



An Overview of Land Ownership Laws in Bangladesh

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Abstract: Land ownership in Bangladesh is governed by a blend of customary practices and formal laws. Key legislation includes the Property Act of 1882 and the Registration Act of 1908, both rooted in the British colonial period. The Acquisition and Requisition of Immovable Property Act (2017) is a significant update, enabling government land acquisition for public interest with increased compensation for registered owners. Issues like land scarcity, elite land grabs, and numerous land disputes plague the system. About 3.2 million land-related cases are pending in courts, causing significant delays and justice barriers. The absence of a uniform dispute resolution system and limited legal aid exacerbate these problems. Despite constitutional guarantees of equality, women's land ownership remains minimal. Efforts to improve gender equity in land ownership continue but encounter substantial social and legal hurdles. The research provides an extensive examination of the land ownership laws in Bangladesh, detailing the historical context, key legislative frameworks, and contemporary challenges. Bangladesh's land law system is deeply rooted in colonial legislation, with significant updates like the Acquisition and Requisition of Immovable Property Act (2017). Major issues include land scarcity, elite land grabs, and a backlog of land dispute cases. Women's land rights are particularly marginalized despite constitutional guarantees. The study highlights the need for more effective governance and legal reforms to address these persistent issues.

Keywords: Land ownership laws, Property Act 1882, Acquisition and Requisition Act 2017, Land disputes, Women's land rights

1. Introduction

Land ownership in Bangladesh is a complex and multifaceted issue shaped by historical, legal, and socio-economic factors. Rooted in colonial-era legislation, the current legal framework includes significant laws such as the Property Act of 1882, the Registration Act of 1908, and the more recent Acquisition and Requisition of Immovable Property Act of 2017. Despite these legal provisions, land governance faces numerous challenges, including land scarcity, elite land grabs, and a substantial backlog of land dispute cases. And the women's land rights remain particularly vulnerable, with gender-based disparities in land ownership and retention. The historical evolution of land laws in Bangladesh has resulted in a system where formal and informal practices coexist, often leading to legal ambiguities and enforcement issues. The colonial legacy has left a lasting impact on land administration, which has struggled to adapt to contemporary needs and challenges. As Bangladesh continues to develop economically, the pressure on land resources has intensified, leading to conflicts and inequities that underscore the need for robust legal and institutional reforms. This research aims to provide a comprehensive overview of the land ownership laws in Bangladesh, exploring the historical context, current legal frameworks, and the challenges faced in land governance. By examining these aspects, the study seeks to highlight the areas requiring reform and the potential pathways for achieving a more equitable and efficient land ownership system in Bangladesh.

1.1 The objective of the Research

The objective of this research is:

- To provide an overview of land ownership laws in Bangladesh, analyzing the historical context, current legal frameworks, and the challenges in land governance.
- To Examine the evolution and impact of key legislations such as the Property Act of 1882 and the Acquisition and Requisition of Immovable Property Act of 2017.
- To identify and discuss major land governance challenges including land disputes, land scarcity, and elite land grabs.
- Investigate the state of women's land rights and the socio-legal barriers they face.

2. Historical Context

Land ownership laws in Bangladesh are intricate and rooted in a complex history that includes influences from British colonial rule, Pakistani governance, and subsequent independence. The table 1 shows the historical context and key facts relation to land ownership laws in Bangladesh.

Table 1. Historical Context and key facts

Period	Key Developments	Laws and Acts	Key Issues/Impacts
Pre-Colonial Period	Communal and State Ownership	N/A	Collective land management
	Feudal Land System	N/A	Feudal control, tenant farming
British Colonial Period (1757-1947)	Permanent Settlement Act, 1793	Permanent Settlement Act, 1793	Concentration of land, exploitation of peasants
	Introduction of Legal Frameworks	Transfer of Property Act, 1882	Establishment of property transfer laws
		Registration Act, 1908	Legal validity and public record of transactions
	Agrarian Reforms and Tenancy Rights	Bengal Tenancy Act, 1885	Tenant rights, regulation of landlord-tenant relationship
Post-Colonial Period (1947-Present)	Transition from British to Pakistani Rule (1947-1971)	Inherited laws	Continuation of colonial legal frameworks
	Land Reforms under Pakistani Rule	Various reform efforts	Limited success due to political instability
	Post-Independence Reforms (1971 Onwards)	State Acquisition and Tenancy Act, 1950	Abolition of Zamindari system, land redistribution
Modern Legal Framework and Reforms	Constitutional Provisions	Constitution of Bangladesh	Guarantee of property rights

Period	Key Developments	Laws and Acts	Key Issues/Impacts
	Acquisition and Requisition of Immovable Property Ordinance, 1982	Acquisition and Requisition of Immovable Property Ordinance, 1982	Land acquisition for public purposes, compensation for landowners
	Land Survey and Record Keeping	Various survey acts	Creation of accurate land records
	Digitalization Initiatives	Digital Land Management System (DLMS)	Transparency, reduced corruption
Key Challenges and Issues	Land Disputes	N/A	Unclear records, inheritance issues, fraudulent transactions
	Land Grabbing	N/A	Illegal occupation, encroachment
	Rapid Urbanization	N/A	Increased demand for land, forced acquisitions, displacement
	Environmental Concerns	N/A	Impacts of river erosion, deforestation, climate change

3. Methodology

To conduct the current research, the author has adopted a qualitative approach. This study incorporates primary sources, including various relevant statutes, and secondary sources, such as peer-reviewed journals, books, related reports, and reliable websites. These resources have been thoroughly reviewed to ensure a comprehensive and accurate analysis.

4. Definition of the Legal Ownership and Land Ownership

Ownership refers to the legal right to possess, use, and dispose of property. It implies control over something tangible or intangible and encompasses various rights, including the right to sell, lease, or transfer the property. Ownership can apply to physical objects like land, buildings, vehicles, and personal belongings, as well as intangible assets like intellectual property rights, stocks, and bonds. Secondly, Land ownership specifically pertains to the legal right to possess, control, and utilize a piece of land. It grants the owner the exclusive rights to occupy, develop, and benefit from the land within the constraints of local laws and regulations. Land ownership can be held by individuals, corporations, governments, or other entities, and it often involves responsibilities such as paying property taxes and adhering to zoning ordinances. Also, land contains many natural resources ranging from water to many valuable minerals and so the ownership of land is defined in a country's law according to the need and necessity of the country's overall socio-economic situation. Therefore, the law of ownership varies from country to country. Because of this state, Joseph Comby argues in the "La Gestation de Propriety" that absolute ownership of land is a myth even in countries that invented the concept of the right of absolute ownership as they also cannot apply this concept to the ground (Agter and Michel, 202)¹. Land ownership contains some level of control over resources. This bundle of rights generally includes the right to use within the limit of law, the right to exclude other from its use, the right to hold and keep possession, the right not to be dispossessed by others except following law and the right to offer others to use it. In this way, one does not own land per se in reality but enjoy some rights to and over that piece of land

¹ Agter, H., & Michel, S. (2020). La Gestation de Propriety.

(Larson and Janelle, n.d.)². In the ancient Roman law, the individual ownership of land absolutely was recognized in the name of dominium and the transfer of land involves either by a ceremonial conveyance known as Mancipatio or by a form of lawsuit before the magistrate called In Jure Cessio (Powell et al., 2022)³. On the other hand, the Greek philosopher Plato argues that in an ideal state the land used by an individual is not his private property rather it is the common possession of the whole community (Plato, 2008)⁴.

5. The Evolution of Land Ownership in Bangladesh

The history of land ownership in ancient Bengal is complex and debated among scholars. Some argue that the king held absolute ownership, while others believe in the existence of communal ownership of land (Kumar, 1985). However, there is no consensus on the dominant form of land ownership during that period. Jurists offer three primary perspectives: some assert that the king had absolute ownership, others claim that village corporations owned the land, and a third group maintains that land belonged to the original cultivators (Islam, 2005).

During the Vedic period, the king was considered to have sovereign power over the land, and no alienation of land could occur without his consent (Choudhary, 1965). Community ownership coexisted with royal control during the later Vedic period, and many scholars believe this form of ownership was an Aryan institution common to both primitive German and Hindu societies (Hopkins, 1898). The Mauryan period also featured state ownership of land, with the king's authority remaining unchallenged even during the Buddhist period of peasant proprietorship in Bengal (Choudhary, 1965). Prominent figures like Kautilya, Medhatithi, and Hiuentang supported the concept of state or royal ownership of land (Choudhary, 1965). Therefore, state and sometimes communal ownership were the predominant views among jurists, lawgivers, and historians, with private ownership being less recognized.

Following the Hindu period, the Muslim rule began with the Sultans in 1206, lasting until the Mughal dynasty took over in 1526, continuing until the onset of British colonial rule. During the Sultanate period, land ownership was based on an agrarian system where the Sultan had sovereignty over all land (Abbas et al., 2016). The land was distributed for cultivation in exchange for a portion of the produce, and wastelands were allocated to nobles as jagir, ayma, or inam (Islam, 2018). Small pieces of land, or iqtas, were given to commanders to support themselves and their troops (Qureshi, 1944). Crown lands, known as Khalsa, generated revenue directly for the Sultan's treasury (Abbas et al., 2016).

The Mughals continued the agrarian system of their predecessors, fixing land revenue at one-third of the produce (Islam, 2018). They employed intermediary zamindars and other officials to collect revenues, maintaining their sovereignty over land (Hasan, 2005). The introduction of British colonial rule brought significant changes to land ownership practices. The British introduced the Permanent Settlement, granting private ownership of land to Indians for the first time during the colonial period (Merillat, 1970). This policy commercialized land, benefiting zamindars and bureaucrats while further impoverishing peasants (Islam, 2018). Both zamindari and ryotwari systems were used to collect revenue, rewarding intermediaries for their service to the British (Abbas et al., 2016).

The zamindari system was detrimental in many ways, prompting the British government to form the Floud Commission in 1940. The commission recommended abolishing the zamindari system and implementing state acquisition and tenancy reforms to make peasants directly responsible to the government. However, political instability delayed these changes. After the independence of India and Pakistan in 1947, the East Bengal State Acquisition and Tenancy Act, 1950, was enacted on May 16, 1951. This act abolished the intermediary zamindari system, making previous ryots the owners (maliks) of the land and directly responsible to the government. This marked the beginning of private land ownership for individual ryots in what is now Bangladesh.

² Larson, L., & Janelle, D. (n.d.). Land Tenure and Property Rights.

³ Powell, C., et al. (2022). The Law of Property.

⁴ Plato. (2008). The Republic. Oxford University Press

6. Constitutional Provisions on Land Ownership after 1971

Following its independence in 1971, Bangladesh adopted its Constitution on November 4, 1972, which became effective on December 16, 1972. The Constitution of the People's Republic of Bangladesh addresses the provisions of ownership, land rights of individuals, and the necessary state intervention in land use by private individuals.

Article 13 of the Constitution explicitly defines the principle of ownership, recognizing three forms: state ownership, cooperative ownership, and private ownership. This grants every citizen the right to acquire, hold, transfer, or otherwise dispose of land individually or jointly under cooperative ownership. However, this right comes with the responsibility to pay rent and necessary taxes, as the state provides protection and security. Consequently, the right to private and cooperative ownership is not absolute; it is constrained by other relevant laws (Islam, 2018).

Article 23 ensures the protection of cultural heritage and property rights of the indigenous communities. These provisions establish a framework for property rights, balancing individual ownership with state control and public interest considerations. They aim to protect citizens' rights to property while allowing for state intervention when necessary for social justice and economic development. Article 42 of the Constitution ensures the right to property for every individual. It stipulates that private property cannot be acquired or requisitioned without lawful authority. Citizens have the right to acquire, transfer, hold, or dispose of land, subject to lawful restrictions, including prohibition or extinction (Islam, 2012). Thus, the government can acquire privately owned land for public purposes under the power of eminent domain, as outlined in Article 42 (Islam, 2018).

The Constitution, under Article 143, lists the state's property. This includes all minerals and valuable resources beneath privately owned land and the ocean within Bangladesh's territorial waters and continental shelf. Additionally, any ownerless land within Bangladesh automatically vests in the government. Article 144 empowers the executive authority to manage land as per the Constitution.

In summary, while the Constitution of Bangladesh grants private ownership, it imposes necessary limitations to ensure that such ownership aligns with state laws and public interests.⁵⁶⁷⁸

7. Legal Framework Governing Inheritance in Bangladesh

Inheritance laws in Bangladesh are primarily governed by personal laws that vary based on the religion of the deceased. The key frameworks include of Muslim Law of Inheritance: Based on Sharia law, which divides the estate among heirs as per specified shares, with male heirs generally receiving double the share of female heirs. Hindu Law of Inheritance with Governed by the Hindu Succession Act, where inheritance rights and shares are prescribed based on religious texts and customary practices, also the Christian and Other Religions are governed by the Succession Act of 1925, which provides a uniform inheritance framework applicable to Christians and others not covered by specific religious laws.

8. Key Legislation and Challenges and Issues

The Muslim Personal Law (Shariat) Application Act, 1937: Outlines inheritance rules for Muslims. The Hindu Inheritance (Removal of Disabilities) Act, 1928: Addresses inheritance issues for Hindus. The Succession Act, 1925: Provides inheritance rules for Christians and others not governed by Muslim or Hindu laws. Women's inheritance rights are often limited under both Muslim and Hindu laws, leading to gender disparities. Multiple laws and personal customs can create legal complexities and disputes. Enforcing inheritance laws can be challenging due to social norms and lack of awareness.

⁵ Islam, M. (2018). Constitutional Provisions on Land Ownership in Bangladesh.

⁶ Bangladesh Land Holding (Limitation) Order, 1972.

⁷ State Acquisition and Tenancy Act, 1950.

⁸ Land Reforms Ordinance, 1984.

9. Statutory Provisions on Land Ownership in Bangladesh

In Bangladesh, the amount of land a citizen can own is regulated by various statutes. According to Section 90 of the State Acquisition and Tenancy Act, 1950, a landowner (malik) cannot hold more than 375 standard bighas of land. Any land exceeding this limit is vested in the government. However, exceptions exist for industries, cooperatives, and farming ventures, which can acquire land beyond this limit.

Further restrictions were introduced with the Bangladesh Land Holding (Limitation) Order, 1972, which set a maximum limit of 100 standard bighas for private land ownership. Similar exceptions as in the 1950 Act apply here, including for industries, cooperatives, and specific agricultural activities like tea, rubber, or coffee cultivation.

The Land Reforms Ordinance, 1984, further reduced the ceiling for agricultural land to 60 standard bighas per person. Therefore, under the current legal framework, a person can hold up to 100 standard bighas in total, combining both agricultural and non-agricultural land, with the agricultural portion not exceeding 60 standard bighas. Excess land beyond these limits is transferred to the government.

Landowners, known as rayats, have the right to use, occupy, and transfer their holdings as they see fit, as provided by Section 83 of the State Acquisition and Tenancy Act, 1950, and Article 42 of the Constitution of Bangladesh. Section 88 of the 1950 Act allows for the transfer of holdings, while Sections 116-134A permit amalgamation, consolidation, and subdivision of holdings to meet the needs of the rayat.

However, ownership can be lost under certain conditions. According to Section 84 of the 1950 Act, if a rayat dies intestate without heirs, the land reverts to the government. Similarly, Section 92 states that intestate death without heirs or surrender of agricultural land leads to extinguishment of ownership. Voluntary abandonment of agricultural land for three years (or five years if inherited) also results in loss of ownership, as stipulated in Sections 75A, 93, and 81A of the 1950 Act.

Sub-letting of holdings is prohibited and void, ensuring the land remains within the regulatory framework's intended use.

Eviction from homestead land, used for residential purposes, is generally protected under Section 6 of the Land Reforms Ordinance, 1984. However, the government can lawfully acquire such land for public purposes. Additionally, Section 7 of the 1984 Ordinance mandates the government to allocate khas land (state-owned) for homesteads, preferably to laborers and farmers, with a maximum of five kathas per person. These allocations are inheritable but non-transferable.

Benami transactions (holding land in another person's name) are prohibited under Section 5 of the 1984 Ordinance, ensuring transparency in land ownership.

The Acquisition and Requisition of Immovable Property Act, 2017, allows the government to acquire privately owned land for public interest or purposes, reinforcing the notion that absolute ownership includes government intervention rights. Owners must comply with legal obligations such as paying land taxes and adhering to other statutory duties.

Land ownership in Bangladesh is regulated to ensure fair distribution and prevent excessive accumulation by individuals. Statutory provisions impose ceilings on landholding, outline the rights and responsibilities of landowners, and provide mechanisms for government acquisition for public purposes. Understanding these regulations is crucial for navigating land ownership and ensuring compliance with the legal framework.⁹¹⁰¹¹

⁹ State Acquisition and Tenancy Act, 1950, Section 90.

¹⁰ Bangladesh Land Holding (Limitation) Order, 1972, Article 3 and Article 4.

¹¹ Land Reforms Ordinance, 1984, Section 4.

10. The Ways of Obtaining Land Ownership in Bangladesh

In Bangladesh, citizens can acquire land ownership through various lawful means. One of the most common methods is by purchasing land. According to Section 54 of the Transfer of Property Act, 1882, a sale involves the transfer of ownership in exchange for a present or future promised price. The purchase must be documented in writing and registered. Even the contract for the sale of land must be registered under the Registration Act, 1908, as per Section 54A of the Transfer of Property Act, 1882, and Section 17A of the Registration Act, 1908. The transfer of ownership is completed by placing the buyer in possession of the land.

Ownership can also be obtained through exchange, known as "eowaj." Section 118 of the Transfer of Property Act, 1882, defines an exchange as the transfer of ownership of one item for another. For instance, exchanging land for a car is considered an exchange. The legal provisions for exchanges are similar to those for sales.

Another way to acquire land is through a gift. Section 122 of the Transfer of Property Act, 1882, defines a gift as the transfer of movable or immovable property without consideration. If a person gives land to someone else without receiving anything in return, it is considered a gift. Under Muslim law, a similar concept called "heba" exists, which is equivalent to a gift of immovable property as specified in Section 123 of the Transfer of Property Act, 1882. The gift or heba of land must be documented in a registered instrument signed by the donor and attested by at least two witnesses. However, heba can only be used to transfer land to close relatives such as siblings, parents, children, spouse, grandparents, and grandchildren.

A will, or "wasiyah" in Islamic law, is another method of acquiring land ownership. According to Section 2(h) of the Succession Act, 1925, a will is a legal declaration by the testator regarding their property, intended to take effect after their death. Per Section 59 of the Succession Act, 1925, a will can be made by a person of sound mind who is not a minor. The will must be written, signed by the testator, and attested by at least two witnesses as per Section 63 of the Act of 1925.

Inheritance is a common way of acquiring land ownership in Bangladesh. The law of inheritance is governed by personal law, meaning a Muslim will follow Islamic inheritance laws, while a Hindu, Buddhist, Sikh, or Jaina will follow their respective religious instructions. The Succession Act, 1925, applies only to those who do not fall under these religious categories.

Adverse possession, also known as "squatter's right," is a doctrine of property law in common law jurisdictions, referred to as "acquisitive prescription" in civil law jurisdictions. Adverse possession allows an individual to acquire ownership of land through continuous, hostile, and exclusive possession of the property, with the true owner's knowledge, for a certain statutory period. In Bangladesh, this period is twelve years from the date of dispossession, according to Article 142 of the Limitation Act, 1908. For public roads or streets, the period extends to thirty years under Article 146A of the Act. The concept of adverse possession is controversial as it can incentivize wrongful occupation of land.

When somebody purchase land afterwards he is always in panic whether anyone shows land ownership documents. Government has no one stop document checking point. Before 1954 land has no identical dag no. They used to mention four sides owner names. Before 1947 Assam survey was stopped for legal challenge in High court. Now those property owner of four sides people's are suffering in litigation.

Posses more than 12 years made owner and verbal will with witnesses fight with fake documents. Moreover cheat shareholders is very usual.

11. Documents for Proof of Land Ownership in Bangladesh

To establish land ownership in Bangladesh, three key documents are required: the instrument or deed (dolil), the Record of Rights (ROR) or Khatian/Porcha, and the Mouja Map or Naksha.

1. Instrument or Deed (Dolil): This registered document confirms ownership of a piece of land. Types of dolils include purchase deeds (safkabala dolil), gift deeds (heba dolil), will deeds, partition deeds (bontonna dolil), exchange deeds (eowaj dolil), and contracts for sale (baynapotra dolil). While modern deeds are typewritten, older handwritten ones can be unclear and contain complex terms, making them difficult for the general public to understand.

2. Record of Rights (Khatian): This document determines the possession, identification, and land development tax. Types of survey khatians include CS, SA, RS, BS, and City Jarip. Each piece of land may have multiple khatians due to various surveys. Ambiguous foreign terms in these documents often confuse people.
3. Mouja Map or Naksha: This administrative unit outlines land boundaries, use, size, and amount. The name "mouja" itself can be confusing and could be renamed based on common area names. Land measurements in the mouja map use scales like Gunia, which are not commonly understood.

12. Registration Process

For land transfer, the deed or dolil must be registered at the sub-register office under the Ministry of Law, Justice, and Parliamentary Affairs. After registration, the sub-register office sends a Land Transfer (LT) notice to the Assistant Commissioner (Land) office for mutation purposes. The Directorate of Land Records and Surveys (DLRS) conducts surveys and prepares the khatian and mouja map. Despite being mandatory, the registration process is often cumbersome, prone to corruption, and can involve underpricing or overpricing of land to evade taxes or secure loans. Delayed registration of inherited land can result in disputes, as the land remains recorded under the deceased's name, leading to legal complications.

While Bangladesh provides multiple legal avenues to acquire land ownership, each method involves specific procedures and documentation. Ensuring proper registration and adherence to legal requirements is crucial for establishing and protecting land ownership. (Aziz, 2004)¹².

13. Recommendations

To improve land ownership processes and documentation in Bangladesh, it is essential to enhance the accuracy and reliability of land records by digitizing documents and maintaining a centralized database accessible to all stakeholders. Conducting awareness programs to educate citizens about the importance of proper documentation and the legal procedures for acquiring and transferring land ownership is also crucial. Simplifying and expediting the land registration process can reduce bureaucratic delays and make it more user-friendly for citizens.

Implementing transparent mechanisms for land transactions will help minimize disputes and corruption, ensuring all dealings are recorded and traceable. Regular updates to land records are necessary to reflect any changes in ownership, transfers, or legal statuses promptly. Reviewing and strengthening existing land laws and regulations can address gaps and ambiguities, making them more robust and comprehensive. Establishing efficient and accessible land dispute resolution mechanisms will handle conflicts promptly and fairly, reducing the burden on the judicial system. Lastly, providing regular training and capacity-building programs for land administration officials will enhance their skills and ensure the proper handling of land records and transactions.

14. Conclusion

In Bangladesh, land ownership can be acquired through various lawful means, such as purchase, inheritance, gifts, leases, exchanges, government settlements, partition, and wills. Establishing land ownership requires proper documentation, including instruments or deeds (dolil), the Record of Rights (ROR)/Khatian/Porcha, and the Mouja Map or Naksha. These documents are essential for verifying the legal status, ownership history, and precise boundaries of the land. Proper legal compliance and thorough documentation are crucial in ensuring clear and undisputed land ownership.

¹² Aziz, S. (2004). Challenges in Land Registration and Deed Forgery in Bangladesh.

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