

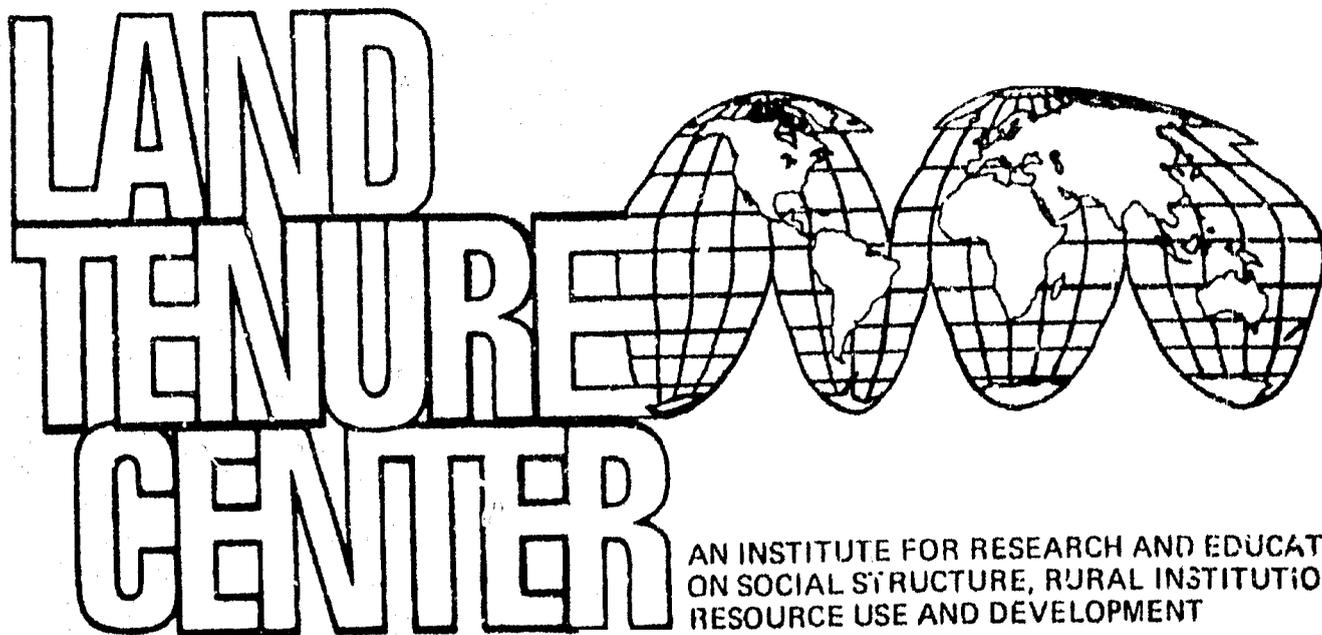
AGENCY FOR INTERNATIONAL DEVELOPMENT WASHINGTON, D. C. 20523 BIBLIOGRAPHIC INPUT SHEET		FOR AID USE ONLY
1. SUBJECT CLASSIFICATION	A. PRIMARY Social Science	AE10-0000-G584
	B. SECONDARY Land Tenure	
2. TITLE AND SUBTITLE Land reform in Bangladesh		
3. AUTHOR(S) Zaman, M. A.		
4. DOCUMENT DATE 1976	5. NUMBER OF PAGES 54 p.	6. ARC NUMBER ARC
7. REFERENCE ORGANIZATION NAME AND ADDRESS Land Tenure Center, University of Wisconsin, Madison, Wisconsin 53706		
8. SUPPLEMENTARY NOTES ( <i>Sponsoring Organization, Publisher, Availability</i> ) (In Land Tenure Center research paper no. 66) Free copies available from address above, except for requests from United States, Canada, and Western Europe where copies cost \$1.00		
9. ABSTRACT  This study describes the history of the status of landlords and tenant farmers in Bangladesh (formerly Bengal, then East Pakistan) from prior to the East India Period (pre-1765) to 1970. It presents a detailed analysis of the failure of the State Acquisition and Tenancy Act of 1950, and proposes tenancy reforms still needed to legitimize ownership of land, make rewards specific to efforts, and maximize productivity of owner-operated farms. The chief element in the proposed reform is for the government to eliminate ownership of land by noncultivators--as has largely been done in Japan, Taiwan, South Korea, and Burma--and provide each tenant farm family with ownership of at least three acres per family. Approximately two million acres are available for redistribution. Also proposed is a rate structure for government dues, graduated according to size of holdings, and a Land Reform Commission to implement the reforms. The reforms would, argues the author, increase agricultural productivity and government revenues, decrease economic injustices, and greatly diminish the possibility of "a violent course of reform" triggered by food shortages as population growth continues to outstrip agricultural production.		
10. CONTROL NUMBER PN-AAB-607		11. PRICE OF DOCUMENT
12. DESCRIPTORS Bangladesh Land reform		13. PROJECT NUMBER
		14. CONTRACT NUMBER CSD-2263 211(d)
		15. TYPE OF DOCUMENT

# A RESEARCH PAPER

Number 66  
February 1976

LAND REFORM IN BANGLA DESH  
TO 1970

by  
M. A. ZAMAN



U. S. ISSN 0084-0815

AN INSTITUTE FOR RESEARCH AND EDUCATION  
ON SOCIAL STRUCTURE, RURAL INSTITUTIONS,  
RESOURCE USE AND DEVELOPMENT

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R. P. No. 66

LAND REFORM IN BANGLA DESH  
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All views, interpretations, recommendations, and conclusions are those of the author in his personal capacity and not necessarily those of supporting or cooperating agencies or of FAO.

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## II. BANGLA DESH: A SKETCH

Once the eastern part of Pakistan, Bangla Desh became an independent nation in 1971. It is the eighth most populous nation of the world, with an area of 56,126 sq. miles, bordering India in the west, north, and east, Burma in the southeast, and the Bay of Bengal in the south.

Bangla Desh is a flat, delta region with two great river systems--the Ganges and Brahmaputra. The climate is tropical, humid and warm during the summer and mild and warm during the winter. Rainfall is heavy and seasonal, but extremely uncertain, varying from 50 to 200 inches, with the bulk of it falling during the monsoon season (May to October). Because of this, irrigation facilities are needed in winter and flood-control systems in summer.

The population of Bangla Desh according to the 1961 Census was 50.85 million, a density of 922 people per sq. mile. It was estimated to be 75 million in 1974, which raised the density to 1,300--the highest in the world, save for the city-states like Singapore and Hong Kong. If the population continues to grow at the present rate of 3 percent a year, then the figure may rise to a staggering total of 111.70 million by 1994. This increase in population is bound to aggravate the existing man-land ratio, family size, urban congestion, food deficit, and consequently political instability in the critical years of national reconstruction and development.

Bangla Desh lives in her villages. The process of urbanization has been very limited during the last twenty years, as indicated by Table 1. This rural population is largely illiterate. The national literacy

Table 1  
Percentage of Rural Population to Total Population,  
Bangla Desh, 1951-1971  
(in 100,000s)

	1951	1961	1971
Rural population	40,113	48,199	71,230
Percent of total population	95.7	94.9	95.0

percentage is only 17.6,<sup>1</sup> with the literacy figure of the rural population worse--16.5 percent.

Bangla Desh shares, with her close neighbor Nepal, the unenviable distinction of being one of the least developed countries of the world. The per capita income (in 1959-60 prices) was Rs. 287 in 1949-50, Rs. 278 in 1959-60, and Rs. 378<sup>2</sup> in 1964-65. The Planning Commission of Bangla Desh estimated it to be Rs. 450 in 1969-70 at then current prices. It further estimated that the average income of the poorest 20 percent of the population was Rs. 158. Since 95 percent of the population is rural, it is fair to assume that the bulk of these poorest people live in villages and are landless agricultural laborers or tenants. About half of the Bengalis suffer from a heavy deficiency in caloric intake, while "80 percent have some kind of deficiency in vitamins, frequently of [a] serious nature."<sup>3</sup>

Rice and jute are the two major crops--the latter being the principal export and the former the staple food. The other crops are tea, sugarcane,

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1. Government of Pakistan, Population Census 1961, vol. 4 (Karachi, 1962), p. vii.

2. Bangla Desh Observer (Dacca), 8 August 1972, p. 1. Current rupees.

3. Ibid.

# LAND REFORM IN BANGLA DESH TO 1970

by

M. A. Zaman

## I. INTRODUCTION

The key role of agriculture in the economy of Bangla Desh can hardly be overemphasized. The attainment and maintenance of a satisfactory tempo of industrialization, an ever-rising level of exports, stability of prices, adequate expansion of employment opportunities, minimum level of living for the weaker sections of the community, self-sufficiency in food, and a reasonable level of economic growth in agriculture all depend to a great extent on sound land tenure policies embodying the twin objectives of social justice and economic efficiency. This study is an analysis of various measures undertaken in Bangla Desh to bring about tenancy reforms and of their suitability and effectiveness to achieve the ultimate objectives of land reform, i.e., legitimizing ownership of land, making rewards specific to efforts, and maximizing productivity of owner-operated farms.

If one accepts the view that the first requirement of any society is to ensure its food supply, and, further, that the first economic duty of an underdeveloped country is to promote growth, then for a country like Bangla Desh, which is predominantly rural and has few known natural resources, the problem is how to improve and stimulate agricultural production. In the short run the objective is increased output, but in the long run it is the establishment of a basis for economic growth with distributive justice.

Experience shows that landlordism in a country like Bangla Desh severely blunts the incentive and enterprise of the peasants, thus limiting the practical possibility of introducing technical changes into agriculture and constituting a major obstacle to economic development. Therefore, the thesis of this study is that a thoroughgoing and integrated land reform--one which redistributes land to tenant farmers and landless agricultural workers to make them owner-operators--is necessary to both increased economic output and social justice.

tobacco, oilseeds, wheat, and barley, but they are relatively unimportant in terms of both acreage and output.

With a lack of cultivable land (see Table 2) to add to the 21.7 million acres of land already under cultivation, Bangla Desh will have to raise the cropping intensity and agricultural productivity by both institutional and technical means.

Table 2  
Land Utilization in Bangla Desh  
(in million acres)

	<u>Area</u>	<u>Percentage</u>
Net area sown	20.30	57.51
Current fallow	<u>1.40</u>	<u>3.97</u>
(A) Total area under cultivation	21.70	61.48
Forest area	6.00	17.00
Not available for cultivation	6.10	17.29
Cultivable waste	<u>1.50</u>	<u>4.24</u>
(B) Total uncultivable land	13.60	38.52
Total of (A) & (B)	35.30	100.00

The limited availability of land becomes all the more critical in view of the growing pressure of population, as Table 3 shows.

Due to increasing deterioration of the man-land ratio, holdings have become increasingly fragmented. Table 4 shows that 90 percent of the farms in Bangla Desh are fragmented to some extent. Eighty-three percent of the farms under 2.5 acres are fragmented, with 97 percent of medium and large farms in similar difficulty. The yield per acre of these fragmented holdings is quite low, as evidenced by the comparative figures in Table 5.

Table 3  
Pressure of Population on Land,  
Bangla Desh, 1961-1981

	1961 (Actual)	1971 (Estimate)	1981 (Estimate)
Cropped area in acre per capita	0.42	0.30	0.20
Population per cropped acre	2.38	3.40	5.00
Rural population per cropped acre	2.30	3.18	4.70

Table 4  
Extent of Fragmentation of Land,  
Bangla Desh, 1961

	Number (in millions)	Percent
Farms not fragmented	0.62	10
Farms with 2-3 fragments	1.29	21
Farms with 4-5 fragments	1.08	17
Farms with 6-9 fragments	1.39	23
Farms with 10 or more fragments	<u>1.76</u>	<u>29</u>
	6.14	100

Source: Government of Pakistan, 1960, East Pakistan (now Bangla Desh), p. 17.

The overall position that emerges can be summarized as follows: Bangla Desh is faced with a population explosion; the literacy rate is very low; the pace of urbanization is slow, with limited opportunity outside of agriculture. Most people depend on agriculture for a living, although they never have enough to eat and suffer from malnutrition. The existing cultivated land is badly fragmented and the yield per acre very low. Methods of production have remained unchanged for generations. Bangla Desh is clearly at a very early stage of economic development.

Table 5  
Yield per Acre of Rice, Selected Countries  
(in tons)

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Australia	2.86
Philippines	2.24
Japan	2.14
U.S.A.	2.05
Western Europe	2.04
Bangla Desh	0.42

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Source: Dr. S. Choudhury, "Shortage of Foodgrains and Its Solution," Bangla Desh Observer, April 1972.

In order to better understand the urgent need for land reform in Bangla Desh, it is important to trace the emergence of the existing land tenure system over time. To that end, the major part of this study will be devoted to a review of the history of land tenure in Bangla Desh

### III. LAND TENURE SYSTEMS IN THE PRE-EAST-INDIA-COMPANY PERIOD

Bangla Desh<sup>1</sup> shares, with India and Pakistan, a common origin and development of the agrarian structure. However, no recorded, chronological account exists of the evolution of this land tenure system and its allied institutions. Information and impressions can be gathered from such diverse sources as the scriptures, inscriptions, coins, travel accounts, and the history of various ruling dynasties. The purpose of this section of the paper will be to show what appear, from all such ill-documented evidence, to have been the significant features of the tenure system prior to the hegemony of the East India Company in the context of the contemporary socio-economic organization.

The village was--and still is--the basic unit of all tenure and revenue arrangements. Mr. Philipps, in his Tagore Lectures for 1874-75, saw the village as the key to the tenure system, particularly during the Ancient Age.<sup>2</sup> Once formed, the village soon acquired a local name and became a permanent feature in the survey and settlement map. According to its origin and the composition of its inhabitants and their landholdings, a village could be either:

Raiyatwary (Severalty) village: Such villages were inhabited by several landholders, each cultivating, with the members of his own individual family, his own holding. The villages of Bengal,

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1. For ease of historical reference, in this and the following chapter the pre-1947 name of Bangla Desh will be used occasionally. Between 1947 and 1971 Bangla Desh was first officially known as East Bengal and then as East Pakistan.

2. B. H. Baden-Powell, Land Systems of British India, 3 vols. (Oxford, 1892), 1:105.

in their original form and until superimposition of Zamindars in 1793, represent the raiyatwary villages.<sup>3</sup> Each cultivator was responsible for paying land revenue only for his individual holding.

or:

Joint village: The second type had much in common with the first but differed in one essential feature and other features were modified in consequence. The distinguishing feature was that the entire village-landholdings were jointly cultivated by co-sharing individuals or families of common descent. Therefore, they were jointly and severally responsible for paying the land revenue for the whole village. Most of Pakistan's villages are of this category.<sup>4</sup>

Cultivation provided the basic subsistence of the village. Around the grain-heap on the threshing floor the whole village was organized. Each resident had a share of the produce. This share was not based on their marginal productivity, or the state of demand for their respective services, but on a traditional entitlement to a portion of the overall well-being of the village, thus insulating each from all uncertainties of the marketplace. The division of produce was not organized around market operations and the concept of economic efficiency. The process of reciprocity involved in sharing the produce took care of the problems of rights, rents, wages, and prices.

The importance of these operational devices to the villagers was that every member of the community was assured a prescribed share so long as the village as a whole was not suffering from famine conditions. The system of

3. B. H. Baden-Powell, The Origin and Growth of Village Communities in India (London, 1908), p. 72.

4. Ibid.

centralized society, with a cobweb of interdependent rights and duties, was expressed in the allocation of the harvest according to definite rules which resulted in each person getting his share and thus rendering unnecessary market operations. It was thus a closely knit, self-contained, and self-sufficient rural economy within which market and price mechanisms did not have enough scope to develop.<sup>5</sup>

The traditional basis for possession of land in this period was the "right of first clearance." The "Institute of Manu"<sup>6</sup>--sacred law--mentions this right of possession by the "first clearer of the jungle." The justification for such rights is that jungle land in its uncleared and undeveloped form has no use-value in cultivation. To bring it under cultivation, the land had to be cleared; to do this, certain implements had to be made. One could not, therefore, readily get land to cultivate just for the mere wishing or asking. A peasant had to invest his skill and labor, or at least elect to exploit his leisure time.

The status of the state in relation to the land needs to be further clarified. At no time did the state claim ownership of land as such. The "Institute of Manu" mentions that the reigning native king's claim was limited to a right to collect a part of the produce from cultivators. This was true during the period of Muslim rule, also. The Muslims, as a foreign imperial power, thought it expedient to leave the actual ownership of the

5. For an illustrative example of the system see W. C. Bennett's "The Final Settlement Report of the Gonda District," as quoted by W. C. Neale, Economic Change in Rural India (New Haven, Conn., 1962), p. 25.

6. The "Institute of Manu" (usually regarded to date from about 500 B.C.) and the Arthashastra of Kautilya (Economics of Kautilya) are frequently quoted as the standard references for the period up to the 12th century.

land to the peasants who were in cultivating possession, provided they continued to pay the revenue tribute.

It was custom rather than contract that governed the bimodal relation between the king and the peasantry. The system is better understood in terms of customary duties and obligations than of contractual relationships. The duty of the peasant was to cultivate his land and pay to the royal exchequer a part of the produce. In return for the payment, the king's obligation was to maintain law and order, safeguard the security and possessions of individuals, and repulse external aggression.

No discussion of the origin of the payment to the royal treasury is available in the ancient works. The "Institute of Manu" states only that a certain portion of the produce is payable to the king. It does not say why the payment was to be made nor if there was any quid pro quo. An inscription of Asoka's time (250 B.C.) also refers to such payment. The fact of the matter is that the king traditionally had a share of the grain-heap. A term had to be found in later days to describe this practice. The term "tribute" was not suitable because of its connotations; the substitute was "land revenue," which had the appearance of a fiscal arrangement. This is the term which gained currency in the eighteenth century and is used in the literature to refer to the king's share of the grain-heap.

The method of collection had an effect on the land revenue burden of the cultivators and subsequently created considerable confusion about the exact entitlement of the various revenue agencies and even more so about their status in relation to the land. Originally, the collection was made directly, but, as the area of collection increased, collection came to be indirect through a number of functionaries: Representatives, Assignees, Grantees, Revenue Farmers, and Chiefs.

Of these five types of agent, only the first two can be said to be in conformity with the traditional pattern of society. The third was really an indirect form of patronage; the fourth and fifth were deviations--clearly bad in principle--and must have had an adverse effect upon the well-being of the country. Revenue Farmers and Chiefs had wide latitude to make whatever collection they could under the protective umbrella of the king. Naturally, they would try to collect as much as they could for their own gain, thus forcing peasants to surrender a far greater share of the produce than they would be required to do under Representatives or Assignees and discouraging them from either improving or extending cultivation.

All of these revenue-collecting agents were, in intent and in fact, only employees of the king. They held appointment or enjoyed certain privileges at his pleasure. They could not, therefore, be entitled to ownership of land. Moreover, it is a recognized principle of law that one cannot pass to another a better title than he himself possesses. Since the state never claimed ownership of land as such, it follows that its staff could not be vested with ownership of land by the state. Yet some of these state agents were the very people who at various stages of history--taking advantage of the weakness of the central royal power, or of the sheer physical distance from the seat of power, or of the confusion and uncertainty that followed the fall of a dynasty--illegitimately arrogated to themselves the royal privilege and managed to establish themselves as overlords and proprietors of the cultivated land under their revenue jurisdiction. And these are the people who during the early days of the East India Company in British India, on the basis of their original appointments and authorizations, succeeded in securing various concessions regarding revenue payments,

and even Zamindari (i.e., landlord status) in Bengal by misinterpreting their exact original status

To sum up: agriculture has continued to be the dominant industry of the country through the centuries. Each member of society had a traditional, individual share in the produce of the land, but this did not imply any equality of treatment or the economic efficiency of the system. Since the cultivators provided the grain-heap, they enjoyed strategic importance in the country. They were the owners of the land they cultivated. Either because their ownership was never in question, or the economic significance of landownership had not yet fully emerged, the question of ownership as such was never a factor in any of the reforms introduced by the state prior to the coming of the East India Company. Rather, land tenure reform in this period was concerned with survey and settlement, revenue demand, and its assessment and collection.

But it must be emphasized that the reforms and their consequent impact quite frequently did not outlast the reformer. Reaction followed. In fact, considerable chaos prevailed towards the end of the Mogul period. Taking advantage of the weakness of the central power at Delhi, several adventurers built up their own spheres of influence and introduced their own systems, mostly adversely affecting the cultivators' proprietorship of land. This meant that the East India Company did not "inherit" a uniform land tenure system effectively in force in the country as a whole. It found itself in the midst of conflicting claims for landownership and a variety of land revenue arrangements.

#### IV. INTRODUCTION OF ZAMINDARY BY THE EAST INDIA COMPANY.

The grant of Dewany (privilege of administration) of Bengal, Bihar, and Orissa<sup>1</sup> to the East India Company by the Mogul Emperor on August 12, 1765, was the final logical completion of a series of developments stemming from the Company's acquisition of Zamindary of the three villages around Calcutta from the Nawab of Bengal in 1698.

The East India Company, according to its own charter,<sup>2</sup> was a profit-seeking commercial organization. Its ultimate goal, therefore, was profit maximization and the stability of its source of earnings. A sizable share of its profits after its appointment as Dewan came from land revenue collection. This was particularly true of the period following the Company's victory at the battle of Palasy in 1757. It was the desire to make money by whatever means that influenced the Company's thinking towards questions of ownership in land.<sup>3</sup>

The Company needed, first, to consolidate its position and, second, to set up a dependable and efficient agency for collection of revenue. It was this search for the appropriate collection agency that incidentally brought into prominence the issue of landownership by the native inhabitants and their rights inter se which came to engage the serious attention of the

1. Of the three provinces, the greater part of Bengal now constitutes Bangla Desh. The remainder of this province and all of the other two have been part of India since 1947.

2. Granted by Queen Elizabeth I for a monopoly of trade in the East Indies on December 31, 1600.

3. For an elaborate discussion of this point, see P. N. Driver, Problems of "Zamindary" and Land Tenure Reconstruction in India (Bombay, 1949), pp. 1-48.

Company. Between 1765 and 1793 (the year of the Permanent, or Cornwallis, Settlement of land claims) the Company experimented with different agencies of collection and debated the question of ownership.

Two schools of thought emerged on the question of ownership (one claiming that the state owned the land, the other arguing that the Zamindars were the owners), but there was unanimity of opinion on the fundamental objective: whatever tenure system was introduced or recognized it must be the one which would collect the maximum stable revenue for the Company at the least risk and cost. "The revenue is beyond all question the first object of government, that on which the rest depends and to which everything should be made subsidiary."<sup>4</sup>

The Company began with a narrow concept of ownership, i.e., the English manorial arrangements in agriculture and the Roman concept of ownership within the constraints of the English doctrine of tenure and estates.<sup>5</sup> The Company was anxious to "discover" such a system in Bengal. Lord Cornwallis came to India "with no other idea of land holdings but of landlord-tenant as they had known it at home."<sup>6</sup> Hence, it seemed to the Company almost inevitable that a system must be traced or introduced by which one person would be landlord and others his tenants.

Aware of the thinking of the Company, a number of native contenders advanced their claims of Zamindari, thereby "assuring" the Company that the

4. East India Company's [hereafter E.I.C.] Committee of Circuit, in their Minute of 28 July 1722, quoted in Government of Bengal, Bengal Land Commission Report, 6 vols. (Government of Bengal Press: Calcutta, 1945) [cited hereafter as Floud Report], 2:207.

5. For a discussion of the two doctrines, see R. E. Megarry and H.W.R. Wade, The Law of Real Estate (London, 1959), pp. 13-39.

6. See Baden-Powell, Land Systems of British India, 1:187.

English landlord-tenant system had prevailed in Bengal before the Company took over. So the Company came to see its task not as the introduction of a new system but rather as an exercise in judgment. It had only to select some of these claimants and extend official recognition of their claim of prior proprietary interest in land in return for an agreement to pay annually a fixed sum of money to the Company.

The issue of ownership was not finally settled until 1793. Meanwhile, three stages of decision-making can be discerned. First was the maintenance of the status quo (1765-72). This period marked a provisional acceptance of the indigenous tenure system and its attendant process of revenue collection. The Company did show its preference for annual settlement with individuals who claimed a pre-existing superior interest in land by virtue of administrative arrangement or of appointment or of favor shown by a ruling dynasty. In the second stage (1772-77) the Company introduced a system calling for settlement of the revenue demand by the highest bidder every five years. Subject to regular payment, the successful bidders were recognized as Zamindars. This policy of dealing with the highest bidder, irrespective of his background and place of residence, introduced a new element of speculation into landholding.<sup>7</sup> In the final stage (1777-93) there was initially a return to annual settlements then, in 1790, a settlement every ten years was announced to be made with "the actual proprietors of the soil." The ten-year settlement was converted into the Permanent Settlement

7. Some successful bidders were merchants connected with the Company and high Company officials were involved in these and other underhanded dealings. See Floud Report, 2:195.

of 1793, which established the sum of Rs. 26.8 million in land revenue for undivided Bengal.<sup>8</sup>

The Permanent Settlement set the following conditions for recognition as Zamindar: (1) an annual payment of a fixed sum of money to the Company regardless of actual collection of revenue from estates; (2) no extensions of time for payment would be allowed; (3) failure to pay the full sum on the set date would render the estate liable to be sold at auction to the highest bidder. The privileges of Zamindars included: (1) complete freedom of management of their estates; (2) the right to transfer their superior title by sale, gift, or otherwise; (3) ownership of waste and uncultivated lands within their estates (no revenue was imposed on these areas in anticipation of their being brought into cultivation at some time in the future to absorb population increases); (4) retention of one-eleventh of the total revenue demanded from their estates.

Owner-operators of the earlier period now found themselves reduced to the status of tenants, with no specific statutory safeguards of their interests in the regulations governing landholding. The regulations did provide that tenants should be given written documents specifying the rent to be paid and receipts for the payments they made, but the amount of rent for which they were liable was not specified. Zamindars' revenue obligations were fixed in perpetuity, but they were free to alter at will the obligations of their tenants.

Even the Zamindars could not feel too secure in their ownership, however, for their estates were liable to sale if they failed to meet the

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8. The territory occupied by Bangla Desh accounted for Rs. 17.30 million of the whole. See Government of Pakistan, Pakistan Budgets, 1963-64 (Rawalpindi, 1964), p. 189.

revenue demand. In fact, according to A. D. Campbell, by 1815 somewhere between one-third and one-half of the Zamindaries of Bengal passed out of the hands of the families with whom the Permanent Settlement was originally made.<sup>9</sup> To escape this fate some Zamindars, like the Raja of Bardwan, leased out their estates in perpetuity in return for a payment higher than their fixed revenue liability. This was the beginning of sub-infeudation. As the Simon Commission pointed out in 1930, in some cases there were as many as fifty or more intermediary rent-receiving interests between Zamindar and cultivator.

The Company claimed that the objective of its Permanent Settlement was to "awaken and stimulate industry, promote agriculture, extend improvement, establish credit and augment the general wealth and prosperity."<sup>10</sup> In this it failed. Tenants had no protection from Zamindars' rent demands, which were excessive and collected by very severe methods, and non-ownership of land was a severe psychological deterrent to their efforts.

What the Permanent Settlement was successful at was raising revenue. Land revenue became the Company's largest and most stable source of income. It also succeeded, with the help of a series of regulations enacted between 1793 and 1841, in greatly strengthening the hand of the Zamindars.

9. A. D. Campbell, "Tenure of Land in India," in Cobden Club, Systems of Land Tenure in Various Countries (London, 1870), pp. 213-15.

10. Floud Report, 2:220, quoting Walter K. Firminger, The Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company. Dated 28th July, 1812, 3:172.

## V. TENANCY REFORM DURING DIRECT BRITISH RULE, 1858-1947

The twin problems of security of tenure (to be provided by a legal fiction called "occupancy rights") and control of fair rent figured prominently in this period. Possibly because both the need and the demand for reform were greater in Bangla Desh (then a part of undivided Bengal), tenancy reform was introduced first there and came only later to the rest of British-held India. In Bangla Desh, the Rent Act of 1859, the Great Rent Case of 1864, Act VIII of 1885 (by far the most comprehensive), Act V of 1928, and Act VI of 1938 gave specified classes of tenants some security of tenure.

### Security of Tenure

The original intention of the Act of 1859 was to cover some specified classes of actual cultivators, but ultimately, in order to accommodate the interest of indigo planters,<sup>1</sup> the word "cultivator" was defined so as to include persons who were, in effect, nonagriculturalists.

The Act divided tenants into four groups: (1) tenants who had held land at fixed rents since 1793; (2) tenants who had held land at the same rate of rent for the last 20 years; (3) tenants who had cultivated the same land for 12 years;<sup>2</sup> (4) tenants who had held land for less than 12 years.

1. The oldest European industrial enterprise in India was that of the indigo planters of Bengal. They generally bought the indigo plants from cultivators and manufactured the indigo themselves. To ensure a supply, they had acquired considerable estates which were worked by hired cultivators. See Campbell, "Tenure of Land in India," pp. 213-15.

2. The legislation of 1885 modified this condition to include 12 years' possession, either by a tenant-cultivator himself or through inheritance, of any land owned by the same Zamindar. This was designed to check the

The rent of the first two groups was not to be raised and, except for the right of alienation, they were to enjoy the privileges of "ownership." In fact, only a very few tenants could qualify for either of these groups for two reasons: (1) between 1793 and 1859 most tenants were rack-rented, hence very few rents had remained unchanged; (2) the burden of proof of length of tenure rested on the tenants, very few of whom had any written document (pattah) dating back far enough. In any case, Zamindars could be expected to mount a vigorous legal challenge to any such tenant document, since its acceptance would have been a bar to any raises in rent. The third group of specified tenants did receive some occupancy rights, but were subject to unlimited rent increases; the fourth group received no protection and became tenants-at-will.<sup>3</sup>

The Act defined a cultivator as "one who primarily acquired lands for the purpose of cultivation with his own labour or by his hired labour . . . ." Actual cultivation of the land and residence in the village in which the land was situated were no longer required of such cultivators. The implication of the flexibility of the definition of cultivator was that it provided the opportunity for the growth of a noncultivating interest in land.<sup>4</sup> Land speculators and village moneylenders acquired occupancy

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Zamindars' practice of changing the fields cultivated by tenants before 12 years had elapsed so that occupancy rights could be denied.

3. See W. W. Hunter, The Indian Empire (London, 1886), pp. 442-45.

4. This flexibility of the definition of cultivator has considerably nullified the regulative effects of acts since 1859. It is remarkable how badly subsequent efforts to give relief to tenants can be frustrated if a loophole is allowed to remain at the beginning of tenancy reform. Even though the immediate reason for the concession may no longer exist, if a powerful vested interest has developed around the concession, it can ensure that no reform adverse to its own interest will be enacted. This is evident from post-independence tenure reform in Pakistan and Bangla Desh: in

rights. As these rights approximated more and more the substance of ownership, their commercial value continued to rise. Hence even though on paper there were a considerable number of occupancy tenants, the number of actual cultivators who enjoyed such rights was rather limited.

The Act of 1859 did not specifically provide cultivators with the right of transfer and sub-letting. This served as a check on sub-infeudation at the actual cultivators' level. But the Act of 1885 did grant some limited right of transfer to tenants with occupancy rights, with the result that sub-infeudation at the cultivators' level steadily increased. This was facilitated by the gradual withdrawal up to 1938 of all remaining restrictions on the right of alienation.

An occupancy tenant could convert himself into a rent-receiving Zamindar (without being officially so classified) by sub-letting to under-tenants, or could himself degenerate into an under-tenant by transferring his occupancy right to someone else. The result was the emergence of various grades of under-tenants, all of whom remained unprotected until 1928.

The extent of the right to transfer lands is integral to the creation of secured tenancy. Unregulated right of transfer is said to constitute an important element of the "substance of ownership" if it is a good enough substitute for ownership itself. But the experience of this period in Bengal showed that the grant of unrestricted right of transfer was premature. To begin with, the grant of occupancy rights in land gave tenants an additional security for borrowing. Land itself could not be formally mortgaged, but there was no bar to raising loans by pledging the standing crop.

neither country could the word "cultivator" be so rigorously defined as to correct the original mistake.

Indigenous moneylenders readily made loans on harsh terms against such security and let the loans run on for long periods. Money so borrowed was not often productively utilized.<sup>5</sup> Gradually, an increasing share of the crops came to be committed to moneylenders. Over time, the control of land in effect passed to this group.

It was hoped that the granting of occupancy rights with unrestricted rights of transfer to small peasant proprietors and tenants would encourage them to value their ownership of land and invest in improving it. However, granting such rights in a system where Zamindari is profitable, the term "cultivator" is loosely defined, institutional credit facilities are lacking, and land revenue is fixed but rent is not, only perpetuates a situation where the number of intermediary rent-receiving interests between the State and the actual cultivator increases over time.

#### Rent Control

In Bengal there existed a difference of opinion as to whether the rent payable by tenants was intended to be fixed in perpetuity, just as the land revenue liability of the Zamindars was permanently settled, or whether such rent was intended to be variable. Empirically, it is evident that in most cases rent did vary, which benefited the Zamindars and other rent-receiving interests.

5. The abuse of credit in this period is well recognized. See, Government of India, Report of the Royal Commission on Agriculture (Delhi, 1926), as quoted in Floud Report, 3:317. See also, H. Calvet, "The Wealth and Welfare of the Punjab," Civil and Military Gazette (Lahore, 1936), pp. 247-60 (esp. pp. 248-52); C. H. Philips, ed., The Evolution of India and Pakistan (1858-1947) (London, 1962), pp. 644-45 (note by C. A. Elliott), and pp. 660-62 (evidence of M. L. Darling); Floud Report, 1:146.

The first measure attempting to regulate rent in Bengal was undertaken in 1859. The Act started with the presumption that the "prevailing rate of rent" was fair and equitable. The prevailing rate was originally the "parganna rate," which supposedly represented the "established rent," in most places "fully equal to what the cultivator could afford to pay."<sup>6</sup>

Two issues emerge: (1) even if a parganna rate had existed immediately before and at the time of the Permanent Settlement, it soon became indeterminate;<sup>7</sup> and (2) the soundness of the presumption that the rate was "fair and equitable" is dubious. However, on the grounds of expediency, the Rent Law Commission, 1879, preferred to endorse the presumption rather than formulate a standard rate of assessment. Hence the notion of prevailing rent endured, and continues to bedevil any attempt towards rationalization of rents.

The Acts of 1859 and 1885 taken together gave five reasons why rents should be raised. The two most frequently used by Zamindars were: (1) rent paid by a given tenant was below the prevailing rate; (2) the price of rice had risen.

It must be conceded that the level of actual rental demand was not so high as is frequently claimed. If one compares the actual rents paid to gross production, one can see that by 1940 the level of average rental demand stood at 7 percent of total production.<sup>8</sup> However, rent was not the only sum the tenant paid to his Zamindar; he also had to pay abyab

6. Floud Report, 3:256.

7. Hence Section 5 of East India Company Regulation 8 of 1812 notes, "pargana rates have in many instances become very uncertain . . . ." In B. B. Mitra, The Law of Land and Water in Bengal and Bihar (Calcutta, 1934).

8. Floud Report, 1:127.

(traditional dues), though such collections had no sanction in law.<sup>9</sup> To the extent that such collections remained unaccounted for, the 7 percent average incidence of rent is an underestimate.

In addition, until 1928 the rents of tenants-at-will, sharecroppers, and under-tenants remained a matter of bargain between Zamindar and tenant. On an average, it can be estimated that such nonoccupancy tenants paid double the occupancy tenants' rent, over and above the traditional dues.<sup>10</sup>

Zamindars and other rent-receiving interests and the moneylenders continued to dominate the lives and property of the peasants, who were absolutely dependent on agriculture for their very subsistence, despite these various tenancy and rent-control measures. However, it is too sweeping to suggest that since the tenancy acts could not be fully implemented everywhere they were futile. In the absence of this legislation, things would probably have been worse, as they evidently were in the Sind of Pakistan.<sup>11</sup> Thus, insofar as these laws succeeded in exercising any influence on the Zamindars, they spared the tenants from suffering the full potential hardship of their existence.

It must be recognized in cases like this, which involve human relationships, that it is idle to expect any great success if there is great disparity in the bargaining positions of the parties concerned. It would appear that the only way to achieve the desired success was to abolish Zamindari and restore peasant ownership of the land. However, the British

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9. They cannot be effectively eliminated either, as post-1947 experience with land revenue collection in Bangla Desh shows.

10. Floud Report, 2:34.

11. M. Masud, "Note of Dissent," in Hari Inquiry Committee Report, 1947-48 (Karachi, 1948), p. 67.

government, not wanting to weaken its stability or jeopardize its continuity, tried instead to strike a balance between the Zamindars, who were well represented in the legislative assemblies, and the peasants, who were growing more and more dissatisfied with their situation.<sup>12</sup>

The end result of this balancing act by the Government was a complicated and involved land tenure system. However, when one contrasts the situation in Bangla Desh with that in post-1947 Pakistan, it becomes evident that even these unsatisfactory reforms in Bangla Desh did lead to a situation where Zamindary could eventually be abolished. In Pakistan, on the other hand, there was no tenancy reform until 1950, and then a very unsatisfactory one.<sup>13</sup>

Political considerations cannot be ignored in situations like this. It is unlikely that the Floud Commission would have presented the same recommendations if it had not had before it empirical evidence that what was required was not more elaborate tenancy and rent-control laws but rather total correction of what Baden-Powell called the legacy of past mistakes. Considered from this point of view, it must be acknowledged that developments in this period did facilitate further progress in later periods and that the experience gained indicated the course which had to be adopted if land reform was to contribute to the economic progress of the country.

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12. Floud Report, 3:210.

13. It should be noted in this regard that Pakistan's political leadership was composed of members of the Zamindary class, whereas Bangla Desh's leadership has been middle class since 1948. Thus Pakistan could shelve the Report of the Inquiry Committee of 1945 and not pass adequate legislation, whereas Bangla Desh could not shelve the Floud Commission Report of 1940 and in 1950 passed the State Acquisition Act during the Nurul Aman ministry.

## VI. THE STATE ACQUISITION AND TENANCY ACT OF 1950

### Economic, Social, and Political Background

The case for abolition of Zamindari rested on a number of grounds. Not the least of these was economic, especially after the end of British colonial rule. Land revenue was one of the government's largest sources of income; however, the Permanent Settlement had fixed that revenue for the previous 150 years. Zamindars continued to increase rents paid by cultivators, but did not themselves increase revenues paid to the government. This loss of potential revenue and some other defects in the system (e.g., sub-infeudation; failure on the Zamindars' part to adjust rents charged in relation to crop loss or declining revenue demands; their failure to perform any of the economic functions which had provided the theoretical justification for the institution of landlordism in England; etc.) might have been overlooked if the Zamindars had invested a reasonable part of their rental income in improving agriculture, but this was not the case. Zamindars were generally absentee landlords who lacked incentives to improve cultivation techniques and hence production.<sup>1</sup>

Moreover, Zamindari acted as a damper on tenants' incentives to modernize and raise output, and, as we have seen, experience showed that so long as this system remained a dominant feature of the agricultural system,

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1. The Zamindars themselves maintained that their incentives were dampened by the elaborate procedures laid down by the successive tenancy acts for raising tenants' rents. This might be true if it could be shown that prior to the first such act in 1859 Zamindars had invested funds in improving agriculture instead of buying up more rent-receiving interests, but there is considerable historical and contemporary evidence to suggest just the contrary--that even before 1859 Zamindars did not take any interest in modernizing agriculture. See Floud Report, 5:33, 365, 378.

the substance of ownership could not be secured for tenants even by a long succession of legislative attempts. Tenants who lack security of tenure, and/or who have to pay a large share of their earnings to landlords while bearing most or all of the costs of production, do not have the incentives required to modernize. An owner-operator, by contrast, does not suffer from these disabilities, for ownership establishes the most immediate and exclusive connection between efforts and rewards. An IBRD study has demonstrated that ownership of land is high on the list of priorities of tenants, regardless of their size of holding, and that ownership would cause the introduction of such improvements as wells, orchards, better tillage and seedbed preparation, improved seed, fertilizers, etc.<sup>2</sup>

It is sometimes argued that, if tenants are made owners and relieved of their rent burdens, yields and hence marketable surpluses will fall. This is a legitimate concern, since the marketable surplus of agricultural commodities is a major source of capital formation in a developing country. Such surpluses must derive from a gradually rising agricultural output sustained by sufficient on-farm investment, and Zamindars did not provide such investment. It is true that the requirements of rent (made inescapable by the lack of non-farm opportunities to earn one's living) may drive up production in the short run. But, given the Zamindars' penchant for consumption as a class, any revenues generated from this increased production were unlikely to be reinvested in agriculture (or in industry, for that matter). Thus continued increases in yields can only be produced at the expense of the peasants' subsistence. Insofar as an increased supply of marketable

2. IBRD, Programme for the Development of Irrigation and Agriculture in West Pakistan, Comprehensive Report (London, May 1966), vol. IX, Table at p. 64.

agricultural surpluses presupposes increased production, Zamindari inhibits the development process.

Moreover, evidence indicates that small farmers tend to exchange the increase in per capita income generated by a rise in marketable surplus in industrial goods. V. Dubey, for instance, shows that while the income elasticity for food is less than unity, it is more than unity for those items of expenditure associated with a "superior" standard of living.<sup>3</sup> Thus private profits flowing through market channels can provide needed funds for investment in development.<sup>4</sup>

Economic progress is associated with social change. But change is relatively limited in a society in which landownership determines social rank. Such a static society is characterized by its unwillingness to initiate any change and its resistance to any innovations which are introduced.<sup>5</sup> It is a society noted for complex stratification rather than mobility. The prestige, power, and security of a person in the peasant society of Bangla Desh was correlative to his rank in the hierarchy of interest groups in land.

3. See V. Dubey, "The Marketed Agricultural Surplus and Economic Growth in Under-Developed Countries," The Economic Journal (1963), pp. 689-702. See also, W. P. Falcon, "Farmer Response to Price in a Subsistence Economy: A Case Study of West Pakistan," American Economic Review (1964), pp. 580-90.

4. If these are insufficient, there are a number of alternative sources of needed funds. One such is the compulsory-savings scheme tried by Nepal. Burma has experimented with state trading of agricultural products, and Japan employed increased taxation.

5. For a discussion of the importance of social factors in economic development, see C. P. Kindleberger, Economic Development (New York, 1958), pp. 56-75. See also, R. D. Campbell, Pakistan: Emerging Democracy (New York, 1963), pp. 88-90.

Perpetuation of such social stratification and behavior patterns obviously gives added security to an institution like Zamindari. It was to the Zamindars' interest to see that tenants remained ignorant, unconscious of the relative depravity of their condition, unaware of their rights, and unmindful of their potential for improvement. Understandably, Zamindars were uninterested in supporting education<sup>6</sup> and the illiteracy rate in rural Bangla Desh is still 82.6 percent.

This massive illiteracy is a serious social deficiency, one which is clearly the result of under-investment in education. Education sets in motion the process of making a society receptive to new ideas and adoptive to new technology. A spirit of free inquiry, a sense of dignity, and a desire to attain a higher level of prosperity must be infused into the peasantry. The Zamindari system was a block to such progress.

Finally, it must be noted that one of the original objectives for the Zamindari was to create for the British a set of indigenous allies. After Independence, obviously, this raison d'etre was lost. Had the Zamindari provided the kind of leadership an emerging nation needs for a stable government committed to economic progress, the system might have endured longer after 1947. Such was not the case.

Thus on economic, social, and political grounds the abolition of Zamindari<sup>7</sup> was deemed necessary for Bangla Desh. In 1950 the State

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6. P. Raup maintains that a major test of the performance of a land tenure system is to be found in the role it plays in advancing capital investment in education ("The Contribution of Land Reforms to Agricultural Development," Economic Development and Cultural Change 12 [1963], p. 13). The Zamindari system must be considered a failure on that ground.

7. And not before time. Abolition had been urged as long ago as 1830 by the House of Commons, and as "recently" as 1902 by the then Government of India. See Floud Report, 1:23, 36.

Acquisition and Tenancy Act was enacted, which tried to abolish all rent-receiving interests, by the then (parliamentary) Government of Nurul Amin.

#### Provisions of the Act

Because of the migration to India after partition of Bengal of most of the wealthy Hindu zamindars, the zamindari in the region was virtually dead.<sup>8</sup> The State Acquisition and Tenancy Act of 1950 made that demise official, nationalized all released land, and attempted to rewrite laws affecting agricultural tenants. The Act did not, however, completely eliminate intermediary rent-receiving interests between State and cultivator because it retained the extremely flexible definition of the latter which had first been included in the Bengal Tenancy Act of 1885. Thus the 1950 Act defines a "cultivating raiyat" as one "who holds land by cultivating it either by himself or by members of his family or by servants or by bargadars [sharecroppers] or by or with the aid of hired labourers or with the aid of partners."

The Act did establish ceilings on holdings, particularly important in a land-scarce country like Bangla Desh. The 1950 ceilings on land held in khas (technically self-cultivated, but in fact including that worked by sharecroppers) was set at 33 acres per family, or 3.3 acres per family member, plus a homestead plot of up to 3.3 acres. Anything over these limits was to revert to the State. In 1961, however, the upper limit per family was raised to 125 acres by the (military) dictatorship of Ayub Khan.

8. The significance of emigration to the effort to end Zamindari can be demonstrated by the example of Pakistan, where large estates continue to exist.

Despite the rather dubious history of the acquisition of the Zamindars' private "ownership" rights to land in Bangla Desh, the 1950 Act did provide compensation for lands they lost to the State. Full market price was impossible for a number of reasons: the peculiar nature of the ownership rights; the absence of a fully developed market in land which could be relied on to set a fair price; the contribution which had been made by the community as a whole, and especially the wracked tenants, to the so-called market value; the inability of the Government of Bangla Desh to raise the sums needed to pay full market value. Hence a modified compensation was decided upon, based on the "net rental income." Zamindars declared the gross rents they had been receiving from land which reverted to the State. From this were deducted such charges as: land revenues payable to the Government; share of cess payments; and cost of collection and management of the rent (set at 18 percent of the assets). The largest landholding Zamindar was to be paid two times the net rental income, the smallest Zamindars ten times. That is to say, the Government viewed these payments as more in the nature of a rehabilitation grant than as an effort to duplicate pre-reform incomes. Virtually none was ever paid.

The form of this compensation varied quite a bit. The Act's original intention was to pay it in two installments, part in cash and part in bonds. But this was never satisfactorily implemented, and a later decision was made to pay the whole sum in five annual cash installments, beginning in fiscal 1964-65. Payments were to derive from increased Government land revenues and hence were not to be a further burden on cultivators. In 1970 a further reconsideration changed the system to one of all cash or bonds, or part cash and part bonds, the latter to be non-negotiable, paying 3 percent annual interest, and payable in not more than 40 annual installments.

The payment of compensation under the current P.O. No. 98 of 1972 is due "at the rate of 20 per cent of the market value for the remaining area." But this presupposes a perfect market in which the price of land would truly reflect its income-yielding capacity. No such market exists. Ample scope is given for bureaucratic discretion and for collusion between officials and interested parties to fix the market price at an advantageous figure.

Not enough land was confiscated from the Zamindars to provide a plot for every peasant. The Government did establish a minimum--"subsistence," i.e., land adequate to provide food--and a maximum--"economic," i.e., land adequate to give a cultivator a reasonable standard of living--size of holding. A subsistence holding is one of 3 acres, an economic holding one of 8 acres. Thus far there have been no suggestions that these are unduly low or high.

Continuing the system begun in 1938, the 1950 Act provided a virtually unrestricted right of transfer of holdings.<sup>9</sup> In 1960 restrictions were imposed to limit the sale of parts of subsistence holdings, of holdings smaller than subsistence size, and of holdings smaller than economic size, but in 1964 these were withdrawn. This has meant a return to the 1950 provisions, the wisdom of which has already been made doubtful by past experience.

The Act did attempt to check transfer of land as payment of debts by forbidding simple mortgages; only usufructuary mortgages for terms of up to 15 years would be recognized by the courts. Subletting of land was also

9. Two nominal conditions were imposed: land could be sold only to a bona fide "cultivator" (still liberally defined); sales were subject to pre-emptive rights of co-sharers and the tenants of contiguous parcels.

forbidden, but this provision was rendered practically inoperative by failing to treat sharecroppers as subletters.

To minimize fragmentation the Act provided that no application for division of holdings equal to or smaller than subsistence holdings (3 acres) would be allowed. Similarly disallowed were divisions of economic-size holdings (8 acres) and of holdings larger than subsistence but smaller than economic size if the division resulted in any one of the parts, including any area already held by a joint owner, being smaller than subsistence size.<sup>10</sup>

The 1950 Act also provided for some voluntary efforts at consolidation of holdings by an attempt to join scattered individual holdings into compact blocks through a process of carefully arranged multilateral exchanges of plots, including payment of any necessary compensation.<sup>11</sup> In 1961 the Government attempted an ill-advised forced consolidation program, but in 1964 it reverted to the voluntary system.

One of the main thrusts of the Act was the rationalization of the rates of what had been rent paid to the Zamindars but was now land revenue

10. Government of East Pakistan, Report of the East Pakistan Land Revenue Administration Inquiry Committee, 1962-63 (Dacca, 1963), p. 37 [Chairman: M. Hossain. Cited hereafter as Hossain Report].

11. In a country like Bangla Desh the diseconomies associated with scattered holdings become even more serious than in a more developed country. One estimate is that expenditures on cultivation increase by 5.3 percent for every 500 meters of distance for labor and plowing, 20-30 percent for transporting manure, and 15-32 percent for transporting crops (see Dr. R. R. Mukherjee's estimate as quoted by Habibullah, "Rural Economic Conditions in an East Pakistan Village," Pakistan Economic Journal [September 1958], p. 30). Dispersal of fields also gives rise to technical difficulties and impedes the process of improving land and farming methods; rotation of crops, conservation of soil, maintenance of pasture, and standards of pest and weed control are all adversely affected by fragmented and scattered holdings (see Sir B. O. Binns, The Consolidation of Fragmented Agricultural Holdings [FAO: Rome, 1950], pp. 15-17).

paid to the Government. However, neither adequate land records nor cadastral survey maps existed, so the process had to be a lengthy one. The Act provided for two phases. In the first, Revenue Officers were empowered simply to reduce rents they judged to be too high.

The second phase, which was to come only after the preparation of adequate survey records, set rates of rent for different classes of soil. These were not to exceed one-tenth of the total value of the gross produce per acre of land (obtained by multiplying the normal yield per acre by the average price of the crops it could grow during the preceding 20 years), or four-fifths of the existing rent, or the average rent determined as prescribed in the 1950 East Bengal State Acquisition and Tenancy Act, whichever was least. These rents were to be more or less fixed for 30 years; they could not be raised, but they could be lowered if the soil deteriorated due to causes beyond the tenant's control.

Ideally, land should have been distributed to tenants without any charge, but this was impossible in Bangla Desh: the Government needed revenue if it was to make compensation payments to the Zamindars; and it was felt that the sense of legal ownership would be enhanced by payment of a fee. Hence, land was leased for payment, which gave the new holder all the privileges of a secured tenancy, including the "right to occupy the land . . . in his holding in any manner he likes." The fees set in 1950 were raised in 1957 to between 5 and 10 times the annual rental, and in 1962 to 100 percent of the market price of the land.<sup>12</sup>

12. Hossain Report, p. 53.

The Act provided that preference in assigning land should be given to applicants who cultivated less than three acres. Between 1957 and 1962 five circulars were issued to clarify this provision. The latest of them provides that agricultural refugees from India, tenants of diluviated land, and neighboring people with scattered bits of khas land were to be granted land in that order of preference.

Not all cultivators were so fortunate. Because the Act retained the old broad definition of "bona fide cultivators," large landowners can still hire labor or, if they prefer, sublet their land to sharecroppers. These individuals are not considered to be tenants and hence are completely unprotected by law.

The defects of the Act of 1950 which have been identified here do not reflect incompetence on the part of its drafters, but rather the subtle forms which resistance to change takes when influence continues to be exercised by individuals who are adversely affected by a reform.

#### Implementation of the Act

In accordance with a suggestion of the Floud Commission, the original goal of the 1950 legislation was for the Government to acquire rent-receiving interests slowly (over a 30-year period) starting with the largest and working down only as adequate rent, survey, etc., records became available. For a time this program went on: between 1951 and early 1956, 443 big estates were acquired.<sup>13</sup>

But on October 12, 1955, the United Front Government decreed that all estates remaining in Zamindari hands must be acquired within six months and

13. A prohibition against transfer of land during this period was implemented, but it was largely weak and ineffective.

that all the necessary records--rent-rolls, survey maps, compensation schedules, etc.--must be generated within the same period. As this involved some 25 million tenants, and seven state acquisition settlement operations, and had to start from scratch, poor results were inevitable. One committee set up to examine the program found that only new settlement agreements could solve the problems caused by haste and estimated that this would take 14 years.<sup>14</sup> More recent estimates call for 20 years and Rs. 180.75 million.<sup>15</sup> The process was actually begun in 1966 and is not expected to be complete before 1985. So Bangla Desh moved precipitously from a situation characterized by a lack of documents relating to land use to one characterized by a plethora of such records, most of them incorrect and useless.

Some redistribution of land was supposed to occur under the terms of the 1950 Act. Upper limits on holdings were set (see p. 30 supra.) and landholdings greater than the stipulated size were to be resumed by the Government for redistribution to tenants, but evasion of this procedure was widespread and simple. First, ceilings were to apply to families rather than to individuals, but a "family" was never clearly defined. Second, land became available for redistribution only after the affected owners had chosen what they wanted to retain, and the compensation assessment roll had been published. Taken together, these conditions encouraged both the fraudulent transfer of land<sup>16</sup> and great delays. Here, too, the lack of

14. Hossain Report, p. 18.

15. Ibid.

16. One estimate is that as many as 105,600 acres of agricultural land were transferred in an effort to evade the ceiling. See S. K. Bash and S. K. Bhattacharya, Land Reforms in West Bengal (Calcutta, 1961), pp. 88-90.

reliable records played a role because the Government had to rely on voluntary declarations by landlords of holdings in excess of the ceilings.

Raising the ceiling in 1961 further limited the amount of land available for redistribution.

Data are few on who controls what portion of the land in Bangla Desh, but one 1963 article claimed that 10 percent of the total cultivated area was held by 4 percent of the landowners, and that if the original ceilings had been retained, some 2 million acres of land ought to have been available for redistribution.<sup>17</sup> After the ceilings were raised, it is further estimated that this figure declined to 465,141 acres.<sup>18</sup> As of July 1966, only 152,791 acres had actually been resumed by the Government, and only 11,750 of those had been turned over to tenants.

Table 6 shows that if the 2 million acres first estimated to be available had been distributed to sharecroppers (who numbered 518,095) and cultivators renting all the land they tilled (187,404), each would have received 3 acres, and an additional 3,900 landless laborers could have benefited to a similar degree. This is an infinitesimal redistribution, given the dimensions of the problem, but even so it proved impossible to carry out.

Closely related to issues of Zamindari abolition and distribution of resumed land is that of consolidating fragmented small holdings. The 1950 Act provided for voluntary consolidation but no applications from peasants were received, so in 1961 the Act was amended to provide for forced

17. S. Rahman, "Recent Tenancy Legislation," Pakistan Economic Journal (June 1956), p. 233.

18. Hossain Report, p. 62. Land already resumed was actually returned to its prior owners after 1961.

Table 6  
Classification of Cultivators by Land Tenure Status,  
Bangla Desh, 1961

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All cultivators <sup>a</sup>	14,603,630
Owning all land tilled	5,160,315
Owning part and renting part	421,399
Owning part, renting part, and also working for hire	946,665
Renting all land tilled	108,499
Renting land and also working for hire	78,905
Sharecroppers	518,095
Unpaid family help	4,821,946
Landless agricultural workers	2,547,806

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<sup>a</sup>Agriculturists were divided into two broad groups of tillers and non-tillers. An agriculturist is defined as a tiller if the person himself works on the land or it is cultivated under his direct personal supervision. An agriculturist is classified as a non-tiller if he is an orchard or nursery worker, gardener, dairy farmer, poultry keeper, and tea-garden laborer.

Source: Government of Pakistan, Census of Population (Karachi, 1961), 1:58-59.

consolidation in any area the Government selected.<sup>19</sup> The first area to be chosen was Debigonji in Dinajpur District--an area of 175 square miles, including 182 villages, 297,683 plots, and 34,591 tenants. The area was chosen on four grounds: relatively little population pressure on the land; a large number of tenants with large holdings who were expected to welcome the effort; simple classification of soil; and the availability of supposedly up-to-date and accurate maps and records of rights. Despite all this, and an adequate field staff, there was opposition from the beginning; even

19. A better idea might have been to undertake a study to determine why this lack of interest in a potentially beneficial program.

those who were likely to be "beneficiaries" openly dissociated themselves from the operation in view of the opposition of the vast majority of the people. The scheme failed completely and an official Government commission recommended termination of the entire forced consolidation effort, observing "it is doubtful if consolidation of holdings will be of any advantage to the tenants . . . ."20

In summary: the basic provisions of tenure reform as outlined in the 1950 Act are still in the process of implementation. It may take as much as 15 more years to complete the process.

Clearly, the abolition of Zamindari in Bangla Desh was facilitated by the improvements in tenancy regulations enacted between 1859 and 1930, by the nature of the local political leadership in 1950, and by the migration to India in 1947 of many wealthy Hindu Zamindars. Nevertheless, the potentially liberative effect of the 1950 Act was partially negated by the assumption of Zamindari by the State (instead of moving towards direct peasant ownership of the land they cultivated), and by the continued existence of informal private Zamindari brought about by the failure of the Act rigorously to define "bona fide cultivators" and "families" or to make clear who could retain land.

The distributive effect of the Act could have been large if there had been no collusive alienation of property, if the Act had been speedily and massively implemented, and if the ceilings on holdings had not been raised. That the distributive effect has, in fact, been minimal is demonstrated by

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20. Hossain Report, pp. 37-38. It would have been more helpful to indicate just why this attempt failed: consolidation requires that cultivators be educated to the program and have confidence in its administrators; 34,591 families was too large a group for this to happen.

the facts that as of 1970 most land which had reverted to the Government was still in its hands, and that there remain a fair number of tenants and sharecroppers who are now completely without legal protection (i.e., back to where they started in 1859).

Compensation, intended originally to be a sort of rehabilitation payment, was completely disrupted by the sudden decision to assume all rent-receiving interests. Similarly, land consolidation efforts suffered from poor administrative execution. Rents, even by 1970, were not being fairly or comprehensively assessed; collection is marred by great corruption.

A thorough-going land reform may make good sense and be politically feasible, yet its impact will be largely conditioned by the speed and efficiency with which it can be implemented. Bangla Desh had neither the experience and an adequate administrative agency nor the maps and up-to-date land records to do the job it was given. This substantially explains the unsatisfactory record of tenure reform. In terms of the availability and competence of facilities and personnel, the work load involved in implementing the Act was simply too heavy.

The poor implementation record in Bangla Desh demonstrates the futility of starting a program without an adequate implementing agency. No reform, however beneficial in intent, should be introduced which is beyond the existing agency's competence unless the agency can be expeditiously enlarged and its personnel trained. Thus, it is not only the political will of a government but also its administrative abilities which determine the chance of successful implementation of a land reform program.

## VII. A PROPOSAL FOR FURTHER TENURE REFORM

As we have seen, agriculture in Bangla Desh remains traditional and inefficient: the country cannot feed itself. The tenure reform has not been able to create institutional conditions which encourage agricultural modernization and increases in output, nor was reform backed up by any programs of technological improvements. The Government has recognized the need for further improvements and has sponsored a number of proposals relating to cooperative farming, mechanized cultivation, revision of ceilings on holdings, and exemption of some holdings from payment of land revenue.

Experience shows that Bangla Desh has not yet reached the stage of socio-economic development necessary for successful nationwide organization of cooperative credit societies, let alone true cooperative farms. Both these efforts require a far greater integration of interest, coordination of members' activities, and confidence in the competence of the sponsors than can reasonably be assumed to exist. Rather, there is a strong attachment to individual possession of land.

Mechanization is also inappropriate for the country's stage of development. Nutritional standards are presently so low that the availability of surplus labor (as distinguished from surplus laborers) is arguable. However, if the per capita calorie availability is raised by even 1.5 percent, a surplus of 3.10 million laborers will emerge with no prospects of employment outside agriculture for at least the next decade. Hence, cultivation should generally continue to be carried on by manual practices (though there is great room for improvement in many of the implements used).

Rather, I would argue, what is needed in Bangla Desh is to legitimize individual ownership of family-sized farms, i.e., to make as many farms owner-operated as is feasible under the circumstances. The institutional constraints which presently operate on agriculture in Bangla Desh would largely disappear in such a system, and the country is at a suitable stage of economic and social development to accept it. Such a system would be one more link in the long chain of reform efforts in Bangla Desh, leading ultimately to the socialization of all factors of production, including land.<sup>1</sup>

The first step necessary for a shift to owner-operation is a rigorous definition of "bona fide cultivator," which has been lacking since 1859. It should be reiterated here that, in common with other developing countries but unfortunately in more acute form, agriculture in Bangla Desh represents virtually the total economic opportunity; hence, objective conditions are extremely adverse to any meaningful tenancy reform so long as ownership of land by noncultivators continues to be permitted. Such cultivation has been largely eliminated in other Asian countries--Japan, Taiwan, South Korea, and Burma--as it should be in Bangla Desh.

It is necessary first to define an actual cultivator. To quote Thorner:

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1. It is realized that the objective conditions in Bangla Desh are not yet mature enough to skip over the intermediary steps to socialism. The approach in this study is basically pragmatic: let us first make the fragmented farms owner-operated and simultaneously develop service and credit cooperatives. We should then try to consolidate the holdings. If this is successful, some cooperative farms may be started in selected areas, like Comilla. If they are successful, more could be set up, gradually covering all Bangla Desh. Whether these coop farms will ultimately be converted into collective ones only experience can say. This process will largely be governed by the ideological preference of the dominant political will of the time.

If you do not totally reject the principle of non-working landlords you cannot prevent the village oligarchs from acting as landlords. As soon as you leave the door barely open for property income to non-working proprietors--which you do when you permit land ownership to exist unassociated with labour in the fields--you allow all the evils of concentration of power at the village level to come trotting back in.<sup>2</sup>

It is also necessary, however, to confront the realities of landownership in Bangla Desh: a sizable portion of the urban wage-earning middle class are noncultivating owners of land, generally acquired by inheritance. Politically important and well represented in the legislature, the armed forces, and the bureaucracy, these people as a class are no more enthusiastic over a thorough-going land reform than were the Zamindars. Nevertheless, it is unfair that one group of people should have a double income and enjoy a standard of living unwarranted by their contribution to the economy, while others have none. These people should be given the option of returning to their villages and cultivating their land, or selling it to someone who will.

The unit for the retention and allotment of land should be the family, irrespective of its size, and composed of "husband, wife, son, unmarried daughter, son's wife, son's son and son's unmarried daughter."<sup>3</sup>

Given the elimination of noncultivating interests in land, and the family as the unit of allotment, holdings should be of a size suitable for cultivation by family labor using manual practices. It is proposed that holdings be limited to 24 bighas (8 acres) per owner-operator. It is

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2. Daniel Thorner, The Agrarian Prospect in India (New Delhi, 1956), p. 82.

3. Bangla Desh, State Acquisition and Tenancy Act, Third Amendment Order, 1972.

realistic to assume that the Government will not confiscate the holdings of resident landlords; it is suggested that such individuals be allowed to retain 12 bighas, on the expectation that they may take more interest in their estates than they formerly did. If, within a specified time period, a landlord chooses to work his own land, he would be allowed to retain 24 bighas.<sup>4</sup>

Given the already fragmented and scattered nature of many existing farm units, and the adverse man-land ratio in Bangla Desh, the proposed ceilings are not unreasonable. Moreover, evidence is mounting to indicate that economies of scale in agriculture are quite different from those in industry.<sup>5</sup>

Ceilings should be flexible. As the nonagricultural sector develops and is able to absorb more of the farm population, ceilings should rise. This will enable the more enterprising farmers to increase their holdings by purchasing the holdings of those who leave. In fact, it is possible to visualize a stage when most people may be employed in the nonagricultural sector as in the United Kingdom and the United States now. When that stage is reached, pressure on land will be eased considerably. The ceiling could then be raised and cultivation mechanized.

Minimum allotments are another issue, one in which it is necessary to balance the conflicting needs of equity--land should be distributed to the

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4. Self-cultivation of 24 bighas, other things remaining the same, is equivalent to renting out 8 bighas, assuming that rent is 50 percent of the gross produce. If improved technology is introduced on the 24 bighas, the total income they produce should not be less than their current rental income.

5. See, e.g., the data presented in E. J. Long, "The Economic Basis of Land Reform in Under-Developed Countries," Land Economics (May 1961), p. 117.

largest possible number of landless workers--and efficiency--holdings must be large enough to support their owners' families. It is proposed to allot a minimum holding of 9 bighas (3 acres) per family. This is in line with holding sizes in Taiwan and Japan, both of which have been able substantially to modernize agriculture (though this modernization is due in large part to the application of modern inputs), and hence should not have any adverse effect upon economies of scale in farm operation.

Hard data do not exist on the amount of land available for redistribution, but it is estimated that 2 million acres is a not unreasonable amount (an earlier estimate suggested that this amount would be available with a 33-acre ceiling). The following order of priority is proposed for allotting what land is available: (1) tenants owning no land; (2) sharecroppers owning no land; (3) landless agricultural laborers; (4) families with a homestead but no farm land; (5) families with less than a subsistence holding. Assuming that 2 million acres of land is available, and that it could be supplemented by 1.4 million acres of Government khas land, all those in categories (1) and (2) and many of those in category (3) could receive the minimum 3 acres.<sup>6</sup>

A nominal payment, e.g., in 15 or 20 annual installments, should be required of those who receive land, if only to give them a sense of legitimacy and responsibility. The Government should take over land without compensating its previous owners so as to keep these payments as small as possible.

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6. As of 1972, the Government was considering the following priorities for allotment of land: (1) landless laborers; (2) families with a homestead but no farm land; (3) families with 1.5 acres. Bangla Desh Observer, 10 September 1972.

New owners should be subject to some restriction on the use and disposition of the land they receive. Ownership should be conditional on good husbandry; right of transfer should be subject to some restraints, e.g.:

- a) no simple mortgage to a private party;
- b) no physical subdivision of a holding through inheritance;
- c) no transfer of title within 15 years of allotment;
- d) transfer after this period only to bona fide cultivators, subject to right of pre-emption;
- e) prior consent to cooperate in due course in the processes of consolidation of holdings and of cooperative farming.

It is felt that consolidation is not so immediate a need as some people think. Similarly, a Government crash program to achieve it is likely to be counter-productive. Realism lies in recognizing that fragmentation is a temporary constraint on productivity and in devising measures to increase output despite fragmentation. In time cultivators will come to recognize how fragmentation impedes their efforts. Meanwhile, agricultural extension work and primary-level education should be intensified.

Rationalization of assessment of cultivators' land revenue liability is long overdue and badly needed. It is proposed that all holdings of less than 3 acres (i.e., less than subsistence--some 26.4 percent of the total cultivated land) be exempted from revenue liability. Owners of holdings of 3 acres and more (73.6 percent of total cultivated land<sup>7</sup>) should pay all Government dues. Ideally, these rates should be assessed at a graduated rate based on size of holding. One such rate structure was proposed in

7. Estimates of area from Government of Pakistan, Report of the Study Group on Agricultural Policy (Islamabad, 1970), p. 64.

1970 by the Study Group on Agricultural Policy; if adopted, it would increase Government revenues by Rs. 5 million per year, even if all holdings of less than 3 acres were completely exempted.

Despite legal fictions to the contrary, tenancy and sharecropping will almost certainly continue to exist in Bangla Desh, and the interests of these people must be protected with respect to security of tenure and equity of rent payable. Hence, it is proposed that:

- 1) sharecroppers be declared tenants, effective from 26 March 1971;<sup>8</sup>
- 2) sitting tenants and sharecroppers, irrespective of the period of their cultivation under a landlord, be given occupancy rights with the same protection against eviction as envisaged in the Act of 1938, effective from the same date;
- 3) tenancy rights be treated as a protected interest in the event of the superior owner's interest being sold up;
- 4) tenancy rights be inheritable and mortgageable with an institutional credit agency, but neither transferable nor capable of being sublet;
- 5) tenants have the right of pre-emption, and the opportunity to purchase on a deferred payment basis, if the owner wishes to sell the land;

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8. Negotiations between the representatives of the Government of (un-divided) Pakistan and the then dominant political party, the Awami League, were called off on March 25, 1971, and the army crackdown in Bangla Desh began the next day, accelerating the violent process of de-linking the two parts of Pakistan. Most Bengalis regard March 26, 1971, as the day when Bangla Desh emerged as a separate, independent political entity, and many acts and ordinances passed by the Government since independence were made retroactive to that day.

5) If a tenant voluntarily leaves a holding, his departure shall be reported to the Government which shall assign another tenant to the plot, not allowing it to revert to the owner.

To implement a program of tenure reform without providing adequate and timely credit is to take away with one hand what has been given with the other. For without the provision of credit, agriculture will continue to be stagnant and, therefore, fertile ground for perpetuation of subsistence farming in an inequitable landlord-tenant nexus. Legislative measures, like tenancy acts, can really be effective and of lasting benefit only via promotion of growth in agriculture and a consequent improved capacity for bargaining by the tenants and small farmers. It must be emphasized, at the risk of sounding irrelevant, that the crux of the matter is the great disparity in the relative economic power of the affected parties with their conflicting interests.

Credit acts as the catalytic agent for securing for the farmer the various technically developed and high return-yielding inputs. But to provide credit to an already indebted person only for his post-land reform requirements, without simultaneously taking care of his outstanding loan, is to run the risk that the net effect of such credit operations may be unproductive. Hence, any policy decision to provide institutional credit and to safeguard and consolidate the gains of tenure reform has to have a chain of logical sequence in operation. The first step in such an arrangement is to help the indebted person clear his existing debt. Nepal has a program of enforced savings and credit which Bangla Desh might do well to imitate.<sup>9</sup>

9. M. A. Zaman, Evaluation of Land Reform in Nepal (His Majesty's Government Press: Katmandu, Nepal, 1973), pp. 40-47; Zaman, Land Reform and

As we have seen, the existing administrative agencies in Bangla Desh were simply not equal to the task of reform implementation. It is proposed that the Government appoint a powerful and autonomous Land Reform Commission, whose Chairman will report directly to the Prime Minister. The Chairman of the Commission should preferably be from outside the bureaucracy. He should be an eminent public figure with an established reputation for integrity and competence. The Commission should have two other members, one an agricultural economist and the other a lawyer with a specialty in land laws. The economic member should be in charge of land revenue and compulsory savings and the lawyer of land tenure reform, tenancy, rent, and cadastral survey. The Commission will be responsible for overall planning, the annual calendar of operation, and coordination with other ministries.

The Commission should function through a Land Reform Commissioner (who should be a Secretary to the Government), whose office will be the Secretariat of the Commission. The Land Reform Commissioner should have four Deputies of the rank of Joint Secretary. One each will be responsible for looking after the works of land revenue, compulsory savings, land tenure reform, tenancy, and rent, and cadastral survey and preparation of records. At the District level there should be one Land Reform and Land Administration Officer (LRLAO). A concerted effort must be made to enlist the active support of the farmers themselves at the grass-roots level. Experience in other countries, e.g., Nepal, shows how important nonofficial cooperation is to expeditious and faithful implementation of a program of land reform.

It needs to be reiterated that land reform is "first and foremost a political decision." This is very well borne out by the course of tenure reform in Pakistan. Any radical reform in Pakistan between 1947 and 1958 was unthinkable even though the political party in power was committed to abolishing the Zamindari from the 1930s. The Planning Commission did not have either the intellectual honesty or the courage of conviction to make any vigorous plea for a thorough-going reform in its successive Five-Year Plans. However, given political will, fairly radical reforms can be carried out even in a country like Pakistan with a very poor record on land reform. For, once there is a decisive shift in power balance in favor of the forces committed to reform--through either ballot or bullet--the existing legacies can be corrected expeditiously and the lost time in social development made up. Bangla Desh is happily placed in this respect compared to Pakistan or even India. There are no fabulous landlords to contend with. There is no organized forum--political or otherwise--which would openly oppose the proposed tenure reform. This proposed reform, like any other reform, may benefit a large number of tillers, but it is also likely to hurt the interests of some, i.e., the rising middle class who are quite influential in the ruling political party and in the bureaucracy of Bangla Desh. They work from behind the scenes in a subtle manner to safeguard their interests. Their influence is already discernible. Or else, it is difficult, for example, to understand the S. M. Rahman Government's decision to restore the ceiling of 1950 and publicize it as "radical." They have to be faced resolutely. It is idle to try to seek coordination of their interests with those of the tenants, sharecroppers, and landless agriculturalists. There is a clear clash of interest between the former and the latter. To accommodate the politically important noncultivating

interests in land at the cost of tenants and others would be simply untenable and would only aggravate the political risk of a violent course of reform in the future. The proposed reform is not beyond the level of either political consciousness or financial and administrative capability of Bangla Desh. It is possible to carry it out provided the present Government is prepared to face some short-term difficulties--political and administrative--in the interest of long-term socio-economic gains to the nation and to itself.