

Agrarian Relations in Bengal: Ancient to British Period

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Abstract

[Agrarian relations were of critical importance in rural Bangladesh. The contemporary distribution of rights in land is the result of the historical evolution of a distinctive land tenure affecting agrarian relations in Bengal (Bangladesh). Land tenure is the result of historical and traditional evolution of socio-political, economic and legal systems. So, it is a combination of social values and norms and legal and socio-economic relations in the whole being of the society. In the pre-industrial world, when all economic activities were circled around agriculture, Bengal allures commercial and military adventurers from abroad throughout its history. The conquerors of Bengal frequently established their polities and ruled the country according to their own fashion. Since agriculture was the main stay of people and land was the main source of state revenue, successive rulers tried to change existing land tenure according to their advantages. No great ruler entirely adopted old system of land tenure, nor did any ruler introduce an entirely new one. Thus, Bengal land tenure was always marked by continuity as well as change. Since land tenure is the inheritances of socio-political and traditional norms and values land tenure system are analyze only from the historical point of view that may not ventilate complete historical evolution of land tenancy system. However, emphasis has been given on socio-economic issues instead of historical assessment.]

Introduction:

Bengal (now Bangladesh) was and still is a country of agro-based economy. Land tenure means the holding or cultivating land of the state or of a proprietor on predetermined terms and conditions that convey the legal rights to tenant to cultivate land. So, the main objective of this article is to explore chronological steps taken by the government as well as superior authorities in different stages. This article comprises following sections: First section describes the land tenure in the ancient Bengal. Land tenure in the medieval is discussed in section two. In section three, land tenure in the East India Company and British period is discussed. The last and final section is endowed with summary and conclusion.

3.1 Land Tenure in Ancient Period

Probably, the oldest laws were about land, which determined the land tenure in ancient period. Historians as well as social scientists support the view that land tenure was a combination of different sorts of rights in land of different classes of people. In ancient period, land was the common property of the community and belonged to settlers of the villages who cultivated it. The common features of ancient land tenure in Bangladesh (then Bengal) were as follows (Banglapedia, 2003, Vol. 6);

- a) Payment of a share of the produce of land to the head clan;
- b) The right of a family to cultivate land in its possession; and

c) The power of the head of a panchayet to distribute land of the community to its families and to settle land disputes.

But many Indologists did not support the existence of this village community theory. They pointed out that Bengal village settlements developed in a highly scattered manner. Due to their dispersed nature, a well-knit social organization of village community did not develop in Bengal. Moreover, some believed that the king owned land. While on the other hand, some believed that the peasants owned land. Besides this view, some believed that the village community owned land.

The theory of peasant ownership may be partially accepted on the ground that Peasants tilled the lands hereditarily and cultivate without any interference on payment of dues fixed by custom or by the king's law. The landlordism of the king has been mixed with peasant proprietorship, signifying that both had rights on land, one as the sovereign, and other as the actual tiller. That is, the peasants enjoyed proprietary rights on land as an actual tiller and the king enjoyed it as a sovereign authority. The king had the right to impose tax and to expel a peasant from his holding. But the king's power to impose tax was limited by the customs and injunctions of the *Dharmashastras*. The power of expulsion of a tenant from his holding was limited by religious sanctions or by king's law. Thus entitlements on land were a combination of both the king and the peasants.

There were rent free and permanent tenure which were not normally be resumed by the king. This type of tenures were granted for maintenance of Sangh or *vihar* and other charitable purposes. Prior to 8th century AD, copper-plate inscriptions indicate that there were 3 types of land, which regulated the relation between the state and the peasantry. These were *vastu* (homestead land) *ksetra* (plough land) and *khila* (cultivable wasteland) (Banglapedia, 2003, Vol. 6). The rent structure of these lands was different. But in the inscription of land grants and land sales, the prices appeared to be same for all types of land. This riddle cannot be solved for the absence of proper evidence. Another type of land was *Gochara* or pastureland. This type of land was tax-free and considered as common holdings. It was always as marks of village boundaries. So, it can be said that in ancient Bengal, there was no unique land tenure system (Banglapedia, 2003, Vol. 6).

2. Land Tenure in the Medieval Period

Land tenure during the medieval had been endowed with a lot of changes and progresses. Information about land tenure during Sultani period is not sufficient. The agrarian systems of the Sultans had borrowed its elements from the ancient systems of the Hindus and Buddhists. During the Mughal period, land tenure took different shapes and changes significantly. The main features of tenurial relations of medieval period are as follows:

2.1 Land Tenure in Sultani Period

During the Sultani period land system was not changed enormously. But the Sultani rulers had introduced many new tenurial terms and conditions for the existing agrarian institutions. It seemed that the Sultans collected land revenue mostly directly from the tenants as before. The provincial governors played vital role

in this regard. There was an intermediate class *majumdārs* who formed a rent receiving interest group as revenue farmers. But the majumdars were not perpetual tenure holders. They paid a fixed amount of revenue to the royal treasury from their collected land revenue. The Sultani rulers also made rent-free land grants to religious and charitable organizations.

2.2 Land Tenure in Mughal Period

The Mughal rulers substantially changed the land tenure system. In Mughal period, land belonged to the state under Mughal constitution; there had also some limited private ownership of land. But this ownership was exceptional. The government engaged revenue collectors called Zaminders and Talukders who traditionally enjoyed revenue collecting right hereditarily. But Zamindars and Talukdars were perceived to be just revenue collectors. But the government had always right to dispose such revenue collectors (Banglapedia, 2003, Vol.6). They could not change the rate of rent without directives from the government. The raiyats enjoyed hereditary customary rights on land, on the basis of the terms laid down in Patta and kabuliyat. There were two groups of raiyats: *khudkāsta* and *paikāsta* raiyats. The *khudkāsta* raiyats were permanent residents of a village and they enjoyed rights in land permanently. They could use the land as they like so long as they adhere to terms of kabuliyat or agreement. Paikaasta raiyats were allowed to pay according to the pargana rate. This group of raiyats was non-resident cultivators who moved from one village to another in search for cultivating land. They were basically migratory sort of peasants and they had no rights in land they cultivated. An assigned land called *Jāgir*, for imperial officers was a remarkable feature of Mughal land tenure system. A *Jāgir* comprised an area, which was estimated to yield in revenue an amount equivalent to the pay sanctioned for them. There were two types of *Jāgirs*; temporary and permanent. *Jāgir* was considered as Zamindars to raiyats. In addition to *Jāgirs*, the Mughal land tenure system provided for *lakhirāj* or rent-free grants. There were 3 types of *lakhirāj* (Banglapedia, 2003, Vol.6);

- a) madad-I-ma'sh (aid for subsistence);
- b) *inam – i – altamaghā* (Hereditary grants for official family) and
- c) WAQF (assigned to institutions like religious shrines, tombs and madrasahs).

Madad-I-ma'sh grants were made to learned men, who would not take any employment. The madad-I ma'sh grants were not transferable. The *lakhirāj* grants; *inam – i – altamaghā* was made hereditary for officials' family. Another kind of *lakhirāj* grants; WAQF was made for religious institution like, tombs and madrasahs. So, land tenure in Mughal period was a combination of private ownership and state ownership. But state ownership was dominant and the Mughal authority fixed the land revenues.

3: Land Tenure in the East India Company and British Period

Between 1765 and 1950, the land tenure system underwent major changes. During the company period, the British authority had taken various administrative measures concerning land tenure that may be viewed as

trial and error period. Prior to the establishment of British power in this region in the eighteenth century, the cultivating peasantry enjoyed security of tenure (as distinct from the idea of absolute ownership) on land tilled by them on condition that they would share their produce with Zamindars. August 12, 1765, the East India Company was granted Diwani right by the Mughal emperor Shah Alam to collect revenue from Bengal, Bihar and Orissa.

3.1: Land Tenure during the Period 1765-1793(Trial and Error Period)

At the early stages of company period, the East India Company realized that the intermediaries (Zamindars) were in fact the owners of land. In general, they had been appointed by Mughal authorities to collect land revenue from the actual cultivators. They were 'revenue farmers' whose interest was distinctly different from the interest of those who themselves labored on land.

During the Double government period (1765-1772), the Mughal system of revenue collection was retained almost same. The institutions of Zamindars, Talukdars and Lakhirajdars were operating without significant changes, which were introduced during Mughal period. The company carried out several experiment in land tenure system before the introduction of the Permanent Settlement in 1793.

In 1770, the procedure for land administration involved leasing out land to the highest bidder for a period of 5 years. This procedure brings sufferings to landlords and tenants. The old landlord had to bid for a higher amount to keep the estates in their possession, which in turn compelled the tenant to bear the burden of paying the additional amount. In 1772, the company decided to involve directly in land administration by employing collectors. In 1790, the system was replaced by decennial Settlement while still continuing the open auction method.

3.2: Permanent Settlement (1765-1793)

The main objective of the colonial rule was to construct a system, which will justify economically the Company's political dominance. In fact, the British colonial state was founded for facilitating the company's trade and commerce and also for "remitting [home] the surplus of revenues to the country" to quote Warren Hastings (Serajul Islam, 1997). Since land revenue was the biggest source of government revenue, agricultural production had to be increased for increasing the government revenue. But it was impossible to achieve within the existing traditional agrarian relations. In this perspective company came to realize that traditional agrarian relations should be changed for having a more dynamic land tenure system that would lead to the capitalist mode of production in agriculture sector. In this context, Permanent Settlement was introduced.

On 22 March 1793,¹ Lord Cornwallis, governor general of the company, declared Permanent Settlement that made Zamindars and Talukdars permanent proprietors of the land under their respective control (Banglapedia, 2003, Vol. 6). As a result, government revenue agents turned into landowners overnight. As a proprietor of land a Zamindar could transfer their land freely in the form of sale, gift, lease and so on. The revenue demand by the govt. was fixed upon Zamindars for perpetuity.

3.2.1: The Landed Property under Permanent Settlement

¹ For details, the tenural effects of the permanent settlement, see Sirajul Islam, "Bengal land tenure"(Calcutta, 1988).

Under the rules of permanent settlement the Zamindars were declared the absolute proprietors of land, and as proprietors they were made legally entitled to use their land as they liked. Their lawful successors could inherit and divide that property among themselves according to the traditional laws of succession without any interference from the government. The rights to collect revenue were heritable and alienable. This meant that the Zamindars could lease out these rights to subordinate interest that could do the same with the rights thus obtained. In this way, a chain of intermediaries grew up between the government and the cultivators who were bearing the full burden of rent and other extractions. The landed property was made permanent institution by Permanent Settlement but its owners' right in land was made dependent on the punctual payment of government demand.

The execution of revenue sale law (popularly known as 'Sun-set law') was thus likely to unsettle the existing landed class quite significantly, because the revenue assessment of the permanent settlement was not based on any survey of asset; and consequently government demand was distributed highly unequally (Serajul Islam, 1999). The Permanent Settlement did not eliminate the rights of raiyats in land though the existence of such subordinate rights ran counter to property rights of zamindars (Cornwallis, 1793: Article VIII, Clause 1). Regulation No. 17 of 1793 provided that on the failure of riyats to pay increased rent, all their moveable, including standing crops was made liable to attachment and sale by the landlords without the intervention of the court (Banglapedia, 2003, Vol. 6). As a result, the proprietary right of Zamindars terminated the customary rights who were now just tenants-at-will of Zamindars.

In this perspective, the Permanent Settlement of 1793 institutionalized the Zamindars. Under the Permanent Settlement system, land was settled in perpetuity with the Zamindars regardless of their ownership. The company government remained silent about the status of riayats under Zamindars. The concept of peasant proprietorship was totally abolished. The Permanent Settlement did not protect the customary rights of tenants and totally ignored the security of tenure.

3.2.2 Emergence of Madhyasvatva Tenures

Permanent Settlement made a new form of property rights in land by the execution of revenue sale law (Sun-set law). In order to protect the estates from the operation of sun-set law, Zamindars began to lease their holdings to another class of perpetual renters and imposed the same terms and conditions on the lease holders as they themselves had agreed to perform under permanent settlement. This type of property rights was called Madhyasvatvas or intermediate rights. A Madhyasvatvas right was made as easily transferable and inheritable as the Zamindari svatva. The main groups of Madhyasvatvas were:

- a) pattani svatva; and
- b) patitabad svatva.

a) Pattani Svatva: It was entirely a rent-collecting device without having any relation to productive management of land. It pushed up the rent rate without increase in wealth. The Zamindars divided their whole Zamindary into numerous lots. Every lot was settled with a tenure holder with the condition that he would enjoy a rent rate fixed perpetually. His tenure would be sold in auction in default of payment of rent in time. This type of tenure was called pattani. The pattani system saved the Zamindars from the Revenue

Sale Law (sunset law) and also made them prosperous. Furthermore, pattanidars, again in search of security of tenure, created sub-pattanis below them and the process had obviously ruinous effects on the actual tillers of land.

b) Patitabad Svatva: It was guessed that on the eve of permanent settlement about one-third or more cultivable lands of Bengal lay under the sway of nature (Cornwallis, 1788: Appendix 5). Under the rules of permanent settlement zamindars found a new source of income and safety by leasing out land called Patitabad. Tenurially and organizationally patitabad activities may be classified into four categories; noabad, char-abad, bill abad and Sundarban-abad.

Following the permanent settlement of 1793, the Zamindars' rights and prerogatives continued to grow. In the Bangladesh region, they became de facto owners of the land though they did not cultivate it. In fact, the Zamindars settle their land temporarily with tenant, the actual cultivators. The cultivator paid rent in cash or kind to the zamindars. The Zamindar sent a fixed amount of this rent as land revenue to the ruling authority. The actual cultivators bore all the responsibilities and risks of cultivation. The tenants were ousted summarily by the Zamindars when produced crop fell behind of rent payment, or resisted demand for higher rents.

The period from 1793 to 1859 was marked by concern of defining terms and conditions landlord-tenant relationship and to provide security of the tenant (Shawkat Ali, 1981). Permanent Settlement ignored any rights in land of actual tillers of the soil, now classified as "tenants" of the Zamindars. This settlement also established the Zamindars' right to fix their own terms of tenancy with their tenants and made clear the land revenue payable by the Zamindars to the East India Company (and letter to the British govt. of India). The revenue paid to the state by the Zamindars was permanently fixed in amount; but rents paid to the Zamindars by tenants were not. Finally, the settlement conferred upon the Zamindars certain proprietary rights. As a result, this period may be called the protection of rights of Zamindars (1793-1859).

In this way, a chain of intermediaries grew up between the government and the cultivators who were bearing the full burden of rent and other extractions. Deprived of nearly every bit of surplus from land a cultivator was destined to live in perpetual poverty, which forced him into bondage of indebtedness. A rapacious money-lending class identical with some of the landed interest was emerged. A poor cultivator could ill-afford to escape the claws of either of them.

The last observation is critical. The land system of the Bengal region was oriented above all to the maintenance of the rights and prerogatives of a land holding elite whose primary function was to act in behalf of established authority in the collection of land revenue. Agrarian relations that evolved under permanent settlement were not only unjust, but also entirely inefficient. The long chain of intermediaries extracted surplus from land, but a very few of them were used for socio-economic development. The different layers of middlemen consumed majority portion of rent. Those who were with very big estates indulged in luxury and ostentatious consumption. The usurious money lending carried less risk and was more rewarding than investment in any productive activity. Consequently, production suffered. Agriculture remained backward and the demand for industrial goods from agricultural population remained low and stagnant. There was little diversification in the economy.

3.3.3: Land Tenure During the Period 1859-1885 (Beginning of the Protection of Rights of Tenants):

Tenurial Legislations during the period of 1859-1885 deal mainly with the statutory development of occupancy rights of tenants. It further lay down that the rent must be fair and equitable and at the same time recognized Zamindars' right to enhance rent on ground of increase in area and value of the produce (Shawkat Ali, 1981). This was first time that tenants were given de jure rights on land for continuous occupation of land for 12 years. Act X of 1859 marked the beginning of a system, which sought to protect the interest of the tenants. So, this period is regarded as the beginning of the protection of tenant's rights. In this Act, two serious defects were as; (i) there was no definition or principle in the Act of what was fair and equitable; and (ii) the tenant had great difficulty in providing 12 years continuous possessions due to the absence of proper records. This naturally led to a clash of interest between the tenants and the Zamindars resulting in agrarian disputes.

3.3.4: The Land System as Modified by the Bengal Tenancy Act of 1885(Consolidation of the Protection of Rights of Tenants):

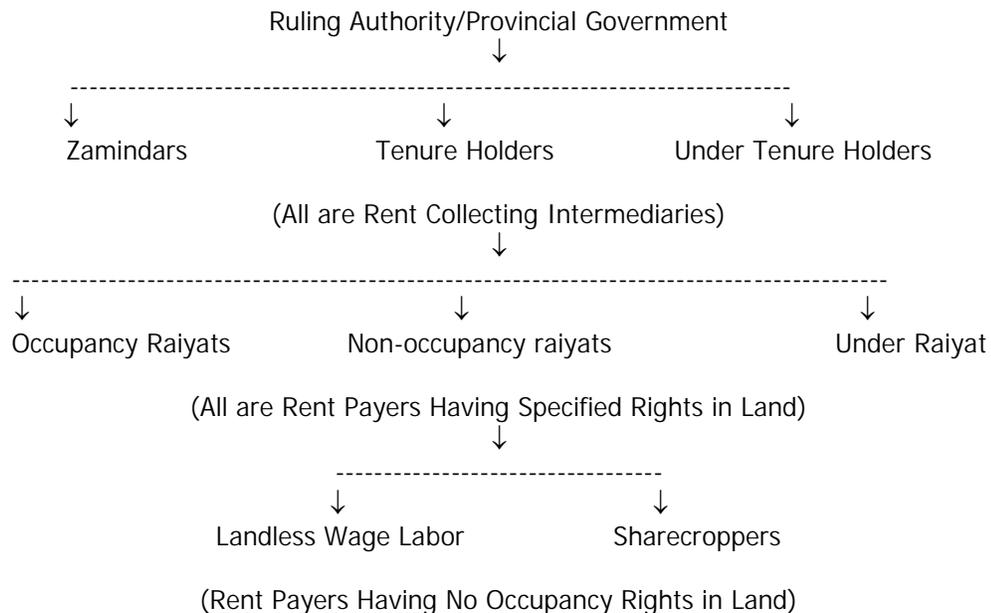
Periodically, during the nineteenth century, British authority intervened to establish regulations designed to protect cultivators from the Zamindars' abuses of power. But, British continued to be unsuccessful in enforcing such provisions, and the rights of the cultivating peasantry of this region also continued to deteriorate. In 1878, the Bengal Rent Law Commission was formed. The Bengal Tenancy Act (Act of VIII of 1885) was based on this Bill. The commission prepared a Bill for realization of undisputed arrears of rent recommended that it was desirable to undertake a complete revision of the Tenancy law. Finally, in 1885 the British made a major attempt to establish an improved basis for landlord-tenant relations in this region. In that year, the Bengal Tenancy Act came into force. The Act established principles concerning landlord-tenant relations which, had it been fully implemented, would have provided the subsequent basis for tenant farmers either to maintain or to establish their own rights in land. At the outset, it should be noticed that no attempt is made in the following analysis to discuss every provision or details of the Act of 1885 as originally enacted and subsequently amended.

The Bengal Tenancy Act of 1885 modifies the Permanent Settlement of 1793 drastically and it provides de jure recognition to the rights of others besides Zamindars in the agrarian hierarchy whereas the permanent settlement of 1793 ignores the full spectrum of customary rights in land and to confer proprietary rights to Zamindars. It gave legal, as well as responsibilities, of those whose status had not been recognized by the permanent settlement. This Act established the basis for all subsequent legislation (even in contemporary Bangladesh) governing the relationships of people to the land in this region and helps to expose the structure of the traditional land system of Bangladesh.

The Bengal Tenancy Act of 1885 presented a version of the intricately stratified system of rights in land in Bengal. At the apex of hierarchy was the ruling authority, the provincial government of Bengal. Below the

provincial government, there were Zamindars, tenure holders and under tenure-holders (those who had rent collecting powers). In descending order, there were occupancy raiyats, non-occupancy raiyats and under-raiyats (all of whom were rent payers having specified rights in land). At the base were sharecroppers and landless wage laborers (whose rights in land were either tenuous or non-existence). Figure 3.1 represents in simplified form of hierarchy of interests in land in the Bengal region.

Figure 1: The Hierarchy of Interests in Land 1885-1950



Source: Jannuzi & Peach, 1980.

In practice, there were no clear-cut difference between a tenure-holder and a raiyat. In such circumstances, the Bengal Tenancy Act stipulated that local customs would be the determinant in defining the nature of tenancy. Each holder of land in the agrarian hierarchy had specified rights and responsibilities in relation to his landholdings. The raiyats (i.e. tenants of landlords) could acquire a statutory right to land in their possession; even though this right to land was qualified and less complete than that of absolute owner.

By the Act of 1885, if a landlord sought to deny a tenant's potential claim to land by shifting him from plot to plot each year, breaking up continuity of possession, he could no longer do so. As long as, a tenant could claim successfully continuous possession for 12-years period, his status as a 'settled raiyat'² having occupancy rights in land was assured. His right to land was protected by law; he could till the land himself or with hired labor; he could lease or even transfer his right in land by sale to another. But at the same time, he was himself a tenant of someone having a superior right to land; he therefore had a statutory obligation to pay rent and could not be evicted from the land in his possession under terms and conditions specified by law. In defining the rights of raiyats the act categorized them into two major groups: occupancy raiyats and non-occupancy raiyats. The rights of the occupancy raiyats were declared not only hereditary but also transferable, on the condition of payment of transfer salami to the Zamindars. The non-occupancy

² A *raiyyat* (or tenant farmer) could become a settled *raiyyat* by holding land continuously in his village for 12 years, but others might acquire an occupancy right to land simply by purchasing a section of land from a settled raiyyat.

riayats were those who till the lands for less than 12 years. Below the non-occupancy riayats or under riayats there were landless labor and sharecroppers whose rights in land were not defined and who continued to remain tenants-at-will of the land holding interests.

The rights of the under-riayats were similarly qualified by custom, wage, and law in the Bengal Tenancy Act, as amended; Law protects their rights in land. They held land so long as they paid rent to their landlords. Bargadars (sharecroppers in contemporary Bangladesh) did not have the qualified rights of tenants within the terms of the Bengal Tenancy Act. Thus a sharecropper' right to land was at best tenures and subject to conflicting interpretation of the Bengal Tenancy Act, as amended. That is, at the base of agrarian society there were no de jure rights in land. There was no ambiguity concerning the status of peasant having no claim whatsoever to land.

The Bengal Tenancy Act, even as latter amended, conferred no rights in land to cultivators working as wage laborers on land of others. Under the Bengal Tenancy (amendment) Act of 1928, the right to transfer land made general. The riayat could transfer his holding without taking permission from the Zamindar, but the system of transfer salami was still maintained. Under Bengal Tenancy Act (amendment of 1939) the salami right of Zamindar was abolished. This Act (amendment) of 1939 made raiyats virtual owners of land and they now would transfer or use land in anyway as they like. The Zamindars were now left only with receiving right (Banglapedia, 2003, Vol.6). The Bengal Tenancy Act of 1885 thus revised the original constitution of the permanent settlement drastically.

3.3.5: Consideration of the Protection of Tenants (1885-1938)

The Bengal Tenancy Act 1885 removed the inadequacies of the Rent Act of 1859 and made the cultivating class a settled tenant with occupancy rights in land. In addition, a tenant would also acquire occupancy rights in land who had been in possession of any land for 12 years, either by him or inheritance and would also acquire the same rights in any new land that he bought under cultivation. Moreover, following guaranteed protections were as follows (Shawkat Ali, 1981);

(i) Right of cultivating class or settled tenant could not be disturbed in the event of the superior landlord selling his land;

(ii) He could not mortgage his holdings;

(iii) Tenant could sublet his holding for a period not exceeding nine years;

(iv) He could not be evicted for arrears of rent only and the holding could be sold out in Civil Court.

The guaranteed protection measures of Bengal Tenancy Act are indicative of the government's awareness of the need to prevent arbitrary harassment of the cultivating class who were previously at the mercy of Zamindars. Moreover, the establishment of regular machinery of government and taking over the functions of Revenue, Security and Justice are considered as massive development of protection measures of cultivating class.

So, it is clear that land tenure system from 1793 till 1950 should confirm that it was highly complex in this region. Though the Bengal Tenancy Act many times amended after 1885, was seldom implemented rigorously in behalf of weaker sections of the cultivating peasantry and was repealed in 1950.

4. Summary and Conclusion

So, it can be said that land tenure in Bangladesh is the result of socio-economic as well as historical evolution of land system under different government mechanism. The land tenure in Sultani period had not gone under remarkable changes. It was more or less same as ancient period. The Mughal ruler substantially changed the land tenure system. In sum, land tenure in Mughal period was a combination of private ownership and state ownership. But the state ownership was dominant and the Mughal authority fixed the land revenues. During the period of Company and British rule land tenure had gone under substantial changes. The company carried out several experiment in land tenure system before the introduction of Permanent Settlement in 1793.

On 22 March, 1793, Lord Cornwallis, governor general of the company declared Permanent Settlement that made Zamindars and Talukdars permanent proprietors of land under their respective control. The East Bengal Tenancy Act of 1950 was a landmark in the history of tenurial legislation. It abolished all Zamindary and intermediaries and the rights were declared maliks or owner of land. This Act brought the tenants directly under the Govt. It abolished all revenue framings. It can be concluded that there was no unique land tenure system in Bengal throughout its history. It has been changes accordance with the aim of ruling authority or by improving the condition of landholder and tenant but latter has given less emphasis.

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