical solutions to increase agricultural productivity are now widely known among experts although the easy dissemination and application of new technology may not be as widespread as are desirable. The uses of HYV, fertilizer, pesticides and irrigation are not so easily spread as are ordinarily believed. The institutional impediments centre on the land ownership (*de facto* or *de jure*), access to knowledge, credit and new inputs.

It is often argued that peasant proprietorship provides better incentives to farmers because they can use their land as a collateral to obtain farm and non-farm credit. This is largely true provided there is enough land for all the farmer, just enough for growing a surplus crop. In Bangladesh, this condition does not exist. With a landless percentage of about forty and extremely adverse man-land ratio, the prospects of providing just enough land for the landless community is bleak. The 'collectivist' approach to ownership reform, in the situational context of Bangladesh, also appear to be a distant possibility. With all our 'commitment' to 'socialism' we could not come anywhere near it during the early seventies. The late seventies and the early eighties, till 1983, has been a barren period of *statu-quo* as far as land policy is concerned. Rural development measures during the same period thrived on politics of exhortation based on Swanirvar and Mass participation schemes. There has been a glaring lack of awareness in terms of designing a land policy conducive to agrarian welfare.

Whatever skeptical view one may take about the new land policy which flowed from the recommendations of the *Land Reforms Committee*, 1983, it can strongly be argued that acceptance of the recommendations has led to new dimension in an otherwise static situation. The new dimension has five major aspects. First is the reduction of land-ceiling from 33.3 acres to 20 acres. Second, recognition of the rights of sharecroppers and the consequent protection granted to them under the law. Third, establishing a minimum wage for agricultural labourers. Fourth, decentralising and strengthening of survey and settlement administration. Fifth, measures to expand the resource base of local government institutions.

These measures are not revolutionary measures. They are not intended to be so in a non-revolutionary society. Therefore, we must not look for virtues which we ourselves lack. All these measures can also be criticised on the ground that these cannot be implemented. Implementaion of reform measures, whether they relate to agrarian welfare or otherwise, depends primarily on political will, administrative commitment and popular acceptance of the measures proposed to be implemented. It is not always easy to harmonise and blend all the three factors in the best interest of implementation.

This paper presents an analytical overview of the agrarian reform measures which resulted from the recommendations of the Land Reforms Committee, 1983. The recommen-

dations have been given legislative shape, first in the Land Reforms Ordinance, 1984 and secondly in the Agricultural Labour (Minimum Wages) Ordinance, 1984. The overview is presented in five sections. First, the ownership ceiling on land. Second, protection of the rights of the sharecropper. Third, legally establishing the minimum wages for agricultural labourers. Fourth, establishing a decentralised and strengthened survey and settlement administration. Fifth, initiation of steps to expand the resource base of local government institutions.

II. OWNERSHIP CEILING ON LAND

The distributive land reform measures of the fifties failed to provide any substantial relief to the landless or the near landless. It also denied them any protection which some of them had previously enjoyed. The post-Bangladesh distributive land reform measures also did not succeed although it reduced the ownership ceiling from 125 acres to 33.3 acres. The total surplus land available for distribution was first cumputed at 1.2 million acres and later reduced to 800,000 acres. In effect, no one was certain, as in post-1950 days, about the exact area of surplus land.

The primary impediment to distributive land reform measures is that land records in Bangladesh are out-of-date. Some are nearly one hundred years old. The governmental commitment to effect land reform measures has not been backed by an equal commitment to modernise land administration and implement new land policies. Although a land reforms branch has been in existence in the Land Revenue Ministry since 1972, the Ministry is yet to outgrow its revenue earning orientation. At the same time there has been lack of government commitment to bring the Land Ministry into the mainstream of development programmes. It has to be distinctly understood that land policy in terms of land use and land rights cannot be separated from agricultural development programming.

One of the issues that the recent land reforms measures addressed is reduction in the ceiling of ownership of land. Under the existing law, no one can own more than 20 acres. The legal framework for the purpose has been established. It may be argued that the legislative prescription of land ceiling did not in the past provide any substantial relief to the landless. Thus during the post-1950 measures, out of an area of 465, 139 acres of arable land available for settlement, only one hundred and sixty three thousand acres of land vested in the government as exceess which were distributed among "the bonafide cultivators" (Bangladesh 1981, p. 99 ; hereafter referred to as Land Policy Report 1981).

Further reduction in land-ceiling effected by Bangladesh Land Holding (Limitation) Order, 1972 estimated about 800,000 acres of excess land. In reality only 146,000 acres of land vested in the government. A significant quantity of land surrendered, however, was not fit for cultivation (Bangladesh 1981, p.99). If past attempts at distributive land reform measures did not succeed, why then make further attempts in the same direction ?

The legal basis of a further reduction in land ceiling is provided by the Bangladesh Land Holding (Limitation) Order, 1972. In this Order, the government reserved the right to reduce the ceiling further. The socioeconomic justification for a step towards further reduction lies in the highly skewed pattern of land ownership. The 1977 Land Occupancy Survey has confirmed the finding that 9.67 percent families in rural Bangladesh own 50.68 percent of the total agricultural land. At the other end 77.67 percent of the families own only 25.17 percent of land. The landless families in 1960 constituted 28.10 percent of the total rural families. In 1968, the percentage rose to 31.10 and in 1977, it stood at 32.79. There is every reason to hold the view that the incidence is increasing.

Thus both the findings of Land Occupancy Survey of 1977 and the Land Policy Report 1981 unmistakably prove that 100 bigha (33.3 acres) ownership ceiling per family is high calling for further reduction in land ceiling. The findings of the Land Policy Report 1981 show that there are 14.27 percent families in rural Bangladesh, excluding the Chittagong Hill Tracts, who are purely landless ; 23.77 percent of the rural families have homestead only ; 68.75 percent of the rural families including those having homestead have ownership holding below 3 acres and they account for only 34.84 percent of total land. Compared to this only 0.73 percent of the families having holdings of 16.66 acres and above own as much as 10.21 percent of the total land. The average ownership holding size is 0.28 acres.[1]

Apart from the above, the findings emanating from the 1977 Land Occupancy Survey confirm that there are many owners who own land in excess of the prescribed ceiling of 100 bighas. Admittedly, without modernisation of land records it is difficult to establish a national estimate of the numbers of owners of land whose holdings exceed the prescribed ceiling. This does not necessarily invalidate the arguments in favour of a ceiling lower than 100 bighas (33.33 acres). The further argument in favour of the step towards reduction in land-ceiling is the agronomic potential of land. During the fifties and even in the seventies, the agronomic potential of land was limited. The spread of irrigation, flood control and drainage works accompanied by use of HYV, fertilizer and pesticides have vastly increased the productive capacity of land. These developments fully call for lowering of land-ceiling.

All of the above factors make out a case for lowering of land-ceiling. In addition, the Land Reforms Committee, 1983 was guided by the public responses it had received in favour of reduction in land-ceiling. The Comittee elicited information from

- the relevant public servants directly related to land administration ;
- the people at large on the basis of a questionnaire designed for the purpose ;
- direct contact with people at administrative divisions, districts and upazilas ;
- the landless and the near landless peasants of selected locations ;
- the peasant organisations and their leaders.

Out of the sixteen thousand respondents, 26.2 percent belong to Rajshahi Division, 20.5 percent to Khulna Division, 29 percent to Dhaka and 22.7 percent to Chittagong Division. About 1.6 percent respondents could not be identified. It is clear, therefore, that regional participation in responding to the Committee's request for views has been more or less evenly spread. The occupational status of the respondents show that the highest number, 42 percent belonged to services both in public and private sectors followed by 36.2 percent belonging to the cultivating class ; 0.3 percent belonged to the class of industrialists and 21.5 percent belonged to sectors other than agriculture. The highest participation from the services needs to be researched (Bangladesh 1983a). For constraints of time, the Committee could not provide more elaborate analysis but hoped that this would be done at a later date. The wider participation by persons belonging to the services may in part be explained by their own interests in land. It is possible that they hold lands in the rural areas thus supplementing their income derived from salaries.

The analysis of the responses in regard to reduction in land-ceiling shows a preponderence of opinion favouring lowering of the existing ceiling varying between five acres to 22 acres depending on classification of land and its cropping potential. Thus 67.1 percent of the respondents favoured lowering of ceiling between five to seven acres for lands yielding one crop only; for lands yielding three crops, 91.6 percent of the respondents favoured lowering of ceiling between 7.5 to 12.4 acres per family. Even in case of mono-crop areas, 55.3 percent favoured lowering of ceiling between 7.5 to 22.4 acres per family. There was no evidence before the Committee which pleaded for an absence of ceiling on ownership of land.[2] 75.6 percent of the respondents favoured a land-ceiling of one bigha for urban lands.

It is in the background of these circumstances that the Committee favoured a lowering of ceiling. The Committee recommended that for lands falling within flood control areas, the maximum ceiling would be 75 bighas i.e., 25 acres. For other areas, the ceiling would be 100 bighas i.e., 33.3 acres. In case of absentee owners, the ceiling in flood control areas would be 30 bighas or 10 acres and for areas other than flood control areas, the ceiling would be 50 bighas or 16.6 acres. The Committee recommended compensation for acquisition of lands in excess of the prescribed ceiling and proposed that those owners failing to surrender the excess lands within the prescribed time, would not be entitled to any compensation. The ceilings of 75 and 100 bighas are applicable in cases of families directly engaged in agriculture. In addition, the Committee recommended that henceforth the prescribed ceiling of ownership for all areas would be 60 bighas or 20 acres excluding lands obtained by inheritance or lands protected under the existing ceiling of 75 and 100 bighas (Bangladesh 1984).

This implied that the existing rights of ownership ceiling has been protected but new acquisitios in excess of 60 bighas has been barred. The final acceptance of the recommenndation of land-ceiling is embodied in the Land Reforms Ordinance 1984. The Ordinance imposes a limitation on acquisition of new agricultural land by any person or

family owning more than 60 bighas by any means. The known means of acquisition include acquisition by transfer, inheritance or gift.

It is important to carefully examine the legal provision imposing limitation on acquisition of agricultural land. The legal provision makes a distinction between the owners who own more than 60 bighas and those who own less than 60 bighas. Those who own more than 60 bighas are debarred from acquiring new agricultural land by transfer, inheritance, gift or any other means (See the Land Reforms Ordinance 1984, Section 4). Those owning less than 60 bighas may acquire new agricultural land by any means provided that the total area owned shall not exceed 60 bighas.

The owners owning above 60 bighas are fully protected in their rights of ownership of lands in excess of 60 bighas but are prevented from new acquisition by any means which include inheritance, gift or transfer. Except in cases where new lands are acquired by inheritance, gift or will no compensation will be payable by the government. For lands acquired by means other than by inheritance, gift or will, no compensation will be paid.

These provisions of law have to be read in conjunction with the Bangladesh Land Holding (Limitation) Order 1972 by which the ceiling prescribed has been set at 33.33 acres. The legal presumption is that no owner in Bangladesh has lands in excess of 33.3 acres since 1972. The first category of owners will then belong to the class owning lands between 21 to 33.3 acres. Viewed in this sense, there has not been any effective reduction in land-ceiling. The effective reduction in land-ceiling under the Land Reforms Ordinance, 1984 is applicable only in cases of owners having lands less than 20 acres. This category of owners cannot own land in excess of the new ceiling by any means. They are required to surrender the excess land and compensation is payable only if the excess lands are acquired by inheritance, gift or will.

The proviso relating to the manner of payment of compensation also merits some discussion. Under the provision, compensation *"is payable only for a portion of the excess land, the assessment and payment of compensation shall be made for such portion of the excess land as the malik may specify in this behalf"*. The legislative intention then is to allow freedom of choice to the owner to specify the portion of the excess land which will vest in government being in excess of the prescribed ceiling. The freedom thus given is nothing new. It was there in the earlier legislations on the subject. The inevitable result has been less than desirable. In the past, as the Land Policy Report, 1981 has admitted, only lands unfit for cultivation have been surrendered to the government.

The land reform law of 1984, in so far as it relates to ownership ceiling, is more of a preventive law and not a prescriptive law. The existing law prevents owners holding less than 60 bighas to own lands beyond this ceiling. It does not impose new ceilings for those owning more than 60 bighas but does prevent them to acquire new agricultural land.

The new law does not define agricultural land on which limitation is imposed. Are lands used for orchards come within the purview of agricultural land which is not defined

in the Ordinance ? The Ordinance defines "malik" to be a person or an organisation, body or authority holding agricultural land. The nature of the body, organisation or authority could have been specified. Will this definition of malik include a cooperative society, a private or public limited company, a corporation or special authorities within the public sector ?

These are complicated questions of law having far reaching implications on land policy and its implementation to facilitate development programming. The use of the term malik, which literally means owner, is somewhat misleading. It is borrowed from the 1950 Act which does define the term. The term is used in that Act to denote only one class of holders of agricultural land (East Bengal 1951). However, the said Act provides definitions for Cooperative Society and a Company. The 1950 Act provides for exceptions to the prescribed land ceiling in case of tea garden, lands owned by cooperative societies and lands owned by persons for large scale farming. It also defines the term orchard. It defines the term land to include lands which are cultivated, uncultivated or covered with water at any time of the year, and it further includes benefits arising out of land, houses or buildings and also things permanently attached to the earth or permanently fastened to anything attached to the earth (East Bengal 1951).

The new land legislation then is not based on the recommendations of the Land Reforms Committee, 1984. Instead of a variable pattern of land-ceiling for flood control areas and areas outside the same and for absentee owners, it prescribes a ceiling which is preventive in letter and spirit. To that extent it may be disappointing to many. Conversely, if lessons from the past are taken into account, the refusal for legislative intervention in favour of an effective lowering of ceiling applicable to owners of all descriptions may be seen as a pragmatic step in terms of not repeating the mistakes of the past. On a deeper plane, it can be said that the trend of land policy, since the fifties, in respect of land-ceiling and tenurial rights, has been cautious and conservative with half-hearted attempts at radical reform.

Thus the land-ceiling initially set by the draft Act was 66.3 acres which was lowered to 33.3 acres by the Special Committee set up by the legislature. This was a move towards equitable distribution of assets but the effect was offset by the deletion of provisions relating to the rights of the sharecroppers (East Bengal 1949-50, pp. 82-89). In 1961, by an amending Ordinance, the ceiling was raised from 33.3 to 125 acres (East Pakistan 1961). Eleven years later, the original ceiling of 33.3 acres was restored. From the viewpoint of agrarian reform measures, setting the ceiling at flat rate for all types of land, irrespective of their productive capacity, may appear to be of doubtful significance.

It is precisely on this ground that the Land Reforms Committee, 1983 had recommended a variable structure of ownership ceiling based on areas under flood control and those outside the flood control areas. This was not accepted perhaps on grounds of practicability in implementation. It is necessary to address the practical factors that stand in the way of implementing a variable structure of land ownership ceiling.

The primary problem is to identify the exact number of Flood Control, Drainage and Irrigation (FCDI) Projects. In one of the recent surveys carried out showed a glaring gap in information[3]. The prefeasibility study mounted by Master Plan Organisation indicated about 157 completed projects to be inventoried and assessed. A second check conducted showed a list of 301 completed projects. The actual number inventoried and assessed stood at 381. The coastal embankment projects with individual polders have been considered to be independent projects. The summary inventory data for completed Bangladesh Water Development Board (BWDB) projects are shown in Table 1.

TABLE 1 SUMMARY INVENTORY DATA FOR COMPLETED 38I BWDB PROJECTS

	Intended Benefitted Area, acres	Actual Benefitted Area acres	%
Irrigation	10,88,278	6,11,903	56.23
Drainage	64,63,749	50,37,915	77
Flood Control	48,72,779	45,36,458	93

Table 1 provides only a partial list of what is essentially a more complicated system of management of FCDI projects. The prefeasibility study, known to have effectively documented the completed FCDI projects, provides evidence of extensive deterioration of civil works infrastructure caused by negligence in timely, adequate and system performance of maintenance work. It has been identified that as many as 75 BWDB completed projects require only rehabilitation work, 25 need desirable project modifications in addition to rehabilitation work. Yet another 40 require only modification to extend or improve the scope and magnitude of repair work.

All these relate solely to engineering interventions to provide the needed flood control, drainage and irrigation benefits to the farmers. They do not necessarily provide the list of myriad of other institutional impediments to assess the productive capacity of lands intended to be benefitted from FCDI projects. The engineering interventions identified do not provide an insight and analysis of the perceived or real social conflicts arising out of FCDI projects. Although an indepth study on this account is yet to be made, based on sporadic field level information, it can strongly be asserted that social conflicts do exist and arise principally from three sources. First, the rural power structure which dominates decision-making process at the local level. Second, the topographical situations of the land served by the areas of influence of FCDI projects. Third, the

conflicts arising out of competing considerations for the use of the resources created by FCDI projects. In particular, these considerations relate to navigation, fishery, drainage, flood control and irrigation.

It is evident, therefore, that we do not have adequate micro-level data to justify a decision in favour of a variable structure of ownership ceiling in respect of land. The governmental decision in favour of a flat ceiling on ownership of land can be looked at from these points of view.

The other option, as an alternative to variable structure of ownership ceiling based on flood control areas, could be argued for irrigated and non-irrigated areas. In this also there are practical difficulties of management and administration. Apart from traditional mode of irrigation for which very little data exist, the irrigation system is conceptually divided into major and minor irrigation. The major irrigation system remains the exclusive domain of Bangladesh Water Development Board (BWDB) and the minor of Bangladesh Agricultural Development Corporattions (BADC), and in recent years, of BKB and Bangladesh Bank as well. This conceptual division does not necessarily imply a compartmentalised functional responsibility from the point of view of agencies. For, BWDB too is involved in minor irrigation.

Anyone acquainted with the irrigation system in Bangladesh will agree that it is difficult to quantify with any degree of certitude, the irrigated areas served either under major or minor irrigation systems. Leaving aside the question of major irrigation where uncertainties in water level, lack of maintenance of field channels and other management failures stand in the way of a stable level of irrigated area, the difficulties in assessment of tirigated areas served by the minor irrigation system are equally great. The rule-of-the-thumb principle of perceived per unit acreage under DTW, STW and LLP do not adequately reflect the actual situation in the field.

An enumeration of the difficulties in assessment of irrigated areas is not intended to defend the flat ceiling on land ownership. The object is to point out practical problems of linking land policy measures in terms of ownership of land to the agricultural development programming in a way which will justify a differential structure of ownership ceiling. It is not intended to argue that these are problems which cannot be overcome. The starting point for overcoming these problems must be to bring the land reform and related administrative measures into the mainstream of rural development policies in general and in particular of the agricultural development programming.

The preventive method of land ceiling as has been proposed in the recent law on land reforms has to be appreciated against the practical problems as discussed above plus the fact that at least from 1984 the legally presumptive ceiling on land has been lowered from 33.3 acres per family to 20 acres. Lowering of ceiling on ownership of land should not be viewed as an end itself. It has to be adopted as an instrument of promoting agricultural productivity.

If this point is conceded, the variable structure of ownership ceiling should be based not only on lands within flood control areas or outside it, the irrigated and unirrigated areas, it should also take into account the agronomic potential of land yielding maximum income to the owner. A broad distinction may be made on the basis of the cropping intensity i.e., the number of crops grown. Again, the number of crops grown is not a valid index of income from land. There is need for more data on this account than are available at present.

There is an equal and imperative need for the determination of the areas of agricultural land in terms of subsistence, economic and surplus holding on the basis of agronomic potential of land. A beginning in this respect was made as early as in 1959 by a Martial Law Regulation (MLR) but its extent and application was limited to Pakistan (then West Pakistan) only[4]. In the subsequent Regulation promulgated in 1972, the division of agricultural lands, with certain exceptions, was made into subsisence and economic holdings. The alienation of subsistence holding was barred by both the Regulations. Measures like this are more likely to promote the cause of agricultural development than imposition of a ceiling in a piecemeal manner.

III. PROTECTION OF THE RIGHTS OF THE SHARECROPPER

The measure relating to sharecroppers again is open to attack on the ground that the protection of the rights of the sharecroppers amounts to nothing but a revival of the rights that the occupancy tenants used to enjoy during the days of the British Raj. This is not the case.

In making this criticism one must not lose sight of the evolutionary nature of the land policy since the days of the Permanent Settlement. It is said that the Permanent Settlement destroyed peasant proprietorship once and for all. It is also said that the concept of peasant proprietorship was sanctioned under the Code of Manu on which the Hindu Law is based. The opposite argument may also be sustained based on historical evidence. It is that peasant proprietorship hardly existed at least in Bengal. Throughout the history of our land policy there has always been a clash between the fact and fiction of law. The clash led to various gradations of landed interests, from *Khudkast* and *Paikast raiyats* (resident and non-resident tenants) during the early days of the Permanent Settlement to as many as twenty-one gradations discovered at the time of the settlement operations of Bakarganj district during the last century.

Out of the Khudkast raiyats was born the occupancy tenants who enjoyed sufficient measures of protection under the Bengal Tenancy Act, 1885. The Occupancy tenants got this protection nearly hundred years later. There were also the class of tenants known as the settled raiyats holding land at fixed rates of rent. These classes of tenents enjoyed under the law permanent, heritable and transferable rights in land. Sharecroppers, commonly known as *bargadars,* were not recognised as tenants. They were merely agricul-

tural labourers in the eye of law having no right whatsoever in land. They got a share of the crop, generally onehalf, in lieu of their wages.

The East Bengal Estate Acquisition and Tenancy Act 1950 was the result of a long and evolutionary tinkering with the land system based on the permanent Settlement. This Act abolished the Permanent Settlement system and with it the Zamindars. It also annulled the Bengal Tenancy Act, 1885 which provided protection to the tenants. The abolition of the Zamindari system was by itself a significant step. The inability to provide protection to the bargadars was definitely a retrograde step. The full implications of this step are yet to be researched. The Land Policy Report states that a total of 41.68 lakh acres, which is about 20 percent of the total land owned of the country excluding Chittagong Hill Tracts, are cultivated by a total of 27.84 lakh owner-cum-bargadar and bargadar families who are about 36 per cent of the total farm families. On the question of input sharing, the report finds that in 82 percent of the total number of barga cases seeds have been provided wholly by bargadars. In 86 percent cases, fertilizer has been provided entirely by bargadars. In respect of irrigation, in about 61 percent cases, full cost of irrigation has been formed by the bagadars.

Even after the enactment of the East Bengal Estate Acquisition and Tenancy Act 1950, the classes of Agricultural tenants and incidence of their tenancies continued as late as in 1955. The Development Commissioner and Secretary to Planning Department of the erstwhile government of East Bengal reported this in September 1955. It was reported that out of 54000 square miles, an area of about 49000 square miles i.e., 91 percent of the total area was permanently settled since 1793 with private persons who held as proprietors under the government. An area of about 2000 square miles was temporarily settled with private persons who were also called proprietors. An area of about 3000 square miles i.e., 5.5 percent of the total area was managed directly by the government and in this area the actual peasants held land directly under the government.

This was the scenario in 1955 when about 94.5 percent of the total land were rented out of various grades of tenure-holders. The Development Commissioner repored fifty grades of tenure-holders under a proprietor in respect of the same parcel of land. We do not have adequate data as to what happened to the various grades of tenancies when the Zamindari system was abolished. It is generally believed that non-occupancy raiyats, underraiyats and various classes of sharecroppers continued without any legal protection of their rights as tenants. They continue even today.

The East Bengal Estate Acquisition and Tenancy Act, 1950 did not provide any protection to the sharecroppers although it did abolish in theory, the various grades of tenants. At the same time it refused to recognise the sharecroppers even as a tenant. The said Act clearly stipulates that "a person who, under the system generally known as "adhi", "barga" or "bhag", cultivates the land of another person on condition of delivering a share of the produce that person is not a tenant" (East Bengal 1951, p.5). The exceptions provided in the Act of 1950 are that (a) a sharecropper could be re-

cognised as a tenant if he has been expressly admitted to be a tenant by his landlord in any document executed by him or executed in his favour and accepted by him ; and (b) if the sharecorpper has been or is held by a Civil Court to be a tenant. It is important to bear in mind the implications of such a dispensation accorded to a sharecropper. The eligibility of a sharecropper to be a tenant under the 1950 Act depended on fulfilling two requirements. First, a sharecropper must have a document, legally executed between him and his landlord to qualify as a tenant and thus be entitled to the protection granted to him as a tenant. Second, he must be declared to be a tenant by a Civil Court.

Judged against the letter and spirit of the Act which sought to abolish the Zamindari system, these provisions must necessarily be seen as retrograde steps intended to protect the entrenched vested interests. It left the sharecroppers completely at the mercy of either the Zamindars or the Civil Courts. Both the options left open to sharecropper could not but be termed negative. A Zamindar who was about to the divested of his propreietory interests in land could not be expected to recognise, by written engagements, a sharecropper. Conversely, for a sharecropper, without being unreservedly recognised by law, could not be expected to get a decree in his favour from a Civil Court that he was entitled to the protection of a tenant. This was perhaps the single largest gap in the East Bengal Estate Acquisition and Tenancy Act, 1950.

The Land Reforms Ordinance, 1984 seeks to remedy this gap in terms of providing legal recognition to the sharecroppers[5]. This itself is a departure from the past perception of the need to bring the sharecroppers into the mainstream of the agricultural production process. It is a welcome direction adding a fresh dimension for agrarian reforms. The major features of the new dimension are as follows (for details see section 11 of the ordinance) :

- No person can allow another person to cultivate his land on condition of sharing produce of such land without a mutually agreed contract in accordance with the provision of law. Similarly no person can cultivate the land of another person, on condition of sharing the produce of land without a contract recognised by law.
- The period of a contract between an owner and a sharecropper is five years.
- Recognition of existing sharecroppers is guaranteed.
- The term of the contract between a sharecropper and an owner is allowed to continue even after a sharecropper dies without leaving a surviving member who can carry on cultivation.
- Termination of a contract executed between a sharecropper and an owner is to be made only on grounds specified by law.

In line with the recommendations of the Land Reforms Committee 1983, the new law provides recognition to the Tebhaga principle of sharing of produce for which many peasants in Bangladesh had fought and suffered during the late forties and early fifties

(Sen 1981, pp. 442-52). Although the Tebhaga struggle initiated by the peasantry in areas now forming Bangladesh is yet to be adequately researched, Sen's account of the struggle in the districts of Dinajpur, Rangpur and Mymensingh does provide the intensity of the feeling of the sharecroppers in their rightful struggle for sharing of produce on the basis of Tebhaga principle. In the wake of the Tebhaga movement, many peasant leaders were jailed, lot of them went underground, some lost their lives but the Tebhaga principle of sharing of produce remained unrealised. The Act of 1950 closed the issue from a legal point of view.

The new law of 1984 revived what appeared to be closed chapter in the history of land system and agrarian awakening in Bangladesh. Under the new law, the division of produce of barga land is prescribed as follows :

a. one-third shall be received by the owner for the land ;

b. one-third shall be received by the bargadar for his labour ;

c. one-third shall be received by the owner or the bargadar or by both in proportion to the cost of cultivation other than the cost of labour, borne by them[6].

In terms of protection to the rights of the sharecroppers, the new legislation goes a step further. It prohibits, with some exceptions, sale of barga land to any person other than the bargadar. The owner can sell his barga land only to a co-sharer or to his parent, wife, son, daughter or son's son or to any other member of his family. Family under the Ordinance means, in relation to a person, his wife, son, unmarried daughter, son's wife, son's son and son's unmarried daughter. However, an adult or married son living in a separate necss independent of his parents and paying local government tax in his own name will not be part of the family of his parents for the purposes of the Ordinance. In this case the adult, or married son with his wife, son and unmarried daughter will constitute a separate family[7].

If the barga land is to be sold to any person not included in the definition of the family, the first offer shall have to be made to the bargadar. The owner can not also sell it to another person at a price lower than that offered by the bargadar. When finally the land is sold to another person, the bargadar is protected in his peaceful possession of land as the agreement with the previous owner is binding on the new owner under the same terms and conditions. The other features included in the law are :

— prohibition on eviction from homestead land by any legal process other than land acquisition proceedings ;

— settlement of khas land may be made homestead lands ;

— imposition of a ceiling of fifteen bigha or five acres which can be cultivated under a barga contract ;

— restriction on cultivation of land by another person except in the manner provided under the law.

It is necessary to closely examine the legislative protection now being granted to a bargadar. Unless the protection granted is actually available to those for whom it is meant, the purpose of the law is defeated. The impediments to the effective operation of the Land Reforms Ordinance, in so far as it relates to barga land can be classified under three distinct but not necessarily completely separate heads. These are legal, administrative and institutional.

The legal difficulties may be inherent in the law itself. To appreciate the legal difficulties, it may be worthwhile to have a look at the grounds on which the barga contract can be terminated under law (the details are set forth in section 11 of the ordinance). The contract can be terminated on grounds that :

- the bargadar has, without any reasonable cause, failed to cultivate the barga land ;
- the bargadar has, without any reasonable cause, failed to produce any crop equal to the average output of such crop in any land similar to the barga land in the locality ;
- the bargadar has used the barga land wholly or partly for any purpose other than agriculture ;
- the bargadar has contravened any provision of this Ordinance or the rules or orders made thereunder ;
- the bargadar has surrendered or voluntarily abondoned his right of cultivation ;
- the barga land is not under personal cultivation of the bargadar ;
- the owner requires the barga land for personal cultivation.

The prescribed authority can terminate the barga contract, by an order in writing, on any of the grounds shown above. The prescribed authority, under the law, means an authority appointed by the government for all or any of the purposes of the Ordinance, except for the purpose of hearing appeals, or an authority specified in the rules for such purposes. The legal grounds of termination appear to weigh heavily against the bargadar. He cannot leave the land fallow. He can not afford to produce less than the average yield of any land of similar nature in the locality. He cannot use the land, either in part or wholly, for purposes other than agriculture. He cannot have the land cultivated by others.

Of all the above conditions, the one relating to output which must not be less than the average yield of lands of similar descriptions appear to be the one which is likely to be freely abused by the owner as a plea to terminate the contract. On the positive side, it appears to place some kind of pressure upon the bargadar to be diligent and careful. However, there are practical difficulties of assessment of average yield. Who can be the appropriate authority to decide about the average yield ? Are their any systematic records at the micro level showing variations in yield ?

Under the existing practice all we have is a crop cutting experiment to determine the highest yield mostly from the land of farmers selected for the purpose of demonstra-

tion. The yield from land is related not only to the soil characteristics but also to improved management practices which include balanced using of fertilizer, quality seeds and water. It also depends on timely sowing and care taken to ensure better production. This provision may be widely abused against the interests of the bargadar.

The other provision which may be abused against the interests of the bargadar is the one under which the contract is liable to termination when the owner wishes to bring the land under personal cultivation. The term personal cultivation legally means cultivation by a person of his own land or barga land on his own account (i) by his own labour, or (ii) by the labour of any member of his family, or (iii) by the labour of any servant or labourer employed on wages to supplement his own labour or any member of his family.

Evidently, the scope of the definition is wide enough to enable an owner to invoke the provision of personal cultivation and thus evict an existing bargadar. The law does provide a check on the owner when this provision is invoked to resume land for personal cultivation. If the owner, without reasonable cause, fails to bring under personal cultivation any land or allows such land to be cultivated by some other bargadar within twenty-four months, the prescribed authority may, on the application of the evicted bargadar, restore possession of the land to the applicant bargadar who can then continue to cultivate the land till the expiry of the term of the contract.

This is easier said than done. The definition of the term personal contract provides ample scope of manipulation of evidence in favour of the owner. A competing bargadar in the neighbourhood can easily be shown as a labourer by the owner thus satisfying the legal requirements of personal cultivation. Conversely, an evicted bargadar, in order to get back to the land, has to reach the prescribed authority with an application requesting that he be restored the possession of the land he has taken under barga contract. It is not expected that he will have the time, energy or the means to get involved in the trammels of law to have his rights.

Admittedly, under the decentralised system of administration, a bargadar is more happily placed than his predecessors, the tenants of various descriptions, who had to travel long distance to the civil and revenue courts for fighting the Zamindar's arbitrary enhancement of rent or eviction from land. The historical parallel would be the rent cases of the last century which piled up to the extent that there was no hope for a judgement being delivered during the lifetime of a tenant who had taken recourse to the legal remedy. An evicted bargadar may well face the same fate. Even more difficult will be the process of implementing the decision of the prescribed authority. How long will it take to restore possession to the evicted bargadar in the event it is so decreed by the prescribed authority is a matter which can better be imagined than described.

The legal difficulties of ensuring the implementation of the Tebhaga principle of sharing the produce are of equal importance from the point of view of protecting the rights of the bargadar. In this case also one may find that the bargadar has landed in an endless

process of having to justify his existence. What follows is a summing up of the legal process relating to the division of produce (for details see section 12 of the ordinance).

When Bengal Provincial Kisan Sabha gave the call for *Tebhaga* struggle in September 1946, it was a demand for two-thirds share of the crop for bargadars. This was what has been recommended by the Land Revenue Commission, 1940. The simple slogans which the peasant leaders used were : *Inquilab Zindabad* (literally means long live Revolution) ! *Nij Kholane Dhan Tolo* ! (Stock paddy in your khamar) ! *Tebhaga Chai* (We want Tebhaga) (Sen 1981, p. 443). The important element of demand was that the bargadar must have the freedom to stock the produce in his own farmyard.

The present law requires that the harvested crop of any barga land shall be stored for threshing and division either at any place belonging to the bargadar or any place belonging to the owner, whichever is nearer to the barga land or at any place as may be mutually agreed. The present law provides a flexibility which is practical. The bargadar is not deprived of his right to thresh and store the crop in his farmyard unless it is at a distance greater than that of the owner. Both the parties have also the option of mutually agreed place.

The second is when the bargadar has to tender the produce to the owner. The owner is required to give a receipt to the bargadar only after acceptance of his share of the produce. The owner is also entitled to a receipt from the bargadar. The endless process starts during the third stage when the owner refuses to accept his share of the produce or refuses to give a receipt to the bargadar. The legal option left for the bargadar is then to apply to the prescribed authority intimating him about the facts. The prescribed authority, upon receipt of the application from the bargadar, has to serve a notice on the owner requiring him to accept the tendered produce within seven days from the date of service of the notice.

If the owner fails to take delivery of the produce within seven days, the prescribed authority is required to permit the bargadar to sell the produce to any government purchasing agency or in the absence of such agency, in the local market. The fourth stage begins after the bargadar has sold the produce. He has to deposit the sale value with the prescribed authority within seven days of sale. The prescribed authority has to give the bargadar a receipt stating the amount of money deposited and the quantity of produce sold by the bargadar. This receipt is intended to discharge the bargadar of his obligation to deliver share of the produce to the owner. However, the bargadar is not completely free from all obligations for the quantity of produce not delivered or sold by the bargadar.

The fifth stage begins after the money is deposited with the prescribed authority. The prescribed authority has to intimate the owner to take the money value of the produce within one month failing which the money is deposited in the treasury against the credit of the owner and intimate the owner further of the action thus taken.

The processes described above clearly show that in the event of refusal by the owner to accept his share of the produce or to give a receipt, the bargadar is forced to follow a procedure which is time consuming and cumbersome. The bargadar may well accede to the wishes of the owner rather than go through the processes of filling application about disputes, selling the produce and depositing the sale receipts with the prescribed authority. This option is more likely than the legal option as it will save the bargadar's time, energy and money[8]. Apart from the prescribed fee which the bargadar is required to pay for filling application, there will be other costs. These include the drafting fee which is normally paid by a litigant initially to a deed writer or a *Muburi* (a clerk to a lawyer) who make a living on this and are generally located in and around the court buildings and public offices, the cost of journey to and from the office of the prescribed authority, the cost of stay in the areas where the prescribed authority's office is located.

The situation is more complicated by the process of settling of disputes between the owner and the bargadar. The law envisages the following three types of disputes between the owner and the bargadar (for details see Section 16 of the Ordinance): (i) division of delivery of produce ; (ii) termination of barga contract, (iii) place of storing and threshing of the produce.

The prescribed authority is made the sole judge to decide whether a person is a bargadar or not or to whom the share of the produce should be deliverd. No application on any dispute can be entertained if it is not made within three months from the date when the dispute arose. The prescribed authority is required to give the parties an opportunity of being heard and adducing evidence and such enquiries as may be necessary. The Prescribed authority is required to give decision within three months from the date of filling application by the bargadar.

This is followed by the provision relating to appeals against the decision of the prescribed authority. Under the law, the appellate authority is kept separate. An appeal is required to be filed within thirty days from the date of receipt or knolwledge of the order passed by the prescribed authority. No time limit is prescribed for disposal of appeals.

Arguments against lengthy procedure of settlement of disputes may well be in order. However, it is also necessary to understand and appreciate the fact that our legal and administrative framework itself does not at the present stage of the development of our society, permit any shorter road to legal justice. The impediments are many and arise mainly out of the administrative and institutional questions both of which are, therefore, taken up together for discussion. It is not intended to recount the reasons why and the circumstances under which Bangladesh came to inherit a highly legalistic mode of administration based on elaborate procedures, laws, rules and a very high level of dependence on written records even on simple questions that face a villager.

It is often argued that the entire system of administration is based on distrust which flowed from the colonial legacy. The colonial authority never trusted the permanent

inhabitants of the soil over which they had ruled. The opposite argument may also be sustained. In seeking to establish a model for rural development, Akhtar Hameed Khan, a colonial bureaucrat turned later into a social reformer, had discovered that the Gandhian concept of village being an abode of peace is not validated by empirical evidence. When Akhtar Hameed Khan talked about lack of amity in villages, he was not talking out of his experience as a colonial bureaucrat (Khan 1973).

Some of the provisions contributing to the lengthy processes can be ascribed to this and other factors. If any research is made into the causes of increase in the number of criminal cases during harvesting season, it will be seen that more than ninety percent of the cases are based on misstatements and distortion of facts. This forces the courts of law to invoke harsher sections of law leading to the issue of non-bailable warrants of arrest[9]. The provision of fee for each application filed by the aggrieved bargadar may have to be seen in this light. The object may be to discourage false and fake petitions for legal remedy.

The other factor which makes the lengthy process somewhat unavoidable is the juridical foundation of the state. The right of the opportunity of being heard, flows from the constitutional requirements of the right of natural justice. Further, the society's propensity to distort evidence makes it inevitable to adjudicate disputes on the basis of evidence adduced by the contending parties and if required by on-the spot enquiry.

It should be distinctly understood that enumeration of the above factors is not intended to be a apologia for what is essentially a long drawn-out and cumbersome process. The intention is to point out the simple fact that laws cannot be made in isolation of the social context in which they are to be enforced and further that laws must be kept within the bounds of the juridical foundation of the State.

It is important now to address the question whether we have an alternative to the gaps and inadequacies which are perceived to exist in the Land Reforms Ordinance, 1984. The experiences of West Bengal is relevant in this context. In West Bengal, the experiences have been just opposite to what we have undergone. The legislative protection to the bargadars in West Bengal was granted earlier than in Bangladesh. What is more important, the situation was kept under constant review and necessary adjustments were made in the light of social and political charges.

In the face of the intensity of Tebhaga struggle in the autumn of 1946, the government of West Bengal headed by Suhrowardi introduced the bill on the bargadars on January 22, 1947. It conceded the demand of the sharecroppers to increase their share of produce from one half to two thirds. It faced with opposition both from the Congress and Muslim League benches. The bill was shelved. In April 1947, the bill on estate acquisition and tenancy was introduced but was shelved again for political circumstances on the eve of the partition of India (Ghosh and Dutt 1977, pp. 143-57).

The first tenancy legislation in West Benal was effected in 1950 as an interim measure. It was called the Bargadars Act 1950. The Act, however, did not accord recognition to the bargadars as occupancy tenants which the Land Revenue Commission had recommen-

ded in 1940. This was followed by the Estate Acquisition Act, 1953. In 1955 a more comprehensive Act called the Land Reforms Act was adopted which underwent amendments in 1957, 1960, 1962, 1965, 1966 and 1969. The bargadars' right to share in the produce received due attention.

In 1970, the West Bengal Land Reforms Amendment Act was adopted with Presidential approval. Some important amendments were made to the 1955 Act in order to protect the rights of the bargadars. The gaps and inadequacies of the earlier legislations may be summed up as follows ;

1. on the death of a bargadar, the land could be cultivated by his lawful heir. In the absence of any heir, the owner could nominate a bargadar. The resumed land for selfcultivation was thus restricted ;
2. the bargadar was entitled to a receipt from the owner on delivery of his share of the produce ;
3. the bargadar's share of the gross produce was raised from 60 to 75 percent in cases where he supplied the inputs ;
4. in cases of disagreement between the bargadar and the owner in regard to the place where the produce was to be threshed and stored, the bargadar was given the right to fix the place and notify the owner ;
5. the owner's right to resume land on grounds of neglect by the bargadar was taken away ;
8. the owner's right to resume land for personal cultivation was taken away ;
7. the 1955 Act stipulated that owner could get back his barga land on grounds of personal cultivation only if the land resumed from the bargadar together with other lands under self-cultivation did not exceed two thirds of the total land under the control of the owner.

The Act of 1970 quantified the land to be retained by the owner. The quantity fixed was 3.0351 hectares.

It will be seen that the Land Reforms Ordinance, 1984 has retained more or less the same features as the Presidential Act of 1970 made opertive in West Bengal. The important points of omission are mainly three. First, the owner's right to resume land on grounds of neglect by the bargadar has been allowed to continue. Secondly, no ceiling on retention of land by the owner personal cultivation has been imposed. Third, bargadar has the right to store and thresh the produce in any place fixed by him in the event of disagreement between him and the owner.

It can be argued that all the above three provisions could be adopted in the existing law in order to further protect the rights of the bargadars. This is true. However, it is

also necessary to adequately appreciate the historical process which led to a liberal policy in favour of the bargadar. This was not done in a day in West Bengal.

As has already been shown, the tenancy legislation in West Bengal preceded the legislation for acquisition of Zamindari interests. Bangladesh experience is just the reverse. There was no attempt, for more than three decades and a half, to recognise the rights of the sharecroppers although during the late forties and early fifties, the Tebhaga struggle was as intense in Bangladesh as it was in West Bengal. The chapter on the rights of the bargadar was deleted during discussion stage of the State Acquisition and Tenancy Bill inside the legislature (East Bengal 1949-50).

The reforms undertaken during the seventies remained silent on the issue. The reforms of 1984 took up the case of the sharecroppers since 1940, a span of about four decades and a half. This may be viewed as a welcome departure from what has essentially been a static situation, a period of stagnation and of lack of direction.

IV. MINIMUM WAGES FOR AGRICULTURAL LABOURERS

The third dimension of the new reform measures relates to establishing a minimum wage for agricultural labourer. The problems of agricultural labourers remained a forgotten chapter in the history of public policies relating to agrarian welfare. The Agricultural Labour (Minimum Wages) Ordinance, 1984 is a pioneering attempt to ensure a fair wage to the labourers engaged in the agricultural sector. The legislative intention is to establish a minimum wage for the agricultural labourers who constitute the mainstay of the productive force contributing nearly 55 percent to the GDP. The minimum wage established is based on the recommendations of the Land Reforms Committee, 1983. The established minimum wage for an agricultural labourer per day now is 3.27 kilogrames of rice or such amount of money as is equal to the price of this quantity of rice in the local market.

The law defines an agricultural labourer to be a person employed in agricultural crop production. It excludes the following from the definition of an agricultural labourer :

- a person employed by government ;
- a person employed in plantation as defined under the Payment of Wages Act, 1946;
- a person who works as a family labourer on monthly wages ;
- a person employed by a company registered under the Companies Act, 1913 ;
- a bargadar as defined in the Land Reforms Ordinance 1984.

The exceptions provided in the definition of an agricultural labourer are well thought of. The difficulties from purely operational terms may, however, arise in respect of the family labourer and the bargadar. It can be argued that the line of distinction between an agricultural labourer on the one hand, and a family labourer including a bargadar may be very thin indeed. An evicted bargadar may either turn into a family labourer or an

agricultural labourer depending on the severity of poverty which he may be faced with. Similarly, an agricultural labour may turn into a family servant. It is difficult to quantify the process under which class transformation will occur. This will depened on circumstances of each case rather than on anything else.

Economic considerations will definitely be the primary factor in this regard. If it is more economical for a landowner to retain a family servant, to take care of the labour needed for cultivation of crops, than an agricultural labourer, the owner is likely to have more family servants and less agricultural labourers. The reverse will be the case if it is less costly to retain agricultural labourers. His is a very simple explanation. There will be other, mainly social, considerations. Socially, no owner will like to retain a family servant who is an "alien', who does not belong to the area where the owner is located. A family servant in rural Bangladesh is more or less part of the family. Conversely, an agricultural labourer may be a floating labourer not belonging to the area where he has gone in search of employment for a specific season, mainly the harvesting season. He may not like to be permanently stationed there. He may not also like to be known as a family servant.

In rural Bangladesh, it is customary for the surplus farmers to keep one or more family servants depending on requirement. They are given food and lodging free of cost. In addition, they also receive some cash wage. The terms of employment of an agricultural labourer are different. In most cases they are seasonal and during the period of employment they may or may not get food and lodging free of cost. They may not also get any cash wage. They mostly get a share of the produce harvested by them and leave their place of employment as soon as the harvesting season is over. They come back again at the time of next harvesting season.

This mode of employment is particularly noticed in Sylhet where agricultural labourers from adjacent districts come for harvesting paddy. Difficulty will arise in enforcing the prescribed minimum wage for the seasonally employed agricultural labourers. If they demand wage rate, they will not get food and other benefits free. If they get food and other benefits, the owner will not agree to pay them at the rate prescribed by law[10]. There will, therefore, be many gradations of agricultural labourer with a varying wage structure. The wage structure will also vary depending on the type of work done by an agricultural labourer. The classification of skilled, semiskilled and unskilled also operate in the agricultural sector.

The labourers engaged in land preparation may have one structure of wages. Those engaged in sowing, which require some degree of skill, may have another rate of wage. Those engaged for roguing and weeding out the fields may have yet another structure. Finally, those engaged in harvesting, threshing and drying will have a different structure. The law does not take into account these variations in skill or the type of work done by a labourer. It has however prescribed an uniform rate on wage on grounds of simplicity and more operative freedom than would otherwise be the case if varying rates of wage are prescribed.

The rationale for establishing a minimum wage for the agricultural labourer have been well-documented in the report of the Land Reforms Committee, 1983. It is not intended to repeat the same to the extent required for analysis (Bangladesh 1983). The Committee found that there was no substantial increase in the rise in agricultural wage during the period from 1972 to 1981. Per capita daily wage increased from Tk. 4.72 in 1972-73 to Tk. 13.97 in 1980-81.

The Committee had identified three major obstacles to the establishment of a minimum wage for agricultural labour. First, whether establishing a minimum wage will lead to a reduction in employment opportunities. Second, whether it would be desirable to establish a minimum wage because of the seasonal nature of employment. Third, whether, in view of the unorganised nature of the agricultural labour force, it would be possible to establish and enforce a minimum wage structure.

The Committee found adequate justification to discard the first two contentions. As regards the prospects of implementing a prescribed wage for the unorganised labour force in the agricultural sector, the Committee had identified three measures to be adopted to implement the new wage policy. First, the government and semi-government bodies can take the lead to establish the prescribed wage which may serve as a model to the private sector. Second, adequate motivational publicity and supervision will have to be conducted by the local government institutions to ensure implementation. Third, the participation of the landless and the marginal farmers must be ensured in the decision-making process of the local government institutions and adequate steps must be taken to expand the cooperative and economic institutions. The Committee felt, in the context of the existing socio-economic circumstances it may not be possible to ensure implementation fully. If, however, it is implemented to the extent of fifty percent during the initial stage, it would be a success and will help in determining the future policy adjustments and options.

It is doubtful if it can be implemented even to the extent of fifty percent. There is not enough data to warrant a definite conclusion on the issue. Attempts to obtain more information from the field are underway. Concurrent attempts by researchers to get similar information will definitely help the government in policy-making.

As things stand now, the law does provide for a variable wage rate. It is laid down that no person shall pay any agricultural labourer wages at a rate lower than the rate prescribed by the government. The higher rates paid under any contract otherwise will not be affected. The law also envisages constitution of a Council of Minimum Wages and Prices for Agricultural Labourer consisting of a Chairman and such number of Members as the government may determine. The task of the Council is to recommend minimum rates of wages to the government taking into consideration economic conditions, costs of living and other relevant factors. If the circumstances so demand, the Council may recommend different rates of minimum wages for different areas, for different classes of agricultural labourer or for different kinds of agricultural labourer (Bangladesh 1984b).

The Council for advising the government on fixing minimum wage from time to time is yet to be formed. It is, therefore, too early to predict how effectively the Committee can perform its allotted task. It also seems doubtful if the Committee can recommend different rates of minimum wages for different areas, for different classes of agricultural labourer or for different kinds of agricultural labourer. To determine a variable rate depending on areas and classes of labourer, the Council will have to collect adequate micro-level data to complete the task. At the moment no mechanism has been established for the purpose.

The implementation status of establishing a minimum wage for agricultural labourer is not, however, disappointing. The expectations of the Land Reforms Committee, 1983 that the government and semi-government bodies can take the lead in the process of fixing the minimum wage has been partially fulfilled. It is important to bear in mind the departure made in the law in respect of accepting the Committee's recommendations. The law excludes a person employed by the government for agricultural crop production from the definition of an agricultural labourer. The question of government agencies to take the lead in establishing minimum wage, as expected by the Land Reforms Committee, 1983, does not, therefore, arise.

The justifications of excluding a person employed by a government for agricultural crop production are mainly three : First, the wages received by a person employed by the government is fixed under the terms and conditions of the service which is regulated under specific rules. Second, there would be very few persons who are employed by the government for agricultural crop production. The nearest example would be those employed by the erstwhile Horticulture Development Board which now stands merged with the regular set up of the Directorate of Agricultural Extension and Management. They are regular employees of the government having definite scales of pay and other benefits. They cannot be taken to be agricultural labourer. The third factor is perhaps more fundamental than the first two and is related to the second factor. A regularly employed government employee, even though employed for crop production, will not like to forego the medical and specially the pensionary benefits to which he is entitled. This clash of interest became clearly discernible when all the semi-government agencies under the administrative control of the Ministry of Agriculture had to implement the new wage policy on representation from the labourers employed by them. The agencies are BADC, BARI, BRRI and BJRI. Of all these, BADC is the largest employer of farm labourers. More than 3000 farm labourers are engaged by BADC in its 21 Seed Multiplication Farms.

Technically, the persons employed by these organisations are entitled to the minimum wage fixed by law because they are not employed by the government. The farm labourers employed by BADC have been agitating for their inclusion into the regular set up of the Corporation and thus become entitled to the pay and other benefits of a Corporation employee. Some of the benefits include house rent, medical allowance and gratuity.

When the law establishing minimum wage was established, the farm labourers of BADC and other organisations put up a demand for enforcing the minimum wage without

conceding their earlier demands on receiving benefits given to a regular employee of the Corporation. The government have, however, accepted to enforce the minimum wage in BADC and other organisations, not being part of the regular government set up.

The point that is stressed here is that semi-government agencies have taken the lead, as expected by Land Reforms Committee, 1983. It does not necessarily mean that a jotedar or a surplus farmer employing agricultural labourer will automatically follow the lead given by semi-government agencies. The surplus farmer will be under no compulsion to follow the lead given by the semi-government organisations engaged in crop production unless semi-government sector is able to employ sufficient number of labourers for which a surplus farmer may or will face a situation of shortage of labour. This situation is unlikely to occur in near or even in distant future.

Evidently, the situation in respect of the agricultural labourers employed by the surplus farmers and the semi-government sector is more complex than is ordinarily known. If, for instance, the farm labourers of BADC are able to have their earlier demand to be treated as regular employees of the Corporation accepted by the government, they shall have to forego the legally established minimum wage. They may rather be happy to do it if it is more attractive. In that case the argument of semi-government agencies giving the lead in the process of implementation will have no validity at all.

The final argument in favour of realistically implementing the wage policy has been that there must be adequate motivational publicity at Upazila and Sub-Upazila level, an attempt to expand the cooperative and economic institutions and direct participation by the landless and the near landless in the decision-making process of the local government institutions. This type of reasoning sounds all good in theory but in practice they end up as pious hopes. This contention is substantiated by the fact that attempts made by the government to obtain practical information from the field regarding the operation of the law on minimum wages have not yielded any fruitful result[11].

Apart from these administrative and institutional weaknesses standing in the way of implementation of the new wage structure, it can also be contended that the law on the subject is rather soft in terms of enforcement of the provisions. Unlike the Land Reforms Ordinance 1984, contravention of the provisions is not made punishable. The provision stipulates compensation and recovery of wages. It is provided in the law that any person who contravenes the provision of payment of minimum wages shall be liable to pay to the aggrieved person compensation of an amount not exceeding two times the amount which would have been paid to him had there been no such contravention. A suit for recovery of the wages and compensation payable to an agricultural labourer shall lie to a Village Court[12].

From practical point of view, two facts stand out to negate the legislative intention. The first is in respect to the Village Courts. Are the Village Courts functioning ? Do we have adequate data on how cases are settled in the Village Courts ? There is absolutely no data available on the subject either in the governmental archives or any research paper.

There is no system of monitoring which has been established by the government. Closely linked to this issue is the manner of constitution of Village Courts. Who are the persons who deliver judgement on issues which lie within the purview of the Village Courts ?

Under the existing law, any party to the dispute may, in the prescribed manner and on payment of the prescribed fee, apply to the Chairman of the Union Parishad in writing of the constitution of a Village Court for the trial of the case. The Chairman has the right to reject such application for reasons to be recorded in writing[13]. A Village Court consists of a Chairman and two Members to be nominated by each of the parties to the dispute. One of the two members to be nominated by each party shall be a member of the Union Parishad having juridiction to try the case.

The Village Court, under the law, is chaired by the Chairman of the Union Parishad although there is provision to appoint any other person in the event the impartiality of the Chairman of the Court is challenged by any of the parties to the dispute. Under the relevant law relating to the constitution of Union Parishads, there is no provision for a nominated landless member (Bangladesh 1983). There is provision for nomination of three women members. If this is the legal framework, there may be absolutely no hope for an aggrieved agricultural labourer to bring in suits for recovery of wages and compensation as provided for in the Ordinance[14]. In this situation, the aggrieved agricultural labourer is up against the mountain to have legal justice. There is nonetheless a silver lining in the dark clouds. Under the law relating to the Village Courts, the aggrieved person has the option to challenge the rejection of his application, by the Chairman of Union Parishad in the court of a Munsiff within whose juridiction the parties to the dispute reside.

The recent efforts of decentralisation of the judicial administration have led to the establishment of the courts of Munsiff in every Upazila. However, fighting against the order of rejection by the Chairman in the court of a Munsiff will be too costly for the agricultural labourers to be of any avail.

This being the scenario, the government may have to leave the question of settlement of wage disputes to be mutually settled by the employer and the employee. The only hope lies in the emergence of strong and well organised peasant 'trade unions' in the rural areas as an interest group which can effectively mediate as collective bargaining agent, as in the industrial sector, for realisation of rights.

V. SURVEY AND SETTLEMENT ADMINISTRATION

The fourth dimension of the agrarian welfare measures emanating from the Land Reforms Committee Report, 1983 relates to a decentralised and strengthened administrative set-up for land survey and settlement operation. It is pertinent to switch back to the history of our land system in order to adequately appreciate the importance of land survey and settlement operations as a measure of updating the land rights[15].

Survey and Settlement operations, more briefly called Settlement Operations, consist of four major activities. First relates to the survey and mapping of lands. Second relates to the preparation of a record of rights. Third is the settlement of rent payable by the tenants and finally the settlement of land revenue. It started with Regulation VII of 1822 and has gone through succeessive stages of law-making and amendments in conjunction with numerous other laws relating to the land and tenancy legislation.

It is not intended to delve deep into the laws bearing on the subject. The relevant point for the purposes of our consideration is to take note of the fact in the successive attempts to introduce and implement reform measures intended to strengthen agrarian welfare, lack of dependable record of rights has been the single largest retarding factor. The Land Revenue Commission 1940 recommended against acquisition of Zamindars' interests without revisional settlement operations. This point was not politically acceptable because it would lead to delay.

The hasty acquisition of Zamindars' interests in 1950 defeated the political intention of acquiring enough surplus lands to be distributed to the landless. The subsequent attempt in 1972 led to the same experience. In August 1974, the government constituted a Committee on Land Administration, two years after the Land Holding Limitation Order, 1972 was put into effect[16]. This Committee stressed the need for updating record of rights, expansion of the facilities in the district record rooms and strengthening revenue offices at Upazila and Union levels. The recommendations remained mainly shelved.

A decade later, the Land Reforms Committee, 1983 revived the issue of strengthening not only the revenue set-up but a decentralised survey and settlement set-up at the Upazila level. The recommendations of the Committee went through the usual bureaucratic process of scrutiny and appraisal by a sub-Committee constituted by the government in December 1983.

The sub-Committee finalised its recommendations in January 1984 and it was finally accepted by NICAR in June 1984. The approved administrative set-up envisages a permanent survey and settlement organisation at the Upazila level with a common establishment for both the management and settlement sides under the leadership of the Upazila Revenue Officer. There will also be a Tehsil Office in each Union in a phased manner. In addition 22 Zonal Survery and Settlement offices throughout the country covering the old districts will be set up. This is a welcome departure from the past tradition of putting the cart of the horse. In the past land reform measures have been taken for granted once the relevant legislation has been put into operation[17].

It is easy to be skeptical and say that the decentralised mode of revenue and land settlement set-up may not be the only answer to a successful implementation of agrarian reform measures. This point is well taken. The purpose, however, is to point out the departure from past traditions in order to sharply focus the argument that land reform measures in the past has totally ignored one of the critical issues necessary for the required

degree of success in implementing land reform measures. The critical issue relates to the updated status of land records and land rights.

It is far from our intention to support the contention that a decentralised land revenue, survey and settlement set-up will take care of all problems of agrarian welfare measures as have been envisaged in the recent legislations on the subject. It is strongly contended, however, that providing a machinery for implementation must necessarily be the first step towards a successful implementation process.

VI. RESOURCE BASE OF LOCAL GOVERNMENT

The fifth dimension of the recent land reform measures is important and of overriding significance in that it is specifically addressed to the need to expand the resource base of the local government institutions. The Land Reforms Committee, 1983 has stressed the need for direct participation of the landless and the near landless in the decision-making process of the local government institutions. Without expanding the resource base of the local government institutions in order that they grow up on their own feet, the decision-making process in locally elected councils will not help much in ensuring popular participation in planning and implementation of development projects at and below the level of Upazilas.

The Land Reforms Committee, 1983, therefore, very rightly sought to establish a linkage between the reform measures and the local government institutions providing the rural poor some opportunity and access to the resources which in the past remained under central control. Keeping this end in view, the Committee recommended as follows :

- the Fisheries division of the government will retain such closed fisheries as are needed for promoting pisciculture through scientific method and for research. In the management of such projects, the elected members of local government institutions and representatives of fishermen's cooperatives should be associated as observers ;
- the rest of the closed fisheries outside the projects of the Fisheries division should be leased out to the landless, the land poor and genuine fishermen's cooperative societies for a period of five years. The administrative control over such fisheries should be transferred from the fisheries division to the Ministry of Land Administration and Land Reforms ;
- the open fisheries farming, for instance, part of rivers should vest in the Ministry of Land Administration and Land Reforms and these should be thrown open to genuine fishermen.

The recommendations made by the Land Reforms Committee, 1983 were considered by the Cabinet in July, 1983 and definite policies enunciated more or less in line with

the recommendations made by the Committee[18]. The Local Government division has already initiated definite action in regard to the transfer of fisheries to Upazilas.[19] The policy decisions based on which administrative orders were issued included :

1. All income from the lease of the closed fisheries such as closed ponds, pond-like closed fisheries of not more than 20 acres within the geographical area of a particular Upazila shall be regarded to be the income of Upazila Parishad of that Upazila and accrue to its fund.

2. Management of these fisheries being leased out properties shall lie with the concerned Upazila Parishad which shall pay 1% of such income as token rent to Government by way of deposit in the treasury under head 7-Land Revenue-Misc-Collection from fisheries.

3. Responsibility for overall management of these transferred fisheries by the respective Parishads shall lie with the Local Government Division.

4. Generally, these transferred fisheries will be leased out for three years with provision of extending the period of lease upto 9 years in respect of the fisheries under development projects.

5. Upazila Parishads can make development projects in respect of these fisheries in which case the income shall accrue to the Parishad fund.

6. All closed fisheries upto 20 acres except those under development projects of the Upazila Parishads shall be leased out, with prior public notices and in presence of general public, to the highest bidder. In case the highest bid falls short of the average of the last three years, it shall be reauctioned for the second time when the Upazila Parishad even in case of such shortage will make its own decision.

7. Notices of bid at least 30 days prior to the date of actual bid shall be served on the notice boards of concerned Union Parishad, local health centre, post office, community centre, hat/bazar, police station, sub-registrar office, Tahsil, and all offices located in the head quarters of the Upazila. Besides, it shall be publicised through beat of drums in the hats and bazars. Previous lessees shall also be given copies of the notice.

8. Auction of the fisheries of the size of 20 acres whose average income for three years is limited to Tk. 50,000 will be conducted by the officer authorised by the Upazila Parishad concerned.

9. Upazila Nirbahi Officer will conduct the bid in respect of the fisheries whose average income for three years exceeds Tk. 50,000.

10. At the time of leasing those fisheries preference shall be given to genuine Fishermen co-operative societies/Landless Cooperative Societies/Women Co-operatives. Lease can be given on mutual agreement at a price 25% above the averge of the last three years or through closed bidding among these co-operatives. But lease of fisheries of 10 acres or below can be given to landless co-operatives by way of mutual agreement at

a price 10% above the average of the last three years. In case the fisheries were not leased out previously the Upazila Parishad will decide the amount of these money through discussions for leasing out the same to the landless co-operatives.

11. The fisheries now under lease as per previous agreement shall continue as such till the expiry of the period. But the income from such lease shall accrue to the Upazila parishad fund.

12. Lease-money of these fisheries shall be paid in annual instalments. But any one willing to pay by a single instalment may do so.

13. All appeal regarding leasing out of the fisheries shall be disposed of by the standing committee formed by the Upazila Parishad.

14. All bidders shall be required to deposit 50% of the bid money immediately after close of the bid and remaining 50% within next 7 days failing which deposited money shall be forfeited. After realisation of all lease money, there shall be executed an agreement in prescribed form between the lessee and the Parishad. Without execution of such agreement, possession of the fisheries shall not be given.

These are definitely significant steps taken to expand and strengthen the resource lease of local government institutions with provision for access to the resources for the landless, the landpoor and genuine fishermen's cooperatives. It is possible to argue that genuine fishermen's cooperatives are very hard to come by. Similary, the landless cooperatives will not have the means or managerial ability to take full advantage of the preferential dispensation accorded to them to protect their interests. This type of reasoning misses the point that a beginning has to be made and further that there is no point in visualising problems without first giving the system a trial.

According to available information there are about 10119 fisheries in Bangladesh. The income gathered from these fisheries in 1389 BS, is Tk. 4.68 crore or over Tk. 40 million. If about fifty percent of these fisheries belong to the category which have been transferred to the Upazilas, they will fetch an income of nearly Tk. 20 million in addition to one percent that the Upazila Parishads will derive from the bigger fisheries directly leased out by the Board of Land Administration. While there can be no doubt about the measures taken to expand and strengthen the resource base of local government institutions, there are also lot of grounds which are yet to be covered.

The full benefits of the transfer of fisheries to Upazilas may not readily be available for a number of reasons. First, the control over the fisheries is reported to have changed hands between and among various Ministries in the past few years. Each Ministry is known not to cede its own empire. Second, and as a natural corollary to the first,there is no reliable data regarding the inventory of fisheries. Third, as a consequential part of the second, there is no means of knowing at present how many of the fisheries have been transferred to the Upazilas. Fourth, the Upazila Parishad being as yet unelected, the bureaucratic process of decision-making may not allow the landless and genuine

fishermen's cooperatives to reap full benefits of the preferential treatment intended for these groups.

These are again practical problems which are deeply embedded in our legal and administrative framework. It cannot be definitely guaranteed that all these problems may be overcome after an elected Chairman is installed in place of the existing UNO. Problems may even be greater than they are at present. Factionalism and the class character of the leaders at the local level lend full support to this view. Even so the government has consciously decided as a matter of policy to confine the powers of decision making in such matters at the Upazila level. The object is to make a start, a beginning in terms of placing reliance on a decentralised set-up and on a representative body. It is too early to predict whether the Upazila administration, as it is presently constituted or in an elected form in future will prove worthy of confidence reposed in it by the government.

VII. CONCLUSIONS

The five dimensions of land reform measures which recent legislative and administrative interventions have brought about do not necessarily mean that we have reached the goal. Apart from the question of their effective implementation, there are areas which need urgent attention. At the moment, four areas require further policy interventions. First is the fragmentation of holdings. Second, the incidence of absentee ownership needs to be arrested. Third, the existing law relating to restriction on transfer needs either to be strictly enforced or modified for its greater effectiveness. Fourth, practical and strong measures need to be taken to arrest rising incidence of transfer of agricultural land for non-agricultural purposes. Some discussion on these issues may well be in order.

Land Policy Report, 1981 has generated some data on fragmentation of holding. The average size of fragment is 0.35 acres only. The past attempts at consolidation of fragmented holding did not succeed. The scheme to consolidate the holdings in 1961 at Debiganj and Boda was in fact opposed by the farmers (East Pakistan 1963, p. 41). The scheme failed inspite of the fact that an Ordinance promulgated in 1961, amending the East Bengal State Acquisition and Tenancy Act 1950, provided for compulsory consolidation of land. No serious attempt was made since 1961 to consolidate holding.

Three factors are generally identified which contribute to fragmentation: the laws of inheritance, growth in population and distress sales of holdings owned by the marginal farmers. The adverse effect of the operation of the laws of inheritance on land holding is commonly known and talked about. However, there is need for empirical research on this aspect so that a greater public awareness is created which may lead to appropriate legislative and administrative measures. One of the ways of preventing the adverse effect may be to prescribe policies concerning alienation of holdings. As regards the

second factor, that of population growth, continued efforts are being made but possibly without any visible success. The third factor is not beyond the means of government to control. Distress sale of land by marginal farmers needs more attention than are being paid at present. Easy credit facilities is one of the means to deal with the problem.

More empirical investigation is necessary to idenify the ways in which distress sales occur. The available information shows that in terms of access to institutional credit, the bargadars are more unhappily placed than the others. Only little less than 10 percent have access to institutional credit. For loans taken from private money lenders, the interest charge is as high as 100 percent. The situation may have improved with the operation of SACP which allows lending on crop hypothecation rather than mortgage on land. However, the recovery rate under SACP is poor and this is ascribed partly to lack of col. lateral combined with inability to enforce collection. It is expected that recent joint Bangladesh-World Bank review on agricultural credit will bring in new measures designed to improve the situation.

The second area of further reform measures relates to absentee ownership. It is estimated that 3.63 lakh acres of land which is 1.74 percent of the total owned land are held by 1.45 lakh absentee families. The lands they own are let out on barga. About 52 percent of the absentee owners are service holders, 30 percent belong to business and trading and the remaining 18 percent belong to other occupations (Bangladesh 1981, p. 107). Bangladeshi nationals earning a living abroad are believed to have increased the number of absentee ownership. There is need for appropriate policy interventions to discourage absentee ownership. However, before initiating new measures on this account, it is desirable to obtain more empirical information on the extent, nature and incidence of absentee ownership.

The third area of future policies relates to restriction on transfer of agricultural land. The existing law on the subject is the East Bengal Estate Acquisition and Tenancy Act, 1950. This law prohibits the transfer of the holding of a raiyat to any person other than a bonafide cultivator (See section 90 (2) of the Act). The exceptions provided are in cases of large scale farming ; cooperative society ; tea gardens ; companies engaged in the development of industries for manufacture of commodities ; a bonafide cultivator who will use the land for commercial or industrial purposes or for charitable and religious purposes.

The recent law does impose restriction on transfer of barga land to persons other than a bargadar with certain exceptions. The Land policy Report has shown that 6.78 percent of all rural families are non-cultivating owners having under their control 9.23 percent of the total owned land. Of these 1.33 percent families owning 1.74 percent land are absentee owners and 5.65 percent families having 7.49 percent land are resident owners.

Imposing restriction on transfer of agricultural land to any person other than a bonafide cultivator has other complexities. First, the legal status of a bonafide cultivator is

too wide to make any such intervention effective. Second, the right of pre-emption is a definite obstacle. The legal requirement of the right of pre-emption stipulates that in the transfer of land only the co-sharers, and the persons holding contigenous lands will have first right to such transfer. They are required to exercise this right four months of the date of service of notice or of knowledge of such transfer (see section 96 of the Act). Such right of pre-emption, however, cannot take away the right of pre-emption conferred on any person by the Mohammedan Law. Apart from this, transfer may also take place under usufructury mortgage in which case effective control over land vests in the mortgagee. To overcome these legal difficulties it is necessary to have more empirical data relating to *de-facto* and *de-jure* transfer of agricultural land before any definite policy option is adopted.

The fourth area of future intervention in land policy is closely related to the thirdand can be adopted to supplement policies relating to the prevention of transfer of agricultural land to non-agriculturists. The fourth area, however, is wider than the third in that it is not limited to the transfer of land only. It is designed to address the questions on land use policies under competing considerations.

The existing law relating to the transfer of agricultural land is neither adequate not effective. The exceptions to the law which have been provided are too wide to leave any scope for restriction. This is a serious gap which must be taken adequately into account in designing future policy interventions for improving agrarian reform measures. This gap in law coupled with unplanned growth of industrial and commercial units, brickyards, housing settlements and acquisition of lands both by the public and private sector in excess of their actual or potential needs in the name of development have seriously threatened use of agricultural land in a planned manner.

These developments are taking place too quickly to allow the governmental machinery respond to the situation. This is a very disturbing situation which calls for immediate corrective measures on an emergency footing before it is too late for effecive intervention. It is our firm conviction that the existing governmental machinery cannot adequately cope with these developments. The question of dynamism apart, the existing governmental machinery is not equipped with necessary facilities to meet the situation. It does not have an in-house management information system to obtain data on a periodic basis to initiate measures necessary for arresting this disturbing development.

Who will decide the question of competing use of one of our most valuable assets ? Obviously the decision will have to be taken at the political level because the question of allocation and rational use of resources and distribution of assets is essentially a political question. However, political decisions are not taken in isolation. Political decisions are taken on the basis of the policy inputs provided by the planners, administrators, experts and the interest groups both within & outside the government. What policy inputs have we got so far on the question of management aspects of land use from the viewpoint of agricultural development programming ?

The answer may well be in the negative[20]. An interesting proposition made by Hossain, based on Brammer's findings, is the concept of zoning of land for agricultural and non-agricultural purposes (Hossain 1982, p. 46). Brammer's concept of zoning is based on two soil-survey maps which indicate that there are ample areas of moderate and poor agricultural land in Dhaka district which are suitable for urban use. Urban developments may well take place in such lands thus minimising losses of good agricultural land. A beginning may, therefore, be made to enforce the concept of zoning based on soil classification of land on a nation-wide basis.

Closely linked to the question of adequate data being available to make it possible to operationalise the concept of zoning is the question of necessary framework of land use regulations. At the moment the available legal instrument to rationalise land use is the Land Acquisition and Requisition Ordinance, 1982. The institutional framework for enforcing land use planning on the basis of technical information is not at all adequate. This aspect needs to be looked at closely and necessary measures taken.

It is our considered view that the concept of zoning as a means towards rational land use planning is a priority sector in any future attempt at agrarian welfare measures. There is an imperative need to protect agricultural land from thoughtless and unplanned expansion of non-agricultural activities that tend to increase the rate of loss of agricultural land. It is expected that the experts, planners and administrators will take the lead to provide a framework of policies for the government to realise the end of rational use of land for both agricultural and non-agricultural purposes.

In suggesting the priority areas for future options we consider it necessary to underscore the need for building up adequate data base, administrative and institutional capacity to facilitate the current reform measures. These issues are of critical importance. "Much of the present inadequate state of land policy in Bangladesh is an outgrowth of not altering the revenue-based administrative system to meet the needs of a much broader land policy focus" (Wennergren 1984, p. 18) ; also see Ali 1981). The recent decision of the government to decentralise and strengthen the land survey and settlement administration is just one step towards meeting what essentially is a more complex problem of meeting the challenges arising out of the recent reform measures. The filling up of vacant posts in the bureauractic hierarchy is not an end in itself. It is a means to an end. The ultimate end is to initiate, ensure and sustain the process of improving agrarian welfare measures.

The existing land administration and land reforms machinery may be incapable of dealing with multidimentional aspects of agrarian welfare measures. The machinery, as it is presently organised, is attuned to the concept and practice of collection of land tax which in 1982 provided only 1.2 percent of the government's revenue (Wennergren 1983). The current reform measures will have a different focus demandig a shift in emphasis from tax collection to ensuring the implementation of legal requirements relating to contract relations between a landowner and a bargadar, making sure that the preventing

ceiling of land ownership is strictly enforced, that the resource base of the local government institutions, as is intended, is expanded and finally oversee the enforcement of the provisions of minimum wage for agricultural labour. The personnel of the Land Ministry and other Ministries connected with it must be adequately equipped not only with the required facilities but the needed level of expertise, skill and knowledge so that they can prove to be an effective machinery for implementation at all levels of administration. Failing this, there will be more Committees and more legislative measures at which point the efforts will end. It is for the political authority to decide where to draw the line and stop at that.

Notes :

1. The sample size of the Land Policy Report 1981 included 100 Thanas out of 418. One Mouza in each Thana was selected for detailed investigation. Four Mouzas of Chittagong Hill Tracts could not be covered.
2. One member of the Committee favoured an absence of ceiling on ownership while another member argued for greater reduction than that accepted by the majority opinion.
3. Reference is made to prefeasibility surveys of system rehabilitation Project of Master Plan Organisation, June 1984.
4. MLR 64 of 1959, later known as *The West Pakistan Land Reforms Regulation*. This Regulation was repealed by *The Land Reforms Regulation*, 1972 (MLR 115 of 1972).
5. Chapter V of the Ordinance is wholly devoted to the various types of legal protection for the sharecroppers.
6. For details see section 12 of the Land Reforms Ordinance, 1984.
7. The definition of family is important in any land legislation dealing with ownership ceiling and tenancy rights. The new law in this respect is an improvement upon the previous definitions.
8. For every application made to the prescribed authority, the bargadar has to pay a fee as may be prescribed by government. See section 18(2) of the Ordinance.
9. Based on the official experiences of the authors as Sub-district and District Magistrates at Manikganj, Kurigram, Brahmanbaria, Gopalganj, Comilla, Chittagong, Dhaka and Sylhet.
10. A recent official report from Deputy Commissioner, Chittagong shows that three types of agricultural labourers are engaged. First, labourers temporarily engaged on monthly basis. Second, labourers engaged on daily basis with two meals. Third, labourers engaged on daily basis without meal. The rates of wage varies from place to place and season to season. With two meals the agricultural labourers get a wage of Tk. 30 per day and between Tk. 40 to Tk. 45 without meals. Those engaged on monthly basis get Tk. 600 to Tk. 700 per month with meals depending on age, skill and working season. (Based on Memo No. 129 of July 31, 1984 from Deputy Commissioner, Chittagong to Secretary Agriculture.)

11. The correspondence made by the Ministry of Agriculture on the issue in July 1984 could elicit only one response from the District of Chittagong.

12. For details see Section 6 of the Agricultural Labour (Minimum Wages) Ordinance 1984. Section 8 amends the Local Government Ordinance, 1976 to include such suits within the purview of Village Courts.

13. For comprehensive information on the constitution and functions of Village Courts, see *Village Courts Manual,* Ministry of Law and Parliamentary Affairs, Government of the People's Republic of Bangladesh.

14. The authors have no intention to elaborate on the issue of rural power structure. There have been some research findings to justify the conclusion drawn.

15. For background, purpose and procedural details, see *Bengal Survey and Settlement Manual,* 1935.

16. For composition and terms of reference see Regulation No. IA-19/74/21-L.R. of July 22, 1974 of the Ministry of Land Administration and Land Reforms.

17. On the question of the administrative issues of land reform measures see (Ali 1981).

18. For details see Memorandum No. S-12/87/6(100) BLA of July 9, 1984 issued by the Board of Land Administration.

19. For details see Memorandum No. S-9/H—9/83/90/1(72) of March 15, 1984 issued by the Local Government Division.

20. Some exceptions may be made of isolated studies conducted under government sponsorship. For instance some details are available in (Hossain 1982). Hossain cites two other studies on the subject.

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