

CASE STUDY

Bangladesh

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Advocacy for the implementation of the Vested Property Return Act

A successful advocacy campaign by ALRD and its allies achieved the repeal of the Vested Property Act - which had nefarious impacts on the land rights of Hindu minorities - and the implementation of the Vested Property Return Act. Launched despite the substantial political risks of confronting powerful interest groups, the movement rallied around the cause a diverse group of stakeholders: civil society organizations, political parties and their representatives, media, as well as Hindu communities. The government passed the Act and its amendments in 2001 and 2011, drastically improving the life of millions of Hindus in Bangladesh.

PRINCIPAL ORGANISATIONS INVOLVED

Association for Land Reform and Development (ALRD)

National Citizens Coordination Cell for Vested Property Return

Vested Property Return Act Resistance Movement

Bangladesh Legal Aid Services Trust (BLAST)

LOCATION

61 of the 64 districts of Bangladesh

TIMELINE

1995-2011

TARGET AUDIENCE

Policy makers, civil society organisations, local land governance structures

KEYWORDS

Land grabbing, minority rights, Hindu communities, campaigning

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GOOD PRACTICES

Towards making land governance more people-centred

This case study is part of the ILC's Database of Good Practices, an initiative that documents and systematises ILC members and partners' experience in promoting **people-centred land governance**, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information at www.landcoalition.org/what-we-do

This case study supports people-centred land governance as it contributes to:

- Commitment 1** Respect, protect and strengthen the land rights of women and men living in poverty
- Commitment 7** Ensure that processes of decision-making over land are inclusive
- Commitment 8** Ensure transparency and accountability
- Commitment 9** Prevent and remedy land grabbing

Case description

Background issues

In the aftermath of the India-Pakistan War in 1965, the Pakistani government promulgated the ordinance XXIII followed by the Defence of Pakistan Rules through the Executive Order II. These were subsequently made into a law, called the Enemy Property Act, adopted as a measure to confiscate land properties of individuals and households who earlier immigrated to India from Pakistan (and hence were considered enemies to Pakistan). However, in fact, this law served as an ominous instrument to blatantly usurp the properties of the country's Hindu minority. Following the independence of Bangladesh in 1971, the government repealed the ordinances but re-instated the law with a different name: Vested Property Act. Its enforcement continued against the Hindu minority and in almost all the cases served as an instrument to grab their land properties.

Bangladesh is resource poor and one of the most populous nations on earth. Consequently, pressures over land are enormous, particularly given the fact that a vast majority of the population continues to depend on agriculture for their livelihood. By one estimate (Barkat and Zaman 1996), this single law alone might have afflicted as many as 6 million people of the minority Hindu communities, resulting in confiscation of 2.6 million acres of land from 1965 to 2008. About 40% of the families became destitute, and many of them were forced to migrate to India. The law, thus, was used not only to dispossess the land properties of the Hindu minority, but also doomed hundreds of thousands of Hindu households to remain in poverty.

Solution

The Association for Land Reform and Development (ALRD) and its partners launched an advocacy campaign to repeal the Vested Property Act. Once this was achieved, the campaign ultimately resulted in the subsequent adoption of new laws and policy measures to remedy the past and continued injustices. Researching and presenting evidence played an integral part in ALRD's advocacy strategy. As a first step, in 1994 ALRD commissioned a study led by economist Dr. Abul Barkat to explore the overall prevailing situation of the Hindu minority and on the country's socio-political economy. Given that the issue was a 'taboo' subject, there were almost little or no objective data about it.

The team produced a ground-breaking study which was subsequently published as a book titled: "Impact of Vested Property Act on Rural Bangladesh: An Exploratory Study". The study (Barkat A. 1996) included some very stark, if not shocking facts: the law alone was responsible for the eviction of 6 million Hindu individuals from their ancestral land properties and it was a major cause for these people's emigration to India. The study provided the initial materials for an advocacy campaign demanding the Parliament to repeal the law. The campaign worked closely together with the media, other civil society organizations and the government, political parties and parliamentarians. The strategy aimed at mobilizing the public opinion in favour of repealing the Vested Property Act and putting pressure on the government officials to do so.

In 2001, the government revoked the Vested Property Act and passed a new law, the Vested Property Return Act. The law stipulated the conditions for the restitution of the confiscated properties to their original owners. However, the incumbent government lost the parliamentary elections that year and the new government did little to carry ahead the implementation of the new legislation. ALRD formed a coalition of civil society organizations, the National Citizens Coordination Cell for Vested Property Return, and the government finally passed the Vested Property Return (amendment) Act in 2011.

Activities

ALRD's activities cover a span of two decades, which may be sub-divided into the following phases:

1992 - 1996: Initial stage

Almost immediately after its founding, ALRD took up the campaign for the repeal of the Vested Property Act as a challenge. It was, however, a largely lone battle that hardly anyone in Bangladesh was willing to face. It was easy to draw strong discouragement, if not hostility from the government. In these circumstances, ALRD commissioned a study by a group of researchers to ascertain the prevailing situation. The law served as a pernicious instrument by callous politicians and land-grabbers to evict the Hindu minorities from their ancestral lands and perpetuate an environment of communal tensions in the country. Despite the very substantial political risks of confronting powerful interest groups, both within and outside the government, ALRD launched the advocacy battle.

1996 - 2001: Repeal of the original law

Advocacy efforts yielded its first success during this phase. In 1996, after a gap of 20 years, Awami League, the party which fought for the country's independence from Pakistan, won the parliamentary elections and formed the government.¹ Traditionally, this centre-left party is considered more liberal on the issues of social justice and the rights of minority communities. ALRD's persistent advocacy and lobbying saw the scrapping of the law and the enactment of a new law, the Vested Property (Return) Act in 2001. ALRD undertook steps to commission two complementary studies by the same team of researchers to delve more in-depth into the issue of the VPA. The studies were published in a book the following year (Barkat, Sharif and Akbar Hossain, 1997).

2001 - 2008: A lost opportunity and continued activism

The new law contained several serious loopholes. But far significantly, the political events took a more unpredictable turn with the 2001 national elections, in which Awami League lost. While the new government opted to do little for the implementation of the Vested Property Act, ALRD continued with advocacy and lobbying. Media symposiums and civil society dialogues were organised with the purpose of pushing for the amendment of the newly adopted law.

2009 - Present: New hopes and renewed activism

With the return of democracy in 2009, ALRD facilitated seminars and workshops at national and local levels. These included a series of conferences and dialogues with the attendance of high level ministers and parliamentarians. It mobilized both print and online media, and engaged civil society members to raise public awareness on the issues linked with the Vested Property (Return) Act. Finally, the new government passed the Vested Property Return (Amendment) Act in 2011.

As per the stipulations of the new law, Tribunals and District Committees were formed in 61 districts and about half a million applications seeking legal redress were submitted by the victims. These piles of applications stretched the tribunals to their limit. A Vested Property Return Act Implementation Monitoring Cell supported and facilitated the process, with a round-the-clock hotline to its secretariat, within ALRD's premises. The victims could call to seek legal counselling, as well as to offer their support and advice.

Afterwards, the government issued additional administrative rules to clarify the implementation of the new law and from 2011 to 2013 it passed four amendments, the last being the Vested Property Return Bill (Second amendment), which annulled the Schedule-B of the Act and paved the way for regaining the access to about half a million acres of land. This latest amendment literally wiped out a quarter of a million cases from the legal register, significantly reducing the judiciary burden.

¹ Founded in 1949 in Dhaka, the capital of the Pakistani province of East Bengal, the Bangladesh Awami League (BAL) is one of the two major political parties of Bangladesh. It is the country's current governing party, after winning a majority in the 2014 parliamentary elections <https://www.albd.org>

Importance of the case for people-centred land governance

This is a landmark case for people-centred land governance in Bangladesh. The enactment of the new law finally broke a taboo that had such a negative impact on the nation's Hindu minority – on their rights, livelihood, identity and security. This is important given that land is scarce and an overwhelming majority of the Hindu population in Bangladesh continues to depend on it for their livelihood. Further, the debates around the repealing of the law also contributed to generate greater consciousness among the public about the need for a culture of tolerance and awareness of minority rights, which ultimately leads to the strengthening of democracy in the country.

Changes

Baseline

At the time of the partition of the sub-continent between India and Pakistan, Hindus were about 33% of the population of Bangladesh (then East Pakistan). The figure came down subsequently in mid-1990s to 10%. At present, it is around 8% (Census report, 2011).

According to an estimate drawn from the study of Dr. Barkat and his team, 40% of the Hindu families in the country have been affected by the Vested Property Act since it was first decreed in 1965. This percentage translates into a staggering figure of 5.3 million Hindus, the equivalent of 1 million households that were affected with 1.64 million of land confiscated by the State.

In a sequel to the original study (Barkat and Zaman 1996), Dr. Barkat further related the continued communal tensions to the existence of the Vested Property Act, which served as an enticing tool by the powerful majority to grab the land of the Hindus, a minority often experiencing a condition of vulnerability.

Achievements

This is a case of remedial justice to the millions of victims whose properties - which were supporting their livelihoods - were confiscated by a collusion of the state's legal and administrative apparatuses.

Following the adoption of the revised VPA Act in 2011, the government promulgated four separate administrative rules. Consequently, two schedules of property "Ka" and "Kha" were prepared and Tribunals were established across 61 districts in Bangladesh. A separate government rule repealed all cases against lands under the 'Kha' category in 2012. With this rule, about 2.5 million cases were disposed with the immediate effect of the release of 0,45 million acres from the vested property list, which means that these lands were returned to their legitimate owners.

"It is just unbelievable, when I first heard that our land went into the vested property list, when I saw it in the gazette, I felt like the most helpless person. At that moment, I can only assume how much I must pay for it and how many hardships are waiting for me. When I first entered the court process, I was just horrified inside, I only pray for the deadly apprehension and sufferings to last the least possible. I will be always grateful to ALRD for repealing the cursed 'Kha' vested property schedule." -
Mr. Shyamal Kumar Sarkar

The various publications commissioned by ALRD as part of their campaign have contributed to the creation of a body of knowledge on the issues of land governance, minority rights and tenure security for the poor over land and natural resources. It can be argued that the general debates stimulated by ALRD's advocacy work among the general public (through widespread media reports and public discussions) contributed to strengthening a culture of democracy in Bangladesh, by promoting the rights of minorities, a culture of tolerance and pro-poor land governance values.

Evidence

The greatest evidence of ALRD's advocacy success are the laws, rules and their subsequent amendments adopted by the parliament of Bangladesh over the course of two decades. Additionally, the activities and networking efforts have contributed substantially to building a momentum for civil society activism in Bangladesh, which are well-documented through various reports and publications.

Ethirajan A. (2011) *Bangladesh approves Hindu property restoration act*, BBC News, 28 November <http://www.bbc.com/news/world-asia-15928541>

Chowdhury K. (2013) *JS passes Vested Property Act Amendment Bill*, Dhaka Tribune, October 9 <http://archive.dhakatribune.com/law-amp-rights/2013/oct/09/js-passes-vested-property-act-amendment-bill>

Lessons learned

Lessons for civil society

Advocacy efforts confront complex political realities and inherently entail serious risks. It is important to have clear objectives with an appropriate strategy from the very beginning, and to gain allies.

Sound research-based evidence and data are of paramount importance, particularly when dealing with politically sensitive issues such as land rights. Solid data were essential to build a case that could respond to serious challenges from different sides.

Finally, a very effective strategy for information dissemination is vital. Given the sensitivity of the issues and sometimes the lack of precise evidence, disinformation can spread very quickly.

Lessons for policy makers

Policy makers should acknowledge the fairness and urgency of land rights issues. Government and policy makers tend to hedge risks in order to avoid unnecessary controversy. A key lesson for them to take from ALRD's experience is to make alliances with the civil society organizations, based on the importance of the case and the determination of the civil society to bring about the intended changes.

Challenges

The plight of the Hindus is still very sensitive. The public sector in Bangladesh remains mired in corruption and Land is one of the departments in the government that seems most challenging to interact with. This make it even easier for land-grabbers, who are often associated with political interests.

At the beginning, not many were willing to join ALRD's efforts, given the political sensitivity and the inherent risks. The public was largely unaware of the pernicious impacts of the Act on a large section of its society and ALRD had to assume the responsibility of raising public awareness. The campaign had to be persistent and to continuously persuade potential allies and partners to join in the initiative.

Follow-up

Although the process of returning previously confiscated land has started across 61 districts of Bangladesh, most of the victims are yet to get their land back. The overall process is bound to face judicial delay, bureaucratic standstills and political interference. ALRD is working closely with the government to facilitate the process and, at the same time, remains in close contact with the victims and its allies. The advocacy strategy has already been redesigned, including new monitoring mechanisms and tools, and will continue to work closely with relevant stakeholders.

Supporting material

References and further reading

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Barkat A. (1996) *Impact of Vested Property Act on Rural Bangladesh: An Exploratory Study*, Dhaka: University Research Corp., ALRD.

Roy D. (2007) *Vested Property Act: A story of deprivation and exploitation*, The Daily Star, April 21 <http://archive.thedailystar.net/law/2007/04/03/rights.htm>

Photos, videos

Vested Property Return Act Coordination Cell Website <http://orpitosampotti.org/>

Vested Property Round Table, 14 June 2013, by ALRD Boshakhi TV English News
<https://youtu.be/CGYOE-fuhj4>

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