

*A Study
on*

**Improving Property Registration Process and
IFC Ranking of Bangladesh**

Conducted by



International Business Forum of Bangladesh (IBFB)

May, 2010

Table of Contents

Acknowledgement	2
List of Abbreviation	3
Executive Summary	4
1. Introduction	5
2. Objectives	5
3. Methodology	5
4. IFC Doing Business Report and Bangladesh Ranking	6
5. Bangladesh Ranking in the IFC Doing Business Report 2010	7
6. The significance of Property Registration	8
7. Global Instances for Good Reforms and Practices	8
8. Procedures for Registering Property in Bangladesh	9
9. An overview on land administration in Bangladesh	10
10. Roles of the Cadastral Survey in the Registration Process	12
11. Anatomy of Complexity in the Property Registration Process	12
I) Deeds Registration and Land Record Inter-linkage & Dependency	12
II) Registration and Regulatory bondage of Procedural steps	13
III) AC-Lands' Functional Diversity and temporariness of posting	14
IV) Regulatory Lacunae and lack of pro-people services delivery	14
V) Preponderance of Regulations and Policy Shifts over ages	16
12. Feedback from meetings with Stakeholders and Journalists	16
13. Substratum for Recommendations	17
14. Recommendations	18
15. Conclusion	19
16. References	20
Annex – 01: Registering Property: A Summary based on IFC Doing Business Report 2010	
Annex – 02: Land Policy and Administration timeline	

Acknowledgement

The International Business Forum of Bangladesh (IBFB) acknowledges with thanks the support of USAID-PROGATI (The United States Agency for International Development- Promoting Governance, Accountability, Transparency and Integrity) to pursue the study in partial fulfillment of the on-going research agenda under the project **Mobilizing the Private Sector to Encourage and Support Anti-Corruption Reform, Phase 2.**

IBFB also thanks the honorable Members of the Parliament and members from the civil society and from the media who contributed their thoughts, ideas and views in various stages of this study.

Sincere thanks are due to the senior officials of the Directorate of Registration and the Directorate of Land Records & Survey, Bangladesh for their views exchanged with the IBFB research and advocacy team and clarifying some relevant complexities in the registration process and land administration systems. Sincere thanks are also due to the IFC-BICF officials who provided valuable suggestions to the IBFB research wing for this study.

List of Abbreviation

AC-Lands	Assistant Commissioner (Land)
ARIP	Acquisition and Requisition of Immovable Property Ordinance
ASO	Assistant Settlement Officer
BICF	Bangladesh Investment Climate Fund
CS	Cadastral Survey
DC	Deputy Commissioner
DCL	Additional Deputy Commissioner (Land)
DLRS	Directorate of Land Records and Surveys
DOR	Directorate of Registration
DR	District Registrar
FGD	Focus Group Discussion
GOB	Government of Bangladesh
ICT	Information/Communications Technology
IBFB	International Business Forum of Bangladesh
IGR	Inspector General of Registration
LAB	Land Appeal Board
LMI	Land Market Intermediary
LRB	Land Reforms Board
LRS	Land Records System
MHPW	Ministry of Housing and Public Works
MOJ	Ministry of Law, Justice and Parliamentary Affairs
MOL	Ministry of Land
OCR	Optical Character Recognition Technology
PPP	Public Private Partnerships
RA	Registration Act of 1908
RAA	Registration Act Amendments of 2004
RAJUK	Rajdhani Unnayaan Kartipakkha (Dhaka Municipal Development)
ROR	Record of Rights
RRC	Regulatory Reform Commission
RS	Revision Survey
SATA	State Acquisition and Tenancy Act of 1950
SR	Sub-registrar
SRO	Sub-registry Office
TPA	Transfer of Property Act of 1882

Executive Summary

The International Finance Corporation (IFC) Doing Business report is recognized as one of the most exciting developments for business environment reforms in recent times. The Doing Business Indicators (DBIs) provide clear and quantifiable measures of the strength and weakness in business regulations and thus allow reformers to focus their efforts on identifiable problems. DBIs pinpoint areas in which costs, risks, or both are out of track. The Government may then take up the necessary reforms to reduce the dangers in the business environment and facilitate economic development by fixing the problems which eventually fix the indicators.

The IFC Doing Business Report 2010 reveals, among others, the consistent decline of the overall ranking for Bangladesh. In spite of her recognition as one of the most active reformers in the South Asia region, Bangladesh's overall ranking stands at 119 in 2010. The status of registering property in Bangladesh, as per IFC report is disappointing in terms of component indicators viz, Procedure, Time and Cost. Across the economies in the South Asia region, the number of procedures to be completed for registering a property varies from 2 to 8, the time varies from 2 to 245 days, and costs from 0.1 to 10.2 % of property value. Bangladesh has unfortunately attained maximum limits in all the cases indicating strong needs for drastic reforms to promote a business friendly environment.

According to authoritative sources, there are about 80 million land parcels in Bangladesh of which about 3% (2.1 million) are transacted annually. In 2007, Dhaka alone had about 690795 transactions which accounted for about 67% of all Govt. fees and taxes for the whole of the country.

The IFC's 2010 Doing Business survey has ranked the Property Registration function in Bangladesh 176 out of 183 economies and estimated that it takes 245 days to register a property and cost 10.2% of the property value. In the study efforts have been made to isolate factors and impediments that are responsible for the overall property registration complexities and recommendations have been made accordingly.

Introduction

A simple Property Registration process is a significant tool for enhancing economic growth. Making it easier to transfer property is good for entrepreneurs as land and buildings account for half to three-quarters of the wealth in most economies. With formal property titles, businessmen can obtain mortgages on their land or house and start businesses. Because of the immovable nature of property, banks prefer land and buildings as collateral. A large share of the property in developing countries including Bangladesh is not formally registered and this remains as “Dead Capital”. Unregistered property limits financing opportunities for new businesses and expansion opportunities for the existing ones. As per IFC report, about 35% of firms in Bangladesh cite access to land as their main obstacle.

Many developed countries and those on their way towards development, have simple, inexpensive and fast property registration processes. The benefit is derived from the fact that low Property Registration fees encourage every property holder to receive a formal title. The poor will especially benefit, because they can use their property as collateral, start doing a business and fulfill some of their dreams.

In spite of its multiple contributions to the development of a congenial business environment, the issue of Registering Property in Bangladesh has remained a long drawn problem badly affecting the national economy. The IFC Doing Business reports reveal a very dismal picture that needs priority attention. The present study has been undertaken in partial fulfillment of IBFB 2010- research agenda that are being pursued with support from USAID-PROGATI (Promoting Governance Accountability, Transparency and Integrity).

Objectives

The major objectives of the study are-

- a) Analyzing the overall status of IFC Doing Business ranking for Bangladesh with particular focus on Registering Property.
- b) Making in-depth analyses of the prevailing impediments and constraints responsible for poor IFC ranking of Bangladesh in Registering Property.
- c) Recommending necessary policy reforms for improving the overall property registration process as a prerequisite to improved business environment and better IFC ranking for Bangladesh.

Methodology

- The study, initiated as an in-house research, is based on desk research, empirical research and interactive inputs from a diverse group of stakeholders.
- Materials from desk research were drawn from various sources, viz; IFC Doing Business reports, IFC-BICF project reports and assorted articles/reports on the issues of Property Registration and Land Administration in Bangladesh.

- Efforts for empirical research were mostly confined in case studies from other published sources as reflected in the reference citation.
- Facts finding interviews and interactive discussions were held with senior officials in the Directorate of Registration and in the Directorate of Land Records and Survey, Bangladesh.
- Inputs from a wide range of stakeholders were considered in understanding the complexity of the issue under study.
- All collected information and relevant secondary data were reviewed to identify major problems and recommendations have been made to rectify them.

IFC Doing Business Report and Bangladesh Ranking

The International Finance Corporation (IFC) has 183 member countries, which collectively determine its policies and approve investments. The vision of IFC is that people should have the opportunity to escape poverty and improve their lives. Their values are excellence, commitment, integrity, and teamwork. IFC's Purpose is to create opportunity for people to escape poverty and improve their lives by (a) Promoting open and competitive markets in developing countries (b) Supporting companies and other private sector partners where there is a gap (c) Helping generate productive jobs and deliver essential services to the underserved, and (d) Catalyzing and mobilizing other sources of finance for private enterprise development.

The Bangladesh Investment Climate Fund (BICF), a technical assistance program of IFC, aims at promoting better operating environment for businesses. Its objectives are consistent with the Bangladesh government's strategic vision for private sector development within its poverty reduction strategy. Government agencies and IFC-BICF, in close collaboration with the Bangladeshi private sector and civil society, jointly design and implement programs to institute business friendly policies, laws and regulations, and strengthen the institutions that implement them.

The Doing Business Report presents quantitative indicators on business regulations and the protection of property rights that can be compared across 183 economies. It measures, in detail, various regulations that affect the 10 stages of the business life-cycle applicable to the respective domestic small and medium-size enterprises, as follow:

1. *Starting a business*
2. *Dealing with construction permits*
3. *Employing workers*
4. ***Registering property***
5. *Getting credit*
6. *Protecting investors*
7. *Paying taxes*
8. *Trading across borders*
9. *Enforcing contracts*
10. *Closing a business*

Bangladesh Ranking in the IFC Doing Business Report 2010

With a moderate ranking (119 for 2010), Bangladesh is still considered as one of the most active reformers in the South Asia region. Her positive reforms in 3-4 indicators viz, Starting a Business (ranking 98), Paying Taxes (ranking 89), Protecting Investors (ranking 20), Trading Across Border (ranking 107) have been quite encouraging in recent years. But unfortunately, the overall ranking of the country has registered a gradual decline from 81 in 2006, 88 in 2007, 104 in 2008, 110 in 2009 to 119 in 2010. It is extremely frustrating that the rankings in terms of Registering Property and Enforcing Contracts are extremely low (176 and 180 respectively) in comparison to the same of the 183 economies. IBFB has therefore taken up Registering Property as a priority issue as it has direct bearing upon doing business.

A capsule view of Bangladesh ranking in different indicators as well as the declining trend of the overall ranking is given in the following figures (Figure 1 and Figure 2).

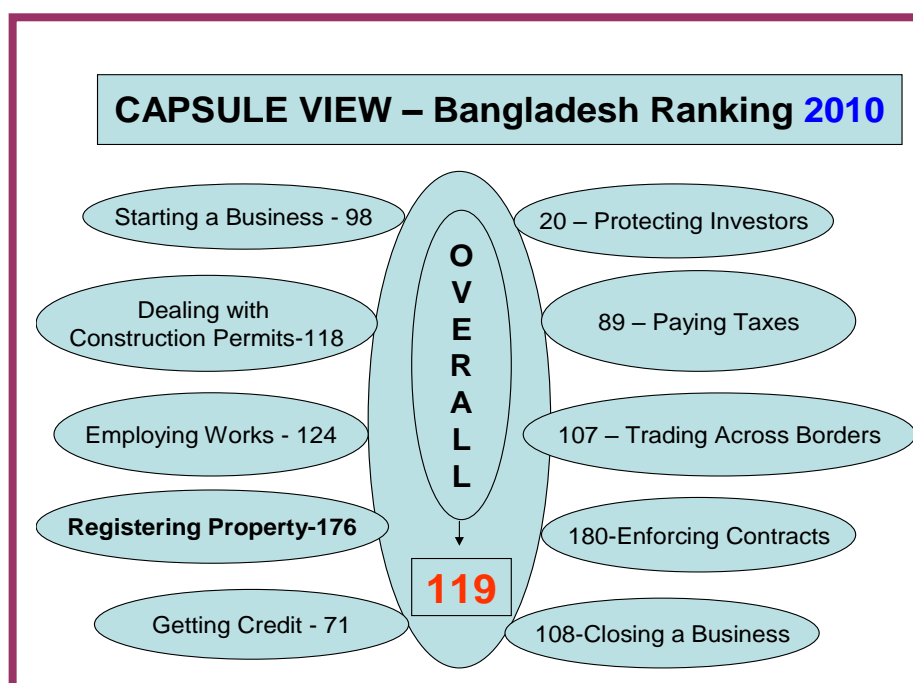


Figure 1: A Capsule View of Bangladesh Ranking 2010

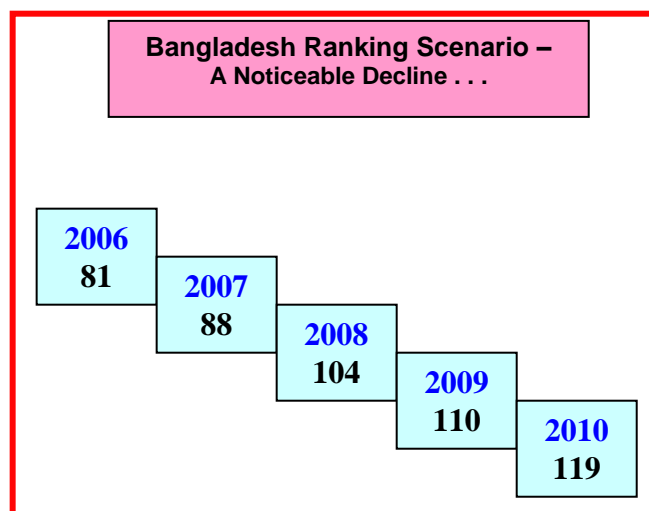


Figure 2: Declining trend of Bangladesh Ranking

The Significance of Property Registration in Economic Development

The Business Community of any country turns the wheels that run the economy. To conduct business, property is essential for businesspeople as they are the foundations for developing a business. Land is essential to conduct any type of business, especially when developing factories and Industry. Therefore, it is essential to register land in the name of the true owners which in turn ensures true ownership. At the same time, this land is often used as collateral for obtaining bank loans for further developing business, and in this case, documents pertaining to ownership acts as proof of who actually owns the land. Therefore, there is a relation between Registering Property and the development of business and the economy of a country.

Many developed and developing countries have simple, inexpensive and fast property registration process. The benefit is derived from the fact that low property registration process encourages every property holder to receive a formal title. People who are financially constrained benefit the most because they can use their property as collateral, can venture as an entrepreneur or businessman and achieve long-cherished dream to employ others in addition to being self employed. Thus easing the property registration process acts as a tool for enhancing economic growth.

A registered property would allow businesses to have acceptable collateral that would diversify their financing sources without depending solely on their own capital. It is therefore imperative that positive reforms in the property registration process would enhance business growth and better investment climate.

In Bangladesh, there are several complexities related to registering property. According to the IFC Doing Business, there are 8 procedures involved, which require nearly 245 days and costs nearly 10 % of the property's value. Because of its multiple dimensions to businesses, IBFB has chosen the Property Registration as a priority issue.

Global Instances for Good Reforms and Practices in Registering Property

There are several examples of countries that have eased the procedures for registering property. Rwanda, a developing nation, has been able to improve its ranking for Registering Property from 59 to 21 within a period of one year. This was possible through reducing the time required to register property after it has been transferred and by simplifying their age old procedures. Both Iran and Jamaica have abolished taxes and fees on transferring property while Columbia, Panama and Guatemala have started online services along with eliminating fees related to accepting certificates. Algeria has, along with relaxing the rules, reduced Notary fees and has completely abolished Capital Gain Taxes. Indonesia has created opportunities for registration as per demand-based time. Hong Kong has made all forms of Stamp Duties available online. Russia has now started a new procedure involving the use of Cadastral Passports as a new form of documentation in lieu of inventory documents and cadastral maps.

Thailand's land reform programme has issued more than 8.5 million property titles and created one of the most efficient registration systems in the world. For people who received formal titles, land values and investment almost doubled, and access to credit increased three fold. The most note-worthy progress has taken place in Ghana. A ministerial directive cut the requirement to register deeds of sale with the land commission. Before, entrepreneurs would have to wait 135 days for the commission to issue a registration number. And then they would have to register yet again with the land title registry.

With the stroke of a pen, the bottleneck was gone. Bangladesh can definitely follow good practices and carry out necessary reforms for attaining similar improvements in business environment.

Procedures for Registering Property in Bangladesh

The following are the Procedures, Time and Costs involved in registering property in Bangladesh:

No.	Procedure	Time (in days)	Costs (in Takas)
1	Verify the record of rights from the Land Office (also known as Land Revenue Office)	15 - 60	2,000
2	Conduct RS Mutation on property	60	6,000
3	Obtain inspection for RS Mutation	60	
4	Obtain the non-encumbrance certificate from the relevant Sub-registry office	2-3	500-700
5	Prepare deed of transfer and pay stamp duty	1	5% of the Property
6	Pay capital gains tax, registration fee, VAT and other taxes at a designated bank	1	Local Government Tax (2% of the total value of the property) and Registration Fee (2.5% of the total value of the property)
7	Apply for registration at the relevant Sub-registry	180	
8	Register the change in ownership at the Land Revenue Office	45-60	5,000

In reality, from our socio-economic perspective, these procedures become even more complex. Every citizen of a country has the right to information and services, but in reality, often this is not the case. More often, these services are viewed as favours, and to obtain them, it is often necessary to give a bribe. Because of the prevalence of rules from the Colonial era, reforms have not been possible regarding the registration of Property and Wealth. Yet, many countries have experienced remarkable success by implementing the proper reforms in this regard.

A summary on Registering Property based on IFC Doing Business Report 2010 is provided at Annex 01.

An overview on land administration in Bangladesh

In the process of property registration, the existing land administration plays a vital role. Land administration in Bangladesh has a long history that dates back to systems developed by the rulers of ancient India, and still carries the heavy imprint of the elaborate system of land surveys and registration for revenue collection purposes introduced by the British. The present day administration of land in Bangladesh splits into four different functions, divided between two Ministries.

- **The Directorate of Land Records and Surveys (DLRS)** in the Ministry of Land (MOL) conducts cadastral surveys, from which it produces *mouza* (revenue village) maps showing individual plots of land and *khatian* (individual land record certificates).
- **The Land Reform Board (LRB)**, in the MOL, has a number of functions that it discharges through *Upazilla* Land Offices and Union *Tehsil* offices. It administers *khas* (public) land, and manages abandoned and vested property. It updates maps and land records between surveys, and sets and collects the Land Development Tax (LDT). It is also formally responsible for the implementation of land reform legislation and the implementation of tenant's rights.
- **The Land Appeals Board** (in the MOL), is the highest revenue court in the land, serving as the final arbiter in matters of *khas* land, changes in records, plot demarcation and taxation which cannot be resolved at lower levels. As such, it represents the final link in a chain running upwards from the Assistant Commissioner (Land) and the Nirbahi Officer at the *Upazilla*, through the Additional Deputy Collector (Revenue) and the Deputy Revenue Collector at the District.

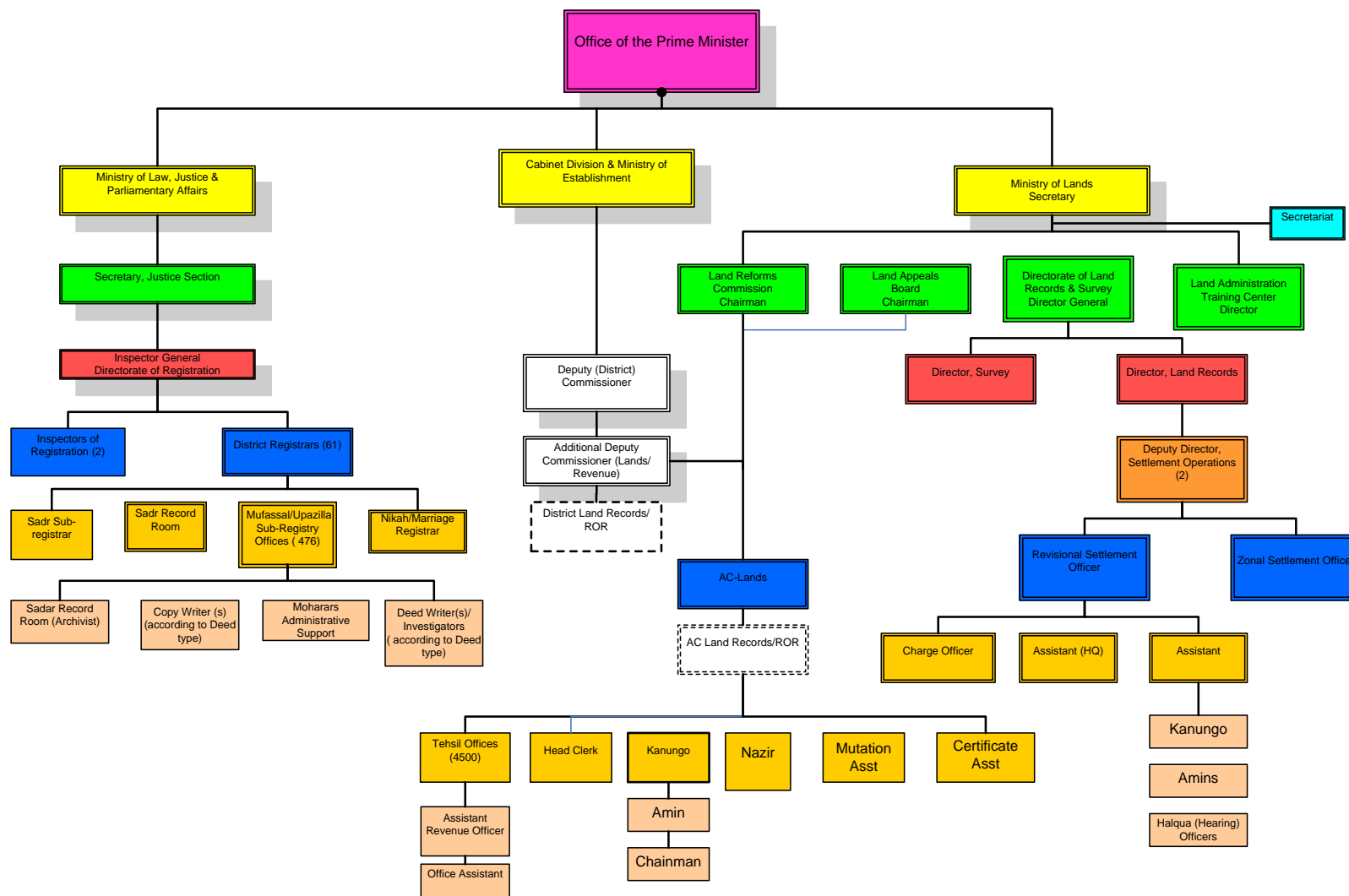
Within the MOL the key group is the DLRS, with its 16-18 (more or less) zonal and revisional settlement offices spread throughout Bangladesh, and the Assistant Commissioners-Lands (AC-lands) with 466 offices among the 61 districts maintaining the "land records system" (LRS).

The DLRS is responsible for creating the base cadastral maps, which it does by systematic survey of large areas on a continuous, rolling basis throughout the country, a process referred to as "land settlement" and "revision settlement." These are essentially the same process, but the term "settlement" is used to refer to the initial cadastral survey of an area and revision settlement to any subsequent systematic updating of same. The DLRS does not undertake sporadic modifications to the cadastral map, a job left to the AC-Lands and their subordinate Assistant Lands Officers (formerly known as Tehsil officers or Tehsildars) in Tehsil level offices.

Between revision settlements of an area the AC-Lands maintain the Record of Rights (ROR), which consists of the Khatian, or a narrative title history, of each legal property, and the mouza map, a cadastral map for an area slightly larger than a village produced by the settlement process. The ROR is maintained through the process of "mutation" of properties and rights established under the State Acquisition and Tenancy Act of 1950. The AC-Lands reports to the LRB for policy purposes, but are subject administratively to the Prime Minister's Cabinet Division and are part of the district government structure, reporting to the District Commissioner through the Additional Commissioner-Revenues. Subordinate to the AC-Lands offices are approximately 4,500 Assistant Land Officers in Tehsil level offices which are the local interface of the land bureaucracy for purposes of intake of applications for mutation of property rights, collection of land rents and charges, vetting of mutations, and maintenance of local ROR records. The AC-Lands structure is established under the Transfer of Property Law of 1882, and the State Acquisition and Tenancy Act 1950, as amended.

The functional linkages between the operating organizations under different ministries are given in the following figure.

ORGANIZATION OF PRIMARY LAND ADMINISTRATION ACTIVITIES IN BANGLADESH



Source: Final reports – Diagnostic and Design for the Simplification of Land Administration in Bangladesh, an IFC/BICF Project, UNICONSULT LTD, March 2009

Roles of the Cadastral Survey in the Registration Process

International best practice recognizes that transaction documents submitted to registration systems must contain a clear description of the real property that is the subject of the transaction. It is often stated that a system for registering real property rights has two parts: (1) a textual record of property rights, encumbrances, and owners of the rights, and (2) the property description, typically being a graphic cadastre map or plan showing the real property object, its boundaries and relationship to adjoining objects. In modern systems that description is map based. Such maps define the location, the size and shape of the real property parcels and appurtenant objects relative to other plots and roads. Such maps are called cadastral maps and in Bangladesh they are produced by DLRS (MOL) and in theory should be up-dated as they are subdivided, changed or consolidated by owners with the help of the AC-Lands offices. They are called *mouza* maps, referring to a territorial unit just larger than today's average village size (the old revenue village under early colonial law). Potentially each plot on such a map can be uniquely defined using the plot number and map number or other system resulting in a unique identification of the real estate object, in which case the unique numbers of the plot and plan can be used to describe the property on the instrument of sale. The Registration (Amendment) Act 2004 states in Section 7 (e) that there should be “a map of the property together with the axes and boundaries.”

At the present time *mouza* maps are not continuously maintained to reflect the changing situation on the ground as land parcels are subdivided and merged. After the DLRS does the RS settlement survey and associated rights determination, subsequent subdivision and consolidation of plots are not surveyed and the *mouza* map is not up-dated. The reasons for this lack of maintenance appear to be unclear responsibilities, lack of resources to undertake the work, lack of digital maps, and lack of skills. Accordingly, documents are typically accompanied by crude sketches drawn by the Assistant Land Officer by hand. The quality of the sketches drawn onto the deed document is often very poor and unsuitable for the purpose.

□ The Department of Land Registration in the Ministry of Law, Justice and Parliamentary Affairs (MOJ) records land mutations arising through sale, inheritance or other forms of transfer and reports changes to the Ministry of Land, and collects the Immovable Property Transfer Tax. Other agencies playing a more minor part in the administration of land include the Ministry of Forests, the Fisheries Department, the Directorate of Housing and Settlement, and the Department of Roads and Railways.

Anatomy of Complexity in the Property Registration Processes

I. Deeds Registration and Land Record Inter-linkage & Dependency *

There are several linkages between the Deeds Registration and Land Records systems:

- The Registration Act of 1908 as amended (2004), section 7 require that before accepting an instrument of sale in the SRO, the seller must present his current Khatian showing the seller or his immediate predecessors (i.e., the sellers mother or father) as the land owner; if not received then the Sub-registrar cannot accept the documents. Thus, as a result of the 2004-amendments, the two systems appear to be firmly linked in terms of ownership. If the names of the owners differ between the two systems, searches are made in both to find out why.
- It is required by law that there be attached to a document of transfer a sketch of the property in question showing the "axes and boundaries," which is typically taken from an early settlement or revision settlement survey; expressed in another way – the definition of the parcels or plots in the SRO is de facto dependent on the definitions of the land parcels/plots as used by the AC-Lands and

the land records system (as defined by the DLRS). Best international practice is that an efficient registration system would have the maps of the parcels, updated periodically, conveniently available in the Registrar's records room, but this is certainly not the case in Bangladesh today. If available - that is, they have been printed and not sold out - copies of Khatians and maps may be obtained from several locations today, including the offices of the District Commissioner, the AC-Lands, and the DLRS settlement offices.

- The law requires that after the transaction has been accepted by the SRO for registration, the SRO is to send a **Land Transfer Notice** to the AC-Lands in the area of the location of the property advising that a change of ownership has taken place. But it is often alleged that the AC-Lands offices try to establish that the notice is not received or, if received, an inadequate basis on which to proceed with a mutation of the land records.

II. Registration and Regulatory bondage of Procedural steps

The main works of the Registration System include:

- Registration of real property rights and transactions.
- The SRO registers all documents which create or modify real property rights, including deeds and contracts of sale, mortgages, leases, wills, partition agreements on inheritance, property trusts (waqf) and gifts, and powers of attorney affecting them.

A following is a summary of protocols pertaining to Registration of Purchase and Sale Agreement at SROs:

Major Protocols in a typical Registration case	Legal Bases of Action
1. Buyer & Seller Reach Agreement	1. Transfer of Property Act. Sec. 53
2. Buyer Confirms Seller's Title and obtain copy of seller's Khatian	2. Registration Act Sec. 52A, 57
3. Buyer pays all taxes due	3. * Local Govt. Tax (2% of value) * VAT (1.5% Value)
4. Buyer supplies documents to Deed Writer and pays Stamp Duty	4. * Stamp Act of 1899, sec. 3 * Stamp Duties (Additional Modes of Payment) Act 1974, Sec. 2
5. Deed Writer prepares documentation	5. Registration Act 1908 sec. 52A
6. Parties attend Sub-Registry Office	6. Registration Act 1908 Amend sec 17, 28, 32, 58
7. Sub-registrar accepts documents and prepares receipts and document registration number	7. Registration Act sec. 52, 59
8. Sub-registrar takes oaths of parties	8. Registration Act, sec. 34
9. Document number entered into Fee Book	9. Registration Act, sec. 52, 54, 55, 60
10. Seller's Thumb Print taken	10. Registration Act, sec. 22A
11. Thumb Print Indexed	11. Registration Act, sec. 22A
12. Seller receives receipts and document registration number	12. Registration Act, sec. 52, 60
13. Sub-registry indexes and issues Certified Copy of Deed	13. Registration Act, sec. 52, 60
14. Buyer Picks up Certified copy of Deed of Transfer	14. Registration Act, sec. 60

15. Sub-registry issues Land Transfer Notice to AC-Land	15.
16. Buyer attends AC-lands to request Mutation	16. * State Acquisition and Tenancy Act sec.53c * Transfer of Property Act
17. Deed entered into Balam Book and Indexed	17. Registration Act, sec. 55, 61
18. Sub-registry notifies Buyer of availability of Original Deed.	18. Registration Act, sec. 61
19. Buyer attends Sub-Registry to obtain Original Deed	19. Registration Act, sec. 61

III. AC-Lands' Functional Diversity and temporariness of posting

The AC-Lands have many duties, not all of which are land related, including: (a) Mutation approval (sales and inheritance), (b) Administration of un-occupied state lands, (c) Administration of the land development tax (d) Administration of 8-12 Tehsil level offices staffed by Assistant Land Officers. The Tehsil level lands office which is managed by an Assistant Lands Officer (formerly the Tehsildar), of which there are approximately 4,500, and typically supported by one assistant, is under the control of the AC-Lands and has the following duties:

- Collection of the land development tax
- Updating the Record of Rights on approval of AC-Lands by recordation of mutations
- Land survey
- Supervision of Khas lands (lease terms)
- Supervision of abandoned lands
- Responding to inquiries about land ownership, mutation, litigation, and land survey

Management of land administration is affected by the traditional civil service "cadre" system under the supervision of the Bangladesh Public Service Commission (BPSC), a quasi judicial body established under Articles 137 to 140 of the Constitution to assure good governance. Under this system there are 29 different cadres or administrative units in the nature of professional associations having various degrees of prestige. Among the most prestigious of these is the administrative cadre, to which the Assistant Commissioners-Lands belong. As members of this cadre they enjoy significant opportunities for mobility and career advancement and consequently tend to spend only a short time in the lands positions. The office of the Directorate of Registration has no formal affiliation with the cadre system but has created its own professional association to provide career advancement opportunities to its professionals. There is no overlap between the AC-Lands cadre and the DOR professional association. In most of the situations, the posting of AC-lands is of temporary nature and the post is often meant for providing land related experience to young officials of BCS Administrative Cadre.

IV. Regulatory Lacunae and lack of pro-people services delivery

The perception of the overall registration process could possibly be improved by clarifying the relevant law in more transparent language than that currently exists; such as, (a) registration is deemed to take place when the deed has been accepted for registration and placed in queue, and

In recent years, the number of police station (PS) has been increased to tackle law and order situation in the Dhaka metropolitan areas. The number of recognized PS now exceeds 40. Comparatively, the real estate and flat owners have increased significantly across the metropolitan area but the service providing sub-registry offices has not increased proportionately.

Moreover, people from at least six distant areas including Uttara have to come to the Tejgaon registration complex for registration related works. The overall situation gives rise to public inconvenience and harassment often prone to exploitation by vested circle.

V. Preponderance of Regulations and Policy Shifts over ages

The way in which land is currently administered remains firmly rooted in practices established during the colonial era. The British, from the outset, gave high priority to the organisation of a centrally controlled management system that was designed to maintain political control and secure a steady source of revenue. Relatively little has changed in the post-independence era. Attempts at redistributive reform through the establishment of land ceilings have been a feature of both the Pakistan and Bangladesh periods. But the age-old slogan to place land in the hands of the tiller and to return water bodies to those who fish them, have largely been circumvented by the wealthy and powerful. High population density and increasing fragmentation of holdings further added to complexities of land administration and records.

A summary picture on land policy and administration timeline is given at Annex-02

Feedback from meetings with Stakeholders and Journalists

To initiate the study, IBFB conducted a Stakeholders meeting on 7 April 2010, where there was a strong presence of participants from different fields. During this meeting several opinions were voiced by the participants as mentioned below:

- The opinions of the Registration office personnel needs to be considered
- More transparency and accountability must be ensured when relating to the Registration office, while there should be changes made to the recruitment process.
- Officials of the Registration Office need to receive further training, especially if digitization becomes a reality.
- Real Estate clients, particularly REHAB, should participate in finalizing recommendations and subsequent advocacy stages.

Further to this meeting, IBFB also held a Discussion Session with the Electronic and Print media on 26 April, 2010. With a very high turnout, the Discussion Session also yielded some very useful opinions. They are as follows:

- In Bangladesh, Land Administration is carried out by implementing obsolete laws from the Colonial era.
- Often, an individual falsely claims and shows someone else's land to be his/ her own and then sells it.
- Because of the complexities involving land, corruption severely prevails in this sector
- The Indigenous people suffer the most when it comes to complexities related to land as often their land is occupied by others and sold off.
- Land is the foundation for industries. So land should be allocated for Industrial zones. The Government needs to take steps to demarcate Industrial zones in the same plots.
- The rivers need to be protected from land grabbers, because they fill up the rivers and form land. Because of this, our environment is exposed to threats
- The service provided to the citizens in comparison to the fee hikes is not adequate. The government needs to ensure good service.
- The ordinary citizen suffers the most during registration. For this reason, the Government must take all necessary steps.
- The “*Khas*” land of the Government is being taken away by influential people in collaboration with the District Administration Officials. The Government must gain control over their *Khas* land

Substratum for Recommendations

The extensive desk-cum-empirical research opened up access to relevant information and data pertaining for prevalent problems of Registering Property which were shared with stakeholders and some relevant senior officials of the Directorate of Registration and Directorate of Land Records and Survey, Bangladesh. Based on acquired information and knowledge gained on the topic, the following Recommendations have been made:

Recommendations:

SL	Recommended Actions	Term
1	Introducing two sets of the Original Deed to ensure immediate issuance of Certified copy to the buyer.	Short term
2	Consolidation of Deeds Registration with Mutation under one umbrella, and their co-location in the same complex.	Short to mid term
3	Separate Registration and Mutation facilities for flat owners and real estate clients	Short term
4	Digitalization of Registration and Land Management System with capability of scanning and indexing of daily transactions.	Short term
5	Reduction of existing time and cost for issuance of Mutation Certificate.	Short term
6	Ensuring staff training and skill up-gradation programs in land functions	Short to Mid Term
7	Promoting Public-Private partnership for effective and dynamic Property Registration Process.	Short to mid term
8	Establishing a transparent perception on the completion of the Registration Process by partial amendment and/ or clarification of the relevant law.	Short term
9	Increasing the number of Registration offices for metropolitan areas and Divisional Cities based on the number of property owners.	Mid Term
10	Creation of a new Civil Service Cadre for Land Administration and Management	Mid to Long term

Conclusion

Possession of a property is of vital importance to any businessperson or entrepreneur. In a developing country like Bangladesh property, particularly land represents wealth, power, prestige and security in the society. Because of the unique contribution to business, property registration has been accepted as one of the 10 indicators in the business life-cycle as recognized by IFC Doing Business working group.

The significance and contribution of property registration to businesses have rightly been recognized in the IFC Doing Business reports. Based on this single criterion, the perception on Bangladesh's business climate has been pushed to a point ranked far below a satisfactory level. Although recognized as a strong reformer of South Asia region in at least 3-4 other indicators, Bangladesh has shown signs of declining ranking which is largely attributed to her poor Property Registration process.

With formal property titles, entrepreneurs can obtain mortgages on their land or buildings as collateral because they are impossible to move or hide. In most countries, businesses are secured by land. On the contrary, unregistered property limits financing opportunities for new businesses and expansion opportunities for existing ones. In many countries including Bangladesh, access to land has been found to be the main obstacle to business and investment ventures. Recognizing the significance of property registration in the business and economic development, some governments have already started extensive property titling programmes including steps for making transfers cheaper and faster in terms of procedures and costs.

In order to improve the overall Property Registration process (which will eventually promote more businesses and yield an improved IFC ranking), Bangladesh needs to make drastic reforms in this respect. A good number of short to mid/ long term recommendations have been made. Implementation of these recommendations will require major reforms which may not be liked by the vicious circle of interest groups enjoying the undue benefits of the existing norms and regulations at the cost of public inconveniences often leading to multifarious corruptions and exploitations.

The Constitution of the People's Republic of Bangladesh is the supreme guiding force for any reform in line with constitutional obligations of the government to its citizens. The Article 14 of the Constitution protects peasants, workers and backward sections of the people from all forms of exploitations. While Article 15 provides for basic necessities of life, employment and social security, Article 16 provides the Government's obligation to its citizens in respect of rural development, agricultural revolution and industrial growth. Since the present democratic Government is committed to the well being of the people, the suggested recommendations and reform propositions shall not only bring about congenial business environment but will foster private sector development and contribute to employment generation and poverty alleviation in Bangladesh.

References

1. *The Cost of Registering Property: Does legal Origin Matter?* by Mohammad Amin and Jamal Ibrahim Haider, The World Bank, October 2008
2. *Reforming Land and Real Estate Markets*, by Ahmed Galal and Omar Razzaz, The World Bank, June 2001
3. *Corruption is Everywhere: Transparency and Land Administration*, by Paul van der Molen and Arbind Tuladher, July 2007
4. *Land Reform in Bangladesh*, Democratic Workers Party, October 2001
5. *Major Achievements of ALRD and Partners*, the Association for Land Reform and Development (www.alrd.org/major_achievement.html)
6. *Doing Business in Bangladesh: Reform memo (Page 15)*, by Penelope Demetra Fidas, FIAS, January 2008
7. *Land Scarcity and the Imperative of Growth: Challenges for Bangladesh Development*, by Fabio Pittaluga, The World Bank, October 2009
8. *Diagnostic and Design for the Simplification of Land Administration in Bangladesh: Final Report*, an IFC/BICF Project, March 2009
9. *Registration as a Means of Securing Rights on State-Owned Lands Under Unequal Power Relations: The Experience of Landless Peasants and Indigenous Peoples in Bangladesh*, by Shapan Adnan, National University of Singapore, April 2006
10. *Strengthening the Role of Private Sector Housing in Bangladesh Economy: The Policy Challenges*, Center for Policy Dialogue (CPD), November 2003
11. *World Bank Doing Business report: The employing workers indicator*, November 2007
12. *Bangladesh Land Administration Reform Project: Final Report*, Asian Development Bank, November 2001
13. *The Synergy of Global Cooperation-Why Australian Industry has Prevailed in a Development Environment*, by Tony Burns, Land Equity International Pty Ltd, November 2001
14. *Strengthening Access to Land and Property Rights for All Sections of the Community: Draft Final Report*, Delegation of the European Commission to Bangladesh, February 2008
15. *Columbia: Private help for a public problem*, by Alejandro Espinosa
16. *The Doing Business Indicators: Measurement issues and political implications*, by Janine Berg and Sandrine Cazes, Economic and Labour Market Analysis Department, International Labour Organization (ILO), 2006-07
17. *Bangladesh: Business & Investment promotional Agencies and Their Functions* (www.betelco.com/bd/bdbus/promo.html)
18. *Evaluation of Doing Business* by Antoinette Schoar, (2004, 2005 and 2006 Reports).
19. *India Land Powers for Growth and Poverty Reduction*, World Bank Report No. 38298-1N, 2009
20. *Streamlining Land Reform Process*. IFC-BICF News Article/ The Financial Express, 2009
21. *A Guide to Doing Business in Bangladesh*. LEX MUNDI in association The Law Associates, 2006.
22. *Registration Directorate of Bangladesh*. www.mialaw.gov.bd.
23. *State of Land use plan and registration in Bangladesh*, by Khan Shahiduzzaman, The Financial Express, 15 March 2009.
24. *Slashing the time to register property from 18 months to 15 days. Case Study: Honduras*, by Roger Coma-Cunil and Marie Delion
25. *Automated digital achieve for land registration and records. Computer and International Technology*, 2008. ICCIT 2008-11th International Conference, Toaha M. Khan, 2008

Registering Property: A Summary based on IFC Doing Business Report 2010

Methodology

Doing Business records the **full sequence of procedures necessary for a business (buyer) to purchase a property from another business (seller) and to transfer the property title to the buyer's name.** The property of land and building will be transferred in its entirety.

The transaction is considered complete when the buyer can use the property as collateral for a bank loan. Local property lawyers and officials in property registries provide information on required procedures as well as the time and cost to complete each one. For most economies the data are based on responses from both.

Based on the responses, three indicators are constructed:

- number of procedures to register property
- time to register property (in calendar days)
- official costs to register property (as a percentage of the property value)s

Survey Case Study:

The buyer and seller:

are limited liability companies are private nationals (no foreign ownership) are located in periurban area of the largest business city conduct general commercial activities *The property:*

consists of land and a 2 -story building (warehouse) is located in the periurban commercial zone of the largest business city The land area is 557.4 m² (6,000 square feet). The warehouse has a total area of 929 m² (10,000 square feet) has a value equal to 50 times income per capita The seller company owned the property for the last 10 years is registered in the land registry and/or cadastre and is free of all disputes.]

Steps to Registering Property in Bangladesh

[It requires 8 procedures, takes 245 days, and costs 10.24 % of property value to register the property in Bangladesh.]

List of Procedures:

1. Verify the record of rights from the Land Office (also known as Land Revenue Office)
2. Conduct RS Mutation on property
3. Obtain inspection for RS Mutation
4. Obtain the non-encumbrance certificate from the relevant Sub-registry office
5. Prepare deed of transfer and pay stamp duty
6. Pay capital gains tax, registration fee, VAT and other taxes at a designated bank
7. Apply for registration at the relevant Sub-registry
8. Register the change in ownership at the Land Revenue Office

Procedure 1: Verify the record of rights from the Land Office (also known as Land Revenue Office)

Time to complete: 15 - 60 days (simultaneous with procedures 2 and 3); **Cost to complete:** BDT 2,000

Comment: Parties check that land tax payments are up to date.

The land administration system in Bangladesh separates records of ownership and those on revenue as under:

- a. Land Records Office for land records, surveys, publication and maintenance of records under the directorate of land records and survey (**Ministry of Land**).
- b. Land Office or Land Revenue Office under Ministry of Land.
There are 11 administrative offices in each upazilla
- c. There are 64 districts in Bangladesh but 61 registration districts.
3 hill districts do not have registration centers.
In Dhaka, the **district land registration office** has 11 **sub registrar** offices under the **Ministry of Law**.

Procedure 2: Conduct RS Mutation on property

Time to complete: 60 days (simultaneous with procedures 1 and 3); **Cost to complete:** BDT 6000 Approx.

Improving Property Registration Process and IFC Ranking of Bangladesh

Comment: Since the last survey on Dhaka was done, **transfers of property titles** created before then must be converted (mutated) to the new survey. This is requested at the Assistant Commissioner of Lands (Tahsil). In order to obtain this, an **application is required** to be made to the concerned Assistant Commissioner of Land with particulars of the property.

The Assistant Commissioner forwards the same to the Tahsil Office, who are responsible for conducting the relevant survey and providing a report to AC Land. Upon receiving the report, AC Land renders the mutation certificate. The inspection is noted in procedure 3.

In the future, properties will have to be converted to the Mahanagar survey, which is currently underway.

Procedure 3: Obtain inspection for RS Mutation

Time to complete: 60 days (simultaneous with procedures 1 and 2); **Cost to complete:** included in procedure 2

Comment: The **permission** is only **mandatory** when the property is under the control of either the Ministry of Works (**National Housing Authority**) or **RAJUK** (Dhaka Improvement Trust since 1952 until it was renamed Rajdhani Unnayan Kartripakkh –RAJUK in 1982).

Although the permission is usually always granted, unofficial payments are still paid in order to expedite the process and guarantee approval, which amount to BDT 10,000 to 15,000.

The **buyer** also **checks that** the property is **up to date** with payments to the **Municipality, gas utility service, electricity utility service, and the water utility service** to make sure that there is no outstanding dues payable so that the those liabilities do not transfer to him.

Each of these checks will cost around **BDT 625**. These are standard steps customary in Bangladesh and not mandatory for registration.

Procedure 4: Obtain the non-encumbrance certificate from the relevant Sub-registry office

Time to complete: 2-3 days; **Cost to complete:** BDT 500-700

Comment: The buyer checks the **legal status** of the land (mortgaged or leased or ownership) at the relevant Sub-registry.

Procedure 5: Prepare deed of transfer and pay stamp duty

Time to complete: 1 day; **Cost to complete:** 5% of property value (Stamp duty)

Comment: A lawyer may prepare the transfer deed, but it can be prepared by the parties themselves.

If a lawyer does it, the fees will be around BDT 6,000.

The deed must be prepared in stamped paper that will cost 5% of the property value to get it.

This represents the stamp duty.

Procedure 6: Pay capital gains tax, registration fee, VAT and other taxes at a designated bank

Time to complete: 1 day; **Cost to complete:** local government tax (2%) + registration fee (2.5%) of property value

Comment: Registration fee = 2.5%; Local Government Tax = 2%

The 2.5% registration fee is payable to the Bank in favor of the sub-registry office and the receipt is to be presented at the moment of applying for registration.

Also, Capital Gains Tax = 5% (Not applicable in rural areas for agriculture. Applicable to land above 100 000 BDT, irrespective of when the transfer was made) and

VAT = 1.5% (Applicable only for municipal corporation area payable by private housing and flat developers and commercial businesses) have to be paid at this stage.

Procedure 7: Apply for registration at the relevant Sub-registry

Time to complete: 180 days (simultaneous with procedure 8); **Cost to complete:** Already paid in Procedure 6

Comment: The **buyer applies for registration at the Municipal Deed Registry Office**, presenting the receipts of payment for the registration fees obtained in Procedure 6. A certified registration document is obtained within a week for the buyer's record. The original sale deed/certificate requires about 6 months to be obtained.

Procedure 8: Register the change in ownership at the Land Revenue Office

Time to complete: 45 - 60 days (simultaneous with procedure 7); **Cost to complete:** BDT 5,000

Improving Property Registration Process and IFC Ranking of Bangladesh

Comment: The change of ownership must be registered in the Land Revenue Office. The property is recorded under the name of the new owner, who is responsible for paying the land taxes from the day it is transferred.

Bangladesh is ranked 176 overall for Registering Property.

Annex - 02

Land policy and administration timeline

India period

	Land revenue systems introduced by Hindu rulers of ancient India
C16	Sher Shah reforms introduce a regular system of land measurement together with the assessment and collection of revenue.
C17-18	British establish an elaborate system of land surveys and registration based on the concept of net assets. This is designed to encourage the peasantry to settle remote and marginal land and thus boost revenue collection. It continues with some modifications in the very different circumstances that now obtain.
1793	The Permanent Settlement Act vests rights to land (and water bodies) in a class of <i>zamindars</i> . Whilst intended to usher in the re-organization of agriculture along capitalist lines, this has the actual affect of creating multiple-layers of sub-tenants.
1882	Transfer of Property Act, the fore-runner relevant to present registration procedures, is passed.
1888-1940	A Cadastral Survey (CS) of undivided Bengal creates the original record of land rights. This is often still accepted as evidence by modern courts.
1908	The Registration Act establishes land registers kept by the sub-registrar, an official under the Ministry of Law. These assess and collect “ <i>ad valorem</i> ” based registration fees, stamp duty and transfer tax, and provide deeds relating to the transfer of land.
1927	90,000 cadastral maps covering the whole of contemporary Bangladesh are published. These are still considered the most reliable cartographic record by modern courts.
1946	The Tebhaga share-croppers movement campaigns for reforms in ratios and procedures governing division of produce. But nobody now really represents their interests or carries the movement forwards. Slogans for re-distributional land reform are part of the anti-colonial struggle.

Pakistan period

1947	Pakistan continues with a version of the net asset system but this decline in importance with reduced frequency of settlements and poor maintenance of land records.
1950	Abolition of <i>Zamindari</i> system. Control of land passes to the Revenue Department, which subsequently becomes the Ministry of Land (MOL).
1951	East Bengal State Acquisition and Tenancy Act (EBSATA) 1951 promotes the goal of retaining the agricultural character of land by giving cultivators first right of purchase and prohibiting other use; but the large number of exceptions and poor enforcement dilute impact. A land ceiling of 33.3 acres is imposed.
1950-early 70s	A leftist movement targets landless poor and marginal farmers, but whilst land reform continues to excite the popular imagination, little is done by way of implementation.
1956-62	A State Acquisition Survey is conducted based on the CS blueprint
1961	Land ceiling raised to 125 acres
1965-	Survey and revisional settlement operation commences, but progress is very slow and by 1995 it has only been completed in 10% of all <i>thanas</i>

Bangladesh period

1972	A land ceiling of 33.3 acres is re-established and various presidential orders provide for the distribution of <i>khas</i> land amongst the landless. Expected that 2.5 million acres of excess land will be released, but in reality there is far less. Newly formed land vested in government, becoming a second type of <i>khas</i> . Exemption from land tax granted for families owning < 8.33 acres.
1976	A variety of land related charges are consolidated into the Land Development Tax (LDT), which covers the whole country except CHT, but deficiencies in the record system mean individual holdings cannot be checked, and switches to more heavily taxed non-agricultural uses frequently go unrecorded.
1984	The Land Reform Ordinance limits future land acquisitions to 21 acres whilst retaining present ceilings. <i>Benami</i> (ceiling avoiding) transfers to relations are outlawed, but again evasion is easy. Legal recognition to the rights of share-croppers is given for the first time and share-cropping is established as the only admissible form of tenancy contract.
Late 1980s	Only 0.2% of value added in agriculture collected as LDT revenue, of which collection cost is two thirds.
Late 1980s	Muyeed Committee recommends that functions of Land Registration (sub-registrar) and record (<i>tehsil</i>) be brought together in a single office at field level but this is ignored.
1988	Cluster village programme resettles landless people on state land, but only 800, with some 32,000 households, have been formed by 1996.
1989	Board of Land Administration split into Land Appeals Board and Land Reforms Board to deal with the ever increasing volume of quasi-judicial appeals.
1991	A survey shows 90% of the rural populations are unaware of the 1984 reforms.
1991	A land administration manual lays down detailed instructions regarding inspection and supervision of Union and <i>Thana</i> land offices.
1992	Farms of up to 8.33 acres are exempted from LDT. 8.33 – 10 acres are charged at BDT 0.5 per acre, and larger holdings at BDT 2 per acre.
1997	New Agricultural <i>Khas</i> Land Management and Settlement Policy introduced.
1998	Total <i>khas</i> land is found to be 0.75 million acres (or 3% of arable land area). But the actual amount remains unclear as a result of <i>de facto</i> private control arising from informal local settlements.