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**Report
on**

10/10/99

LEGAL ASSISTANCE TO THE PEOPLE AFFECTED BY FAP-20



Bangladesh Environmental Lawyers Association (BELA)

Supported by:

Novib

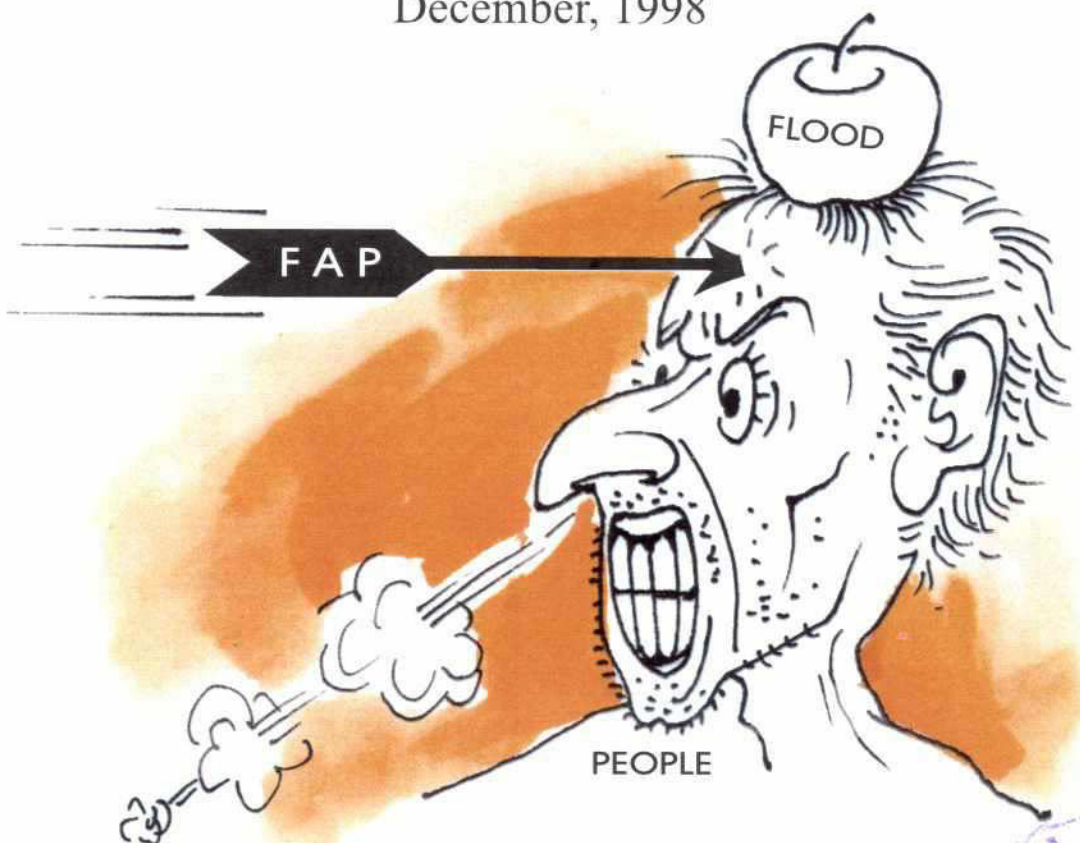


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**LEGAL ASSISTANCE TO THE PEOPLE
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The publication required hard and intensive labour on part of the researchers particularly for collecting information from the field. While they deserve special appreciation for that, we express our gratitude to the consultants who gave their effort and time and assisted BELA in giving the report a final shape.

We appreciate the concerns and interests of Ms. Yasmin Ahmed of NCB that encouraged us in performing the tasks under the Project amidst various obstacles.

Dhaka

December, 1998

Acronyms

BELA	Bangladesh Environment Lawyers Association
FAP	Flood Action Plan
CPP	Compartmentalisation Pilot Project
BWDB	Bangladesh Water Development Board
WARPO	Water Resources Planing Organisation
DAE	Department of Agricultural Extension
BARI	Bangladesh Agricultural Research Institute
DoF	Department of Fisheries
BRDB	Bangladesh Rural Development Board
SRDI	Soil Resources Development Institute
LGED	Local Government Engineering Department
DoE	Department of Environment
DoF	Department of Forestry
DPHE	Department of Public Health & Engineering
IRRI	International Rice Research Institute
JMBP	Jamuna Multipurpose Bridge Project
PIL	Public Interest Litigation
PAP	Project Affected People
DAT	Development Agencies of Tangail
BWDB	Bangladesh Water Development Board
RRAP	Revised Resettlement Action Plan
AD	Appellate Division
FPCO	Flood Plan Coordination Organisation
ha	hector
dcm	Decimal
JMBA	Jamuna Multipurpose Bridge Authority
JMB	Jamuna Multipurpose Bridge
CCL	Cash Compensation as per Law
L.A. Case	Land Acquisition Case
W.P.	Writ Petition
CA	Civil Appeal
AD	Appellate Division

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Preface

The Report would focus on the endeavours of BELA undertaken in association with the local people of the District of Tangail where the much debated and controversial flood control programme was being implemented in the name of Flood Action Plan-20. BELA intervened with the implementation of the FAP-20 to assist the local people who faced oppression due to violation of legal provisions by the implementing authority of FAP-20. The major objective of BELA's Project was to enable the affected people to claim their lawful rights that were jeopardised by the execution of the FAP-20 that hardly considered the people whose fate it affected.

Although the legal battle to establish the rights of these affected people still continues, this report would provide the readers with general idea about relevant laws and specific information with regard to the sufferings of the people and of course, the justification for such an endeavour. We earnestly hope that this effort will significantly contribute in creating consciousness about the availability of remedies in case of violation of rights by so-called development projects and help in fact finding to assess the impact of such projects when implemented in non-observance of legal norms.

Introduction

The two consecutive severe floods of 1987 and 1988 in Bangladesh aroused national and international concern on the water resources issue in particular and the question of environmental management in general for the country. As a result of such concern, various studies were undertaken and consequently a list of 11 Guiding Principles of Flood Control was formulated. In July '89, a meeting between the Government of Bangladesh and some donors was held in Washington D.C., where it was agreed that an Action Plan would be undertaken as a first step for long term Flood Control Programme in Bangladesh. On 11 December '89, a document titled 'Bangladesh-Action Plan for Flood Control' was placed before the meeting of the foreign donors in London and the five year (1990-1995) 'Flood Action Plan' (FAP) was adopted to identify the planning, design and construction of high priority projects to control the devastating losses caused by flood. A major part of the FAP involved the construction of embankments and other structural measures. Various pilot projects were also conceived under FAP including compartmentalization of floodplain areas into manageable controlled flooding and drainage units to meet the needs of integrated land and water use.

The FAP had twenty-six (26) components of which eleven were main component and fifteen (15) were supporting studies. FAP-20 was one of the supporting studies and the first Compartmentalisation Pilot Project (CPP) being implemented in any part of the world. *The concept behind compartmentalization was to enclose an area by an embankment with gated or ungated openings through which the in-and-outflow of the flood water could be controlled to provide with a comprehensive water control system designed and operated to satisfy the needs of the people within the project area.* It was anticipated that this experiment would improve the flooding and drainage situation inside the compartment and provide a more secure and sustainable environment for various sectors such as agriculture, fisheries, livestock, human habitation and industrialization through synthesized water management system. If it succeeds, the same would then be replicated elsewhere in Bangladesh and perhaps the world over wherever appropriate. *However, the project contained no provision to impose liability if it fails.*

The FAP-20 was originally proposed at two sites, one on the left bank of the Jamuna River at Tangail District as **Tangail Pilot Project** and another one on the right bank, north of Sirajganj District as **Sirajganj Pilot Project**. The Study area concentrated on the Tangail pilot project.

FAP-20 at a Glance

<i>Approved</i>	: 28 September'89
<i>Formally Commissioned</i>	: 21 October'91
<i>Duration of the Project</i>	: 1991- June 2000
<i>Financing Agencies</i>	: i) DGIS, The Netherlands; ii) KFW, Germany; iii) The Government of the People's Republic of Bangladesh
<i>Total Cost of the Project</i>	: Taka 1.17 Billion
<i>Sponsoring Ministry</i>	: Ministry of Irrigation, Water Resources and Flood Control
<i>Executing Agency</i>	: Bangladesh Water Development Board (BWDB)
<i>Coordinating Agency</i>	: Water Resources Planning Organization (WARPO)
<i>Associated Agency</i>	: i) Department of Agricultural Extension (DAE); ii) Bangladesh Agricultural Research Institute (BARI); iii) Department of Fisheries (DoF); iv) Bangladesh Rural Development Board (BRDB); v) Soil Resources Development Institute (SRDI); vi) Local Government Engineering Department (LGED); vii) Department of Forest (DoF); viii) Department of Environment (DoE); ix) Department of Public Health & Engineering (DPHE); x) District Administration of Tangail; xi) Tangail Pouroshava

Source: Progress Report of CPP, July 1996

<i>Location of the Project</i>	: The FAP-20 Project site was under the direct confluence of the rivers Dhaleswari, Lohajang, Elanjani and Pongli estuaries of the river Jamuna. The CPP area was bounded by an embankment along the Dhaleshwari River in the west, the Loahajung River and Gala canal in the north and the Pungli River in the east. An existing earth road between Selimpur and Karatia P.S. formed the southern border of the area. Under the Project the existing embankment would be upgraded to 1988 flood level and some new constructions would be undertaken.
<i>Area Coverage</i>	: 40% of Tangail Sadar, 11% of Delduar, 0.2% of Basail and 0.6% of Kalihati Thanas of Tangail District.
<i>Gross Area</i>	: 13,200 Hector
<i>Union Involved</i>	: 12 Unions
<i>Number of Villages</i>	: 218 Villages
<i>Net Cultivable Land</i>	: 9,763 Hector
<i>Total Households</i>	: (1991 Census): 48,032 (Rural), 19,201 (Urban)
<i>Total Population</i>	: (1991 Census): 1,04,056 persons
<i>Number of Beels</i>	: 44
<i>Number of Canals</i>	: 46
<i>Number of Sub-compartments</i>	: 15

Source: Progress Report of CPP, July 1996

Progress of the Construction of Structural Interventions

Item	Target	Progress
Regulator	15	14
Modification of Existing Structures	5	4
Minor Regulator	44	40
Bridge/Culvert	33	30
Re-excavation of Khal (Km)	129	94
Re-sectioning of Embankment	68	60
Bank Protection	5	4
Tangail Town Drain (Km) Pucca	1.7	1.7
Tangail Town Drain (Km) Kacha	2.6	1.3

Source: Progress Report of CPP, August 1998

The Intervention of BELA

In the report of the 1989 Project Identification Mission of FAP, it was expressed that the concept of compartmentalisation and controlled flooding were relatively new and needed to be developed, tested and demonstrated in the fields under practical operating conditions. This indicated that the CPP was being implemented in Bangladesh on an experimental basis ignoring the need for proper assessment of socio-economic and environmental impact, maintenance of proper land acquisition system through the enforcement of existing laws. That prompted Bangladesh Environmental Lawyers Association (BELA), the public interest group of environmental lawyers, to undertake the initiative to ensure compliance with the legal procedure and to extend legal assistance to the distressed people who suffered or likely to suffer damage or injury due to the implementation of FAP-20 Project. BELA, therefore, designed a project titled "Legal Assistance to People Affected by the FAP-20" being implemented with support from international development partners, NOVIB and ICCO of the Netherlands.

Introduction

Rationale

In Bangladesh a large number of laws and bylaws were enacted and promulgated to ensure the protection of individual rights and interests with adequate legitimate remedies. While the State retained its eminent domain authority to acquire private properties for public interest that must be exercised in due process of law as would be applicable. This protection of legal rights on the one hand and the strict prescription of substantive and procedural laws on the other hand comprised of the mandatory prescriptions on compulsory acquisition of properties and for undertaking development projects in Bangladesh by the public sectors.

Various non-governmental organizations operating in Bangladesh became increasingly concerned about FAP and its potential impact on peoples' legitimate rights and environment. The FAP-20 was apprehended to affect thousands of people outside the project area and the prime objective of BELA was spelled to ensure the legal right to compensation of these affected people.

Under the Project of BELA the Project Affected People (PAP) of FAP-20 are being provided with legal assistance in realisation of their lawful demands and a persistent advocacy package has been drawn up in that respect.

The importance of BELA's proposed activity in the CPP area was further justified by the fact that the legal provisions regarding compensation remained in books only and the public agencies in most cases undertook their development projects on and endangering private rights and interests defying the statutory requirements. The institutional practice remained far from the provisions of law that simply led to unlawful deprivation of legitimate rights and interests of the common people, mostly illiterate and ignorant about their legal rights. The institutional mal-practice created a vicious circle for them that they could hardly break through. Consequently, the actual legal injuries were never compensated or taken into feasibility assessment in concrete quantified terms while conceiving the projects. It was, therefore, believed that the local people of respective areas should be assisted to exercise their legitimate rights and interests while implementation of projects by public agencies.

This project of BELA aimed at assessing the losses and injuries caused or likely to be caused due to the implementation of FAP-20 and providing legal assistance to the PAPs and enable them to claim compensation from the concerned authorities. At the onset it was proposed to assist only a fraction of the PAPs significant in terms of compensation claims and area of implementation. If the government agencies involved could be made to act upon the claims of these selected PAPs, a proper implementation, perspective, awareness and precedence would then be established for future replication in the country.

The project was aimed and designed at achieving that goal.

Scope of the Project

The FAP aroused severe criticism at all arena, national and international. It was feared that the implementation of the plan would re-shape the natural environment and ecology of a vast area in Bangladesh. The FAP-20 has posed definite threats to thousands of river islet settlers in various ways.

The whole exercise contemplated in the Project accomplished that the provisions of law were followed so that the illiterate, unaware and helpless people of Bangladesh receive their legitimate entitlement. Through the process of compensation claims the nature of damage/injuries was brought up for appropriate consideration implying, at least, that the negative environmental costs can be ascertained and people's

participation in some effective sense be ensured and practiced in development activities.

The Project examined and identified the nature of losses due to FAP-20 and henceforth provided legal assistance to the PAPs.

The main objectives of the Project were to:

- i) make local people/communities, individual and professional groups aware about their rights and lawful interests;*
- ii) assist the local communities in preparing, submitting and pursuing their legitimate claims threatened by the CPP before appropriate authorities/forum/bodies;*
- iii) extend scientific and legal supports to the compensation claimants and the appropriate authority to work out equitable compensation, and/or remedies and related matters; and*
- iv) ensure the enforcement of all relevant laws and rules applicable to development activities including the scope of fundamental rights and the acquisition law to create the much required precedent in the jurisprudence on Bangladesh.*

According to the FAP-20 Project document, land acquisition of 346 ha would be required to implement structural interventions. The process of acquisition would, therefore, interfere with various rights of the people. An obvious impact would be on thousands of landowners that would be required to surrender their land for the purpose of the Project. As per the prevailing law of the land, other loss of the people including losses in earnings, fishing rights, water rights, residence facilities, water logging, land erosion, impact of acquisition on other lands etc. would also be addressed for the purpose of determining compensation.

To identify the nature of damages/injuries occurred in the way of implementing the FAP-20; a household survey was conducted in some selected villages of Tangail thana affected by the implementation of FAP-20 to identify the types of damage and the locations. Based on this preliminary survey, a total of 4513 people have, till to date, been assisted to forward their claims.

Limitations of the Project

No detailed list of the affected villages was available at the time of making the selection for both the villages and the PAPs. The villages were thus selected purposively i.e. those villages were surveyed where PAPs were identified *and using the method of rapid rural appraisal*. The evils played by brokers 'Dalal' in compensation process, fluctuation of value of the lands acquired, non co-operation of the people out of fear or disinterest etc. were amongst the other major challenges tackled with special care.

Despite these limitations, the findings portray a clear picture of the nature and extent of losses in the Project area.

FAP and the People

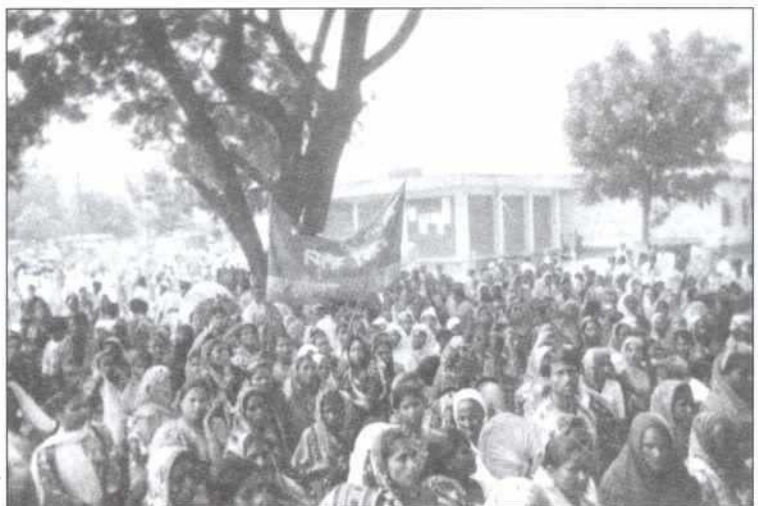
Since the time of its inception 'FAP-20' was being criticised for being anti-environment and anti-people. The local people, on several occasion, protested and objected against such huge structural project that was approved and being implemented without ever consulting them and even the national assembly never discussed the justification of the same. It was feared that the FAP-20 Project would adversely affect and uproot about 3 lacks of people within the project area. The extent of its adversity outside the project area may encompass more than a million human lives, the natural resources and natural habitats of men and other flora and fauna. The total impact area of the FAP-20 is large and 210 hectares of land faced acquisition mostly in non-compliance with legal requirements. The experimental project impact area included a Mosque, namely, the 'Attia Mosque' the picture of which appears on the ten Tk. note listed as archaeological resource and aimed to be protected against misuse, restriction, damage etc. under the Antiquities Act, 1968 in the spirit of Article 24 of the Constitution. Few paper clippings reporting dissatisfaction over the Project are being enclosed and marked as Annexure "A" series.

The grief of the local community against the FAP-20 still continues as it has started taking its toll over their surrounding environment and livelihood. Unfortunately, many of the negative impacts as feared by the experts are coming true and mounting pressure from the local inhabitants has in some instances forced the authorities to change the initial design of some Project components.

However, the most serious allegation against the implementing authorities remain to be the forceful execution of the FAP-20 Project depriving the affected people of legal relief as entitled under various laws. The law and order situation of the Project area reportedly turns vulnerable when the people protest against infringement of their fundamental rights due to such unlawful implementation.

Extensive field visits by the experts were undertaken to get and gather a general idea and concept of the people about the project area which came out with the following observations:

Loss of Crops: Most of the land was covered with sandy soil and in some area do'ansh or too much of muddy soil. According to the villagers, they faced loss of Amon paddy for over flooding and sandiness every year after the construction of embankments and sluice gates. At least three crops used to grow before but for the interventions in the Laohajung River only one crop was growing for the last 2-3 years. Farmers were trying to grow the paddy commonly known as IRRI by installing deep tubewell that turned out to be expensive. Those who cannot afford such tubewell were ultimately selling their lands



Women in Tangail Protesting FAP-20 (1993)

at an unsatisfactory price. In the dry season there was no water in the river and because of the sandy soil no seasonal crop and vegetables could be grown.

Change in Temperature: The temperature of the project area also changed and a sign of desertification was noticed everywhere. Most of the lands acquired for the purpose of the Project were homestead and people thus also suffered at large-scale due to damage of plantation and afforestation.

Inadequacy and Pollution of Water: Due to the closure of the Dhaleshwari mouth of the river for river training of the Jamuna Multipurpose Bridge Project (JMBP), the prime water supplier i.e. the Laohajung river contained inadequate flow. Constructed sluice gates, embankments and other structures also obstructed the natural course of water creating insufficiency of water for large number of villages. The stagnant water soon got polluted and turned black. Due to non-availability of alternative sources, the polluted water was being used for household works like cooking, bathing, animal feeding, washing, sanitation, agriculture, fishery etc. threatening public health. Increased number of reports on diseases of skin, diarrhoea, cholera, kala Zaar* alarmingly were recorded as consequence of such water pollution.

**Kala zaar is known to be a volatile disease responding to environmental changes. The cost of treatment is out of reach for many people in Bangladesh. The Fap-16 study contained a number of recommendations which were ignored. These included the need for increased surveillance in the FAP 3.1 and FAP-20 project areas. The FAP-20 area was Kala Zaar free at the time of the study but is surrounded by Kala Zaar endemic high lands. Changes due to FAP-20 would similarly delay or prevent floods thereby potentially increasing the risk of the disease. (Are the Dutch, Germans and EEC listening; The Daily Star, 13 March, 1997)*

Concern of the People

- As the structures were constructed in an unplanned way either flood or drought would be attacking every year. The so-called regulatory committee of those structures failed to perform their duties effectively, as most of the members had no connection with the village.



A useless regulator of FAP-20 in Nagar Jalpai

Excitement has been prevailing among the inhabitants of Sarotia, Ashekpur, Poila, Nagar Jolphoi area for excavating Gharinda Nagar Jolphoi Khal (canal), which is about 4.28km. long. It is complained that in the name of acquisition of 7.9 hector of land to excavate the said khal the authority is destroying the growing IRRI paddy without awarding proper compensation. Now the people have been guarding their lands with weapon to hinder the CPP activities. By a press conference they have strongly demanded to the higher authority to take useful measures otherwise they would defend it at any cost. (Sangbad, 13 April, 1997)

- Unemployment could be treated as the major problem in that area that was as increasing. Fishermen, boatmen, weavers lost their profession while farmers remained jobless for half the year. Many villagers migrated to the town for work and leading a disastrous life. The structural interventions of CPP severely threatened the fisheries resources.

The wrath of the people was demonstrated during the visit of the Development co-operation Minister of the Netherlands in July 1997 when the Minister was informed about the adverse impact of the Project on Fishers. As a result a study was undertaken for the Royal Netherlands Embassy here in Bangladesh to define mitigation and compensation measures on fish, fishes and fisheries in CPP area. The outcome of the Study clearly showed that due to the execution of CPP the fishers were adversely affected and there had been drastic fall in the income of this group. The decline in the employment and income was not only due to reduce in fishing ground but also for a sharp drop in the density of fish per unit of production. According to their study about 27% fishers migrate out of the CPP area for fishing. (Source: Report on Fish, Fishers and Fisheries in CPP Area: A study to Define Mitigation and Compensation Measures by Anjan Datta, June 1998)

- Socio-economic condition of that area faced severe adversism due to the implementation of the Project. Many villagers lost their last farthing due to involuntary displacement from their ancestral land. Women started being tortured in many forms like divorce, payment of dowry, rape etc. Child labor also increased due to poverty and there was a mass violation of human rights in such social context.

A procession of more than 2 thousand women of several villages in Tangail had gathered to the DC office and handed over a memorandum to stop the "death trap" of FAP-20 activities in three thanas of the district. (Daily Ittefaq, 19 September, 1993)

- In the process of deforestation and desertification many precious species became extinct from that area.
- Though CPP took some measures to address the manifold damage it caused like training on agriculture, fisheries and social forestry, they failed to operate purposefully.
- With the help of local terrorist and influential persons and ignoring severe protest from the local inhabitants, CPP continued to perform their work forcefully and violating all related provisions of law. Most unfortunately the CPP authorities totally failed to consider the impacts of the Project outside the project area.



Women Protesting Against FAP-20

In relation to the construction of a regulator on Birpushia khal (canal) by CPP, a violent dispute has been existing for the last one year between two rival groups of Birpushia of Karatia Union in Tangail District. Most of the villagers demanded to construct the regulator on Laohajung river and earlier a decision as well as resolution has been taken in this respect by a meeting. Unfortunately violating the resolution and avoiding the public opinion, construction of the regulator the said khal provoked to turn the dispute into violence. It is said that a few influential and self-seeking persons were involved which would become ineffective eventually. (Daily Janokontha, 21 June, 1997.)

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- The whole programme and activities of FAP-20 was viewed an abortive attempt as there was no people's participation. People were ignored at the planning process of this development work and had no access to information. People found themselves helpless against the anarchy created by the CPP and had no means to avail their lawful claim of compensation.

CASE STUDIES: *Where Miseries Know No Bound***Profile of the PAPs**

Name	:	Rup Banu
Address	:	Village-Krishnapur, Post-Jugni, Union-Bagil, Police Station-Tangail Sadar, District- Tangail (Inside the Project Area)
Age	:	40
Sex	:	Female
Profession	:	Weaver
Types of Loss	:	Loss of Cultivable/Homestead Land and Profession
Claim made for	:	Losses 1, 2 and 7

Facts: Rup Banu owned landed property of 15 dcm on which she had a weaving unit. The same land being the only property of Rup Banu was also used for cultivation by this widower. In excavating the Kharda Jugini- Krishnapur canal in 1994, all her land was acquired. She was not given any notice for acquisition till the excavated work progressed significantly.



Weaver Rup Banu lost her own weaving unit land and now works under another weaver.

Profile of the PAPs

Name	:	Noitunnesa
Address	:	Village- Dithpur, Post - Binnfoeir, Union- Dainnya, Police Station- Tangail Sadar. District- Tangail (Inside the Project Area)
Age	:	60
Sex	:	Female
Profession	:	HouseWife
Types of Loss	:	Loss of Homestead Land, Trees, Plants, Crops and others
Claim made for	:	Losses 2, 3 and 9

Facts: Noitunnesa owned 11 dcm of homestead land. The FAP authorities gave her no notice till the completion of the excavation of canal Dhitpur-Shingargona for which 8 dcm of her land was acquired in 1996. A helpless Noitunnesa now lives on the rest 3 dcm of land posed to extreme danger of erosion for being surrounded by Lauhajang river on one side and the said canal on the other side. She also lost her right to way and is compelled to use a bamboo bridge for crossing the surrounding water for reaching her home.



Noitunnesa lost her right to way (1998)

Profile of the PAPs

Name	:	Nimai Chandra Haldar
Address	:	Village- Katua-Jugini, Post-Jugni, Police Station- Tangail Sadar, Union- Bagil, District- Tangail (Inside the Project Area)
Age	:	50
Sex	:	Male
Profession	:	Fisherman
Types of Loss	:	Loss/Change/Transfer of Profession
Claim made for	:	Losses 4 and 7

Facts: Nimai was a traditional fisherman and continued with the said profession up to 1992 till the gates and embankments of the FAP-20 project obstructed the water flow and spawning of fish. Nimai could not fish in the once rich area in terms of fish population that suffered severe loss of the said resource because of these interventions. The burden of running the 15 member family, however, remained on Nimai who on loan set up a small tea stall. Meanwhile, Nimai had to sell all his landed property to pay back the loan that took for buying fishing nets. The FAP authorities never proposed for rehabilitating the large number of fishermen community who suffered great loss due to adverse impact of the Project on fishery.



Nimai-a traditional fisherman turned a grocer (1997)

Profile of the PAPs

Name : Belayet Hossain
Address : Village- Kharda-Jugini, Post- Bagil, Union- Bagil, Police Station-Tangail Sadar, District-Tangail (Inside the Project Area)
Age : 49
Sex : Male
Profession : Weaver
Type of Loss : Homestead Land, Trees, Plants, Erosion
Claims made for : Losses 2, 3, 4 and 6

Facts: FAP authorities acquired all 9 dcm homestead land of weaver Belayet for excavation of Kharda Jugini- Krishnapur canal who was served notice for acquisition at a much later stage. While the canal has been excavated on the major part of his land he, however, is still left with 9 dcm of land covered by the said notice of acquisition where stands his residence and weaving unit. The flow of water during monsoon expose this small piece of the land to erosion and Belayet is running a family of 6 members being under such constant pressure of getting eroded



Belayet the erosion has to exposed him the threat by losing his last farthing (1997)

Profile of the PAPs

Name	:	Minoti Rani Das
Address	:	Village- Rasulpur Daspara, Post-Rasulpur, Union- Gala, Police Station-Tangail Sadar, District- Tangail (Inside the Project Area)
Age	:	35
Sex	:	Female
Profession	:	Housewife
Types of Loss	:	Homestead Land, Trees, Plants
Claims made for	:	Losses 2 and 3

Facts: During the flood of 1998, the embankment constructed by CPP in the Daspara of Rasulpur could not benefit the people. On 12 September '98 the embankment collapsed in the presence of the CPP officials and the village got flooded with a massive flow. Minoti Rani Das, a victim and witness of the incident blamed the CPP for not opening the sluice gate earlier as appealed by the local people. According to her, the embankment was under constant danger in the early monsoon and the villagers repeatedly requested the authority to open up the sluice gate for minimising the pressure of water from one side. The authority gave no consideration to that and although they were informed of a minor breach in the embankment there was a delay on their part in visiting and repairing the same. When they visited at much delay, the embankment could not take the load of the heavy pressure of water and in a split second the area went under 15-18 feet of flow. The severity of the flow was such that the engineers, contractors and more than 50 laborers of CPP present on spot could not prevent the breach



Minoti virtually lost everything her homestead, crops, (1998)

The floodwater washed away the house and other households of Minoti Rani, Nitai Sarkar and Shahidul Alam. All their furniture and plants were also destroyed. Another 13 families suffered loss due to damage to their homestead plants.

Profile of the PAPs

Name	:	Bagu Mian
Address	:	Village- Sarutia, Post- Garinda, Union- Garinda, Police Station- Tangail Sadar, District-Tangail (Inside the Project Area)
Age	:	55
Sex	:	Male
Profession	:	Marginal Farmer
Types of Loss	:	Cultivable Land, Trees, and Plants
Claims made for	:	Losses 1 and 3

Facts: Bagu Mia lost two of his cultivable lands of 14 dem that was required for excavation of Gharinda-Sarutia canal. Once a solvent farmer Bagu Mia is now faced with extreme hardship due to loss of his cultivable land for the acquisition of which he never received any compensation. The notice for acquisition reached him at a much late stage when all his bamboo and other fruit trees were alleged to be auctioned by the FAP authorities.



The Burai river had its flow by the side of Bagu Mia's residence. Along with others he also enjoyed right to fishery over public water body. The structural intervention hampered the flow of water

Bagu Mian-his cultivable land is now a canal (1998)

in the river in many parts and the spawning of fish resulting in total non-availability of fish stock in the said river. However, the miseries of Bagu Mia and other did not touch the influential one of whom managed to cultivate fish in a part of the river that has some flow.

Profile of the PAPs

Name	:	Jobeda Baowa
Address	:	Village and Ward: Ashekpur, Post: Tangail, Police Station- Tangail Sadar, District: Tangail (Inside the Project Area)
Age	:	70
Sex	:	Female
Profession	:	Housewife
Types of Loss	:	Loss of Homestead, Cultivable Land and Crops
Claims made for	:	Losses 1, 2 and 3

Facts: Jobeda only had a landed property of 8 dcu of which 4 dcu was used for residence purpose and the rest 4 dcu for cultivation. She is left with only 1 dcu of land holding her tiny residence. She was not given any notice of acquisition that was required for excavation of Poila-Ashekpur canal started in 1998. Jobeda, a widower herself, is also taking care of two grandchildren and a divorcee daughter.

Her claim would soon be submitted.



Jobeda-the widower lost her land is left only with the structure as appears (1998)

Assisting the Local People



Dr. Mohiuddin Farooque of BELA addressing journalists at Tangail (1997)

The Project of BELA was implemented at two levels. At the local level, i.e., where the FAP-20 was being implemented massive awareness and interaction with the local people was undertaken to assist them in filling up their claims to the appropriate authorities. At the national level two Public Interest Litigation's (PILs) were filed to get a judicial decision on the soundness of implementation of FAP-20. The various efforts at both the levels and the achievements are noted below.

A. At the Local Level

i. Household Survey: In order to provide legal assistance for claiming proper and adequate compensation and to identify the nature of damage/injuries occurred for the implementation of FAP- 20, a household survey was conducted by BELA in some selected villages of the Tangail thana. At the initial stage, a total sample of 941 respondents from 28 villages were collected with structured questionnaire inside the CPP area and 250 respondents were interviewed from 9 villages outside the Project area. At the second stage, another 35 (11 inside and 24 outside) villages were surveyed taking the number of villages covered by the Project up to 72.



PAPs expressing their grievance to Dr. Farooque (1997)

The significant impact of the implementation of CPP would be on the local people of the Tangail Thana and the aim was to assess the types of injuries caused by such implementation. To ensure diversity in losses sample respondents were selected from almost all affected villages (identified by BELA) where the construction work was completed, wholly or in part. In other words, the people both inside and outside the



Women talking to Dr. Farooque about their disastrous family life for which they blamed unemployment created by FAP



Dr. Farooque explaining the grievance of the PAPs to the CPP Authority.

embankments were affected and hence to assess the losses, villages from both inside and outside the embankment were considered as the target areas.

The Map on the location of the areas surveyed is given on page 21 and 22

ii. Sample Design: A two-stage selective sample procedure was used. The rationale was the simplicity, low cost and ease of operation of such procedure. To get a complete picture of the nature of losses incurred due to the implementation of the CPP, BELA purposively selected the respondents who suffered or was affected. Villages where no PAPs could be identified were excluded from our sample.

Table 3.1 and 3.2 presents the distribution of the sampling units at the 1st stage and 2nd stage sampling inside and outside the embankment respectively.

TABLE 3.1

Distribution of Sampling Units (inside FAP-20 Project Area)

Sl. No.	Name of Village	Number of PAPs	Sl. No	Name of Village	Number of PAPs
1	Dainnya	53	21	Indra belta	59
2	Krishnapur	27	22	Beltasarai	53
3	Rasulpur	42	23	Baruha	59
4	Katuajugni	93	24	B.Binnafaier	64
5	Fatehpur	702	25	Garinda	74
6	Darjipara	178	26	Aowultia	32
7	Porabari	221	27	Bararia	35
8	Kandua	151	28	S.Binnafaier	73
9	D. Shibpur	36	29	N.Kummuli	15
10	D. Gapalpur	265	30	Garashine	16
11	Pichuria	165	31	Bhatchanda	25
12	Poila	69	32	Sadullapur	11
13	Bathuajani	144	33	Dithpur	11
14	Enaitpur	24	34	Kuchiamari	24
15	Alishakanda	40	35	Baniabari	111
16	Darebari	24	36	Rupushijatra	105
17	Khardajugini	21	37	Chanbahara	110
18	Maisakanda	28	38	Anohola	10
19	Gala	128	39	Daraputia	30
20	Nayapara	110			

TABLE 3.2

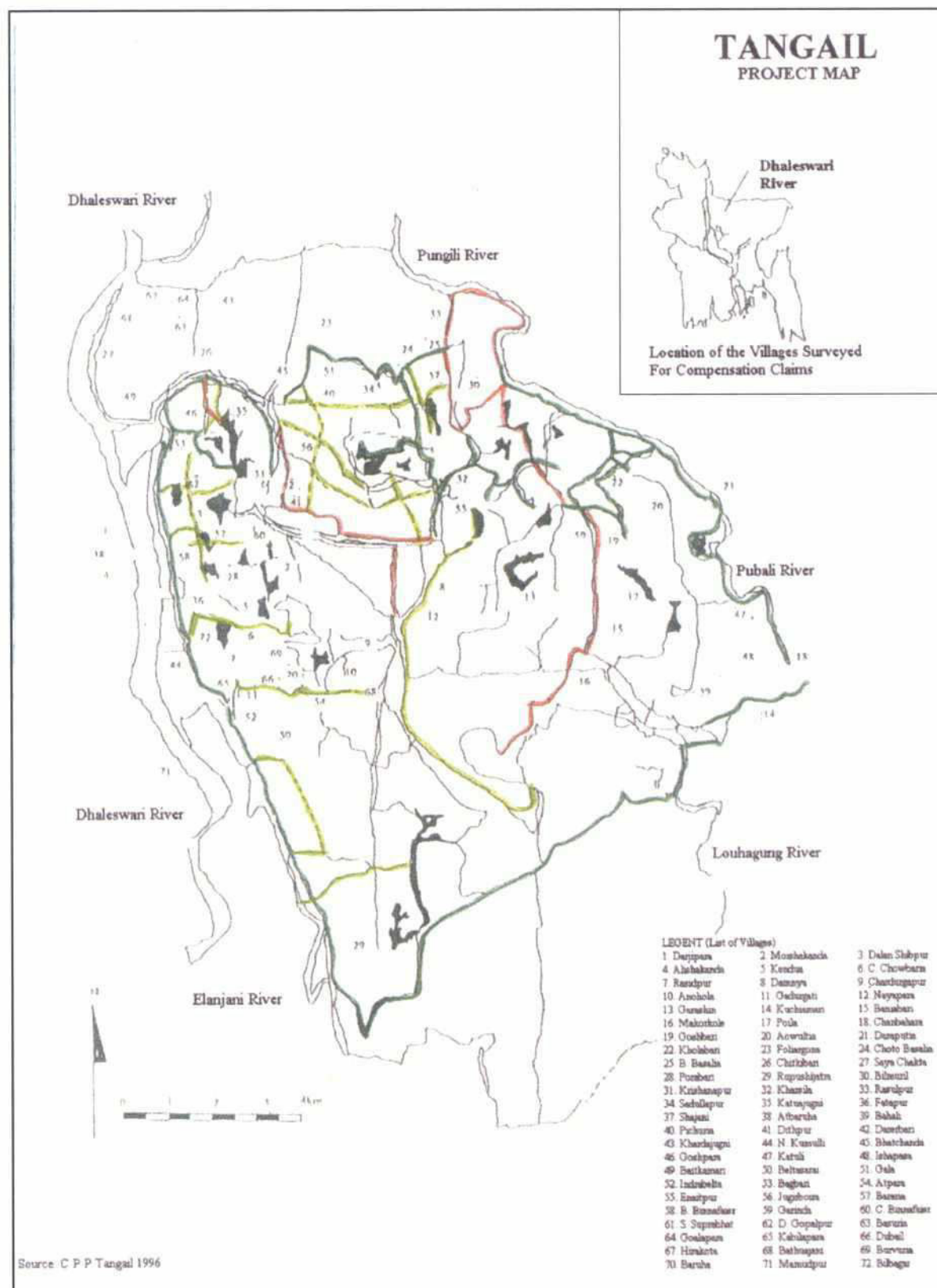
Distribution of Sampling Units (outside FAP-20 Project Area)

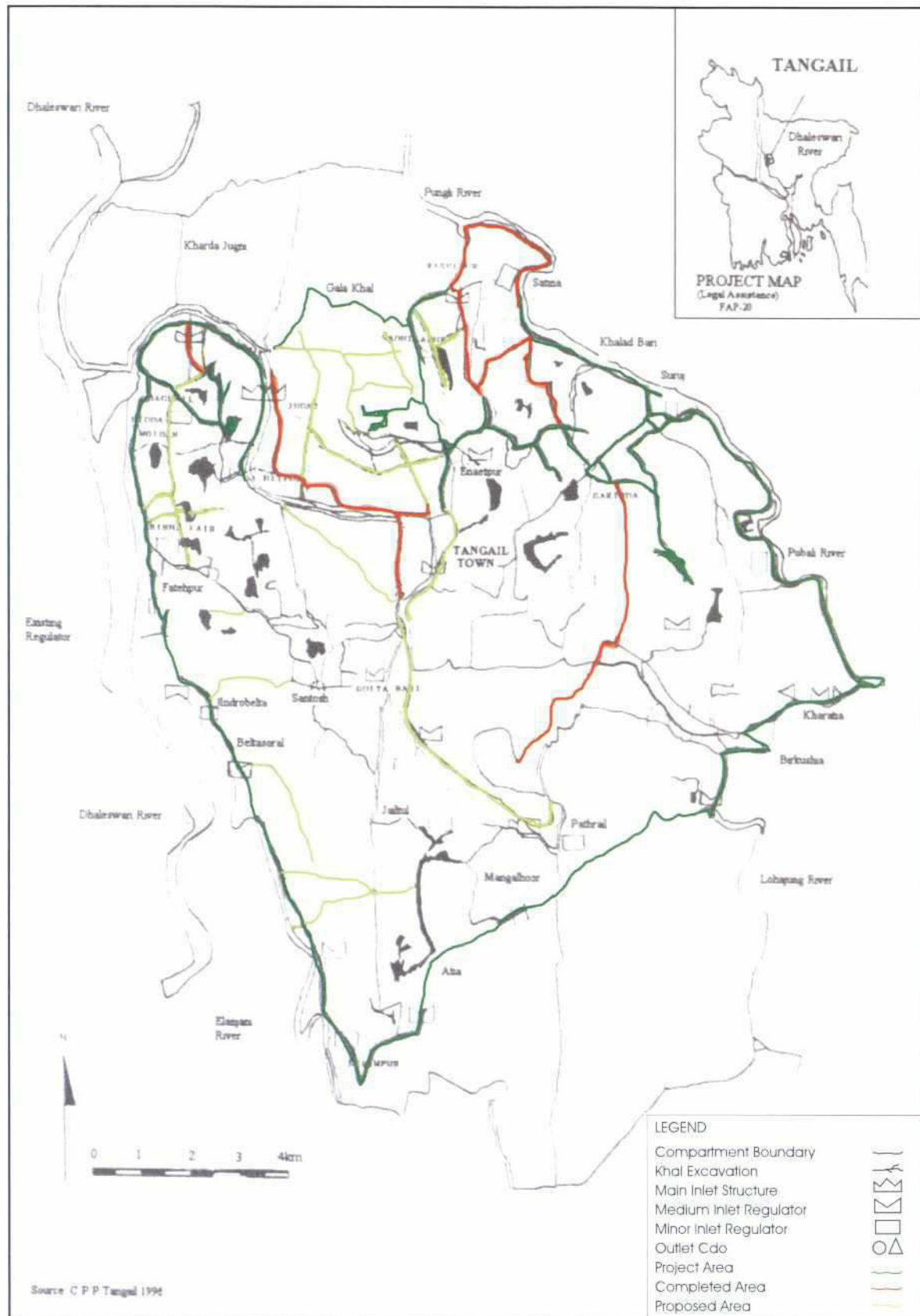
Sl. No	Name of Village	Number of PAPs	Sl. No	Name of Village	Number of PAPs
1	Atbaruha	110	17	Shajani	03
2	CharDurgap-ur	05	18	Makorkole	06
3	Rashidpur	01	19	C. Chowbaria	11
4	Goshbari	01	20	Bilmuril	09
5	Jugirboira	140	21	Baitkamari	09
6	Goshpara	24	22	Bilbagar	03
7	Bagbari	120	23	Mamudpur	12
8	Ishapasa	09	24	Burburia	39
9	C. Basalia	116	25	Chitkibari	12
10	Basuria	28	26	Hirakota	17
11	Dubail	45	27	Gadurgati	32
12	Kharsila	02	28	Kabilapara	32
13	Kholabari	11	29	Goalpara	72
14	Bahuli	05	30	S.Suprabhat	08
15	Katuli	04	31	Saya Chakta	51
16	Atpara	04	32	B. Basalia	42
			33	Faliargona	142

iii. **Preparation of the Questionnaire:** Data were collected through individual questionnaire. While designing the questionnaire, attention was given to the wording of the questions so that the respondent found it simple and could understand it easily. In certain situations interviewers were instructed to intervene for collecting correct information. The questionnaire was finalized in consultation with the experts from BELA and technical consultants. Pre-testing of the questionnaire were done on a small sample of PAPs from Jugni village under sub-compartment 9 where the main inlet regulator was constructed. The main objective of the pre-testing was to test and decide the adequacy and soundness of the contents of the questionnaire, sample design and the plan of field operation, length of interview, identification of respondents (PAPs), problems of respondent selection, perception of interviewers and respondents, sequences of topics, adequacy of training of the field staffs etc., were some of the aspects that were tested through pre-testing operation. Modification and improvement of the questionnaire were carried out on the basis of the experience of the pre-testing.

The questionnaire covered the following topics:

- Background characteristics of the respondents
- Type of losses incurred
- Amount of losses in monetary unit as per their willingness to accept
- Compensation realized





iv. Preparation of Base Map: For the purpose of the Project, maps were prepared that collectively provide for the following information relating to the Project:

- total area of CPP with completed and proposed area of activities and the locations of sluice gates, regulators and culverts;
- location of the area surveyed for collecting compensation claims;
- major losses and injuries inside and outside the CPP area

v. Preparation of Implementation Plan: The implementation schedule included recruitment of field staff and their training, pre testing of the questionnaire, data collection, coding and editing of the data, data analysis and report writing.

Following is an attempt to detail out the implementation of the Project of BELA.

1. Identification of losses and injuries to be tenable under the law on pre-designed set of questions:

Field staffs were recruited at two stages of the study. For household survey five interviewers were recruited at Tangail through circulation of notice to different institutions including the local NGOs and their networking body called Development Agencies of Tangail (DAT). Preference was given to those who had previous experiences in data collection. For filling the compensation claim format a fresh recruitment was done at Tangail.

Intensive training was given to the field personnel to educate them about quality data collection by the BELA staffs and consultants. At the time of training, elaborate discussions were made on the questionnaire. Apart from lectures on how to fill the questionnaire, group discussions and question and answer sessions were organized. On completion of the training programme for the data collectors, a special training programme was organized for the supervisors.

In the second stage for filling up the compensation claim forms a total of 25 field staffs comprising local NGO staffs and students were appointed in consultation with the partner NGOs and DAT. The field team carried out the following assignments:

- a. Introducing the PAPs with the objective of the endeavor and motivated them;
- b. Collecting information necessary in filling up the format;
- c. Collecting documents from the PAPs to be submitted in support of their claims;
- d. Filling up the form;
- e. Signing of Waakalatnama (Power of Attorney).

A two-week long training course was organized in this stage where lawyers, statisticians and other officials of BELA and the consultants oriented the field staffs on various aspects connected with the performance of the above assignments.

A nine-member team was set up to assess the compensation for each damage as per the compensation manual and to fill the respective column of the form.

2. Categorized the identified damage to develop criteria for assessing and quantifying the same in monetary terms: At the very onset of the Project the losses/injuries of the PAPs were categorised into three broad types following opinion of the local people.

Actual loss (ALOSS) : Actual losses are incurred due to the acquisition of lands both cultivable and homestead for the project. It also would include losses of such properties attached to that land such as trees, plants, houses etc. Again it would include losses of occupation for the sharecroppers, boatmen, day laborers, fishermen and others.

Seasonal Loss (SLOSS): It would include those losses that occurred partially in different seasons such as crop damage, land erosion, water logging, etc. due to the implementation of the project.

Probable Loss (PLOSS): Probable losses include those losses that are anticipated to occur in near future due to the implementation of the project such as water logging, land erosion, environmental degradation, extinction of different species, health hazard, deforestation, infertility of land, etc..

The losses were further categorised into nine different types on scrutinising the information collected and reviewing the legal documents:

1. Forced Acquisition of Land;
2. Loss of Place of Residence and Homestead Land;
3. Loss of Trees, Plants and Crops;
4. Loss for Transfer in Residence/ Business;
5. Lands Detached from Acquired Land;
6. Infertility of Land, Erosion/Water Logging/Drainage;
7. Loss and Change in Profession;
8. Mental Sufferings; and
9. Other Losses including Right to Water, Fishery Property, Sound Environment.

3. Defining the key terms:

Household: A household has been defined as all persons living and eating together, sharing the same kitchen and cooking as a single family unit. There could be one or more person in households who were entitled for compensation claim.

Project Affected Person (PAPs): A PAP would mean a person who lived and earned his living inside or outside but adjacent to the project area and was affected or likely to be affected by the implementation of the project and under the existing laws of the land whose property, place of residence, means of livelihood, environment and other rights etc. were affected.

4. Review of relevant laws to identify the extent of relief available: To implement the compensation project successfully following relevant laws were reviewed.

4.1 THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH

4.1.a. PART-II, FUNDAMENTAL PRINCIPLES OF STATE POLICY:

Art. 14 It shall be a fundamental responsibility of the State to emancipate the toiling masses--- the peasants and workers --- and backward sections of the people from all forms of exploitation.

Art. 15 It shall be a fundamental responsibility of the State to attain, through planned economic growth, a

constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens -

- (a) The provision of the basic necessities of life, including food, clothing, shelter, education and medical care;
- (b) The right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;
- (c) The right to reasonable rest, recreation and leisure; and
- (d) The right to social security, that is to say, to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases.

Art. 16 The State shall adopt effective measures to bring about a radical transformation in the rural areas through the promotion of an agricultural revolution, the provision of rural electrification, the development of cottage and other industries, and the improvement of education, communications and public health, in those areas, so as progressively to remove the disparity in the standards of living between the urban and the rural areas.

Art. 23. The state shall adopt measures to conserve the cultural traditions and heritage of the people, and so to foster and improve the national language, literature and the arts that all sections of the people are afforded the opportunity to contribute towards and to participate in the enrichment of the national culture.

4.1.b. PART-III, FUNDAMENTAL RIGHTS

Art.28. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

Art.31. To enjoy the protection of law, and to be treated in accordance with law, and only in accordance with law, is inalienable right of every citizen, whenever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

Art.32. No person shall be deprived of life or personal liberty save in accordance with law.

Art.40. Subject to any restrictions imposed by law, every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession, occupation, trade or business shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.

Art.42 (1). Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned save by authority of law.

(2). A law made under clause (1) shall provide for the acquisition, nationalization or requisition with compensation and shall either fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court on the ground that any provision in respect of such compensation is not adequate.

4.2 The Acquisition & Requisition of Immovable Property Ordinance, 1982

When any property is required for any public purpose the Government may acquire such property after properly serving notice under sec. 3,6,7 to the interested persons, giving them an opportunity of being heard in the event of any objection on their part and on awarding compensation for damage, losses and involuntary eviction. *Compensation must be calculated considering the market value of the property, value of standing crops, trees and any kind of installation on the land, injury due to change in place of residence, business or profession or on health, environment and/or for ecological imbalance.* Although detailed rules have been framed under the Ordinance to calculate compensation for lands and things standing on it, no determining procedure has been laid down for calculating other types of losses.

4.3 The Embankment and Drainage Act, 1952

This Act consolidated the laws relating to embankment and drainage and aimed to make better provision for construction, maintenance, management, removal and control of embankments and water courses for the better drainage of lands and their protection from floods, erosion or other damage by water.

When any land is required for any purposes mentioned above, the same may be done in accordance with the provisions of Acquisition and Requisition of Immovable Property Ordinance, 1982 and on determination of compensation. *Right to compensation under this Act would extend to injuries to right to water, forestry, drainage or any property as may have been injuriously affected. The affected person has the opportunity to raise objection against the compensation determined by the Government and has the right to involve or participate in project activities directly or indirectly.*

4.4 The Development Act, 1935

The objective of the Act is to provide for the development **of/to** lands in Bangladesh and to impose a levy in respect of increased profits resulting from improvement works constructed by the Government. When it becomes necessary to collect any kind of information from any agricultural land, any building, any enclosed courtyard or garden attached to the dwelling house regarding any development work, the Collector, by general or special order, authorize any person to enter upon any land and do necessary work for collecting such information by serving at list seven days notice. If any damage is caused to standing crops or for other kind of damage as may have been incurred in the course of collecting information, the same is sustainable as a claim for compensation by the person interested.

4.5 The Agriculture and Sanitary Improvement Act, 1920

If for the purpose of improvement of agriculture and the sanitation condition of the area, any land acquisition is necessary, the same may be done under the Acquisition and Requisition of Immovable Property Ordinance, 1982 provided compensation is also be paid under the said Ordinance for infringement of any right. *The affected person has the opportunity to raise any objection against the compensation determined by the Government and has the right to involve or participate in the project activities directly or indirectly.*

4.6 The Irrigation Act, 1876

The Government may, by Gazette notification, declare that water of any river, stream flowing in a natural channel or any lake or still water would be used for the purpose of any projected or existing canal. In case of such declaration compensation may be awarded in respect of the followings:

- a) stoppage or diminution of any underground or above ground water in use;
- b) stoppage or diminution of supply of water to any work for profit of any channel;
- c) stoppage or diminution of supply of water for irrigation;
- d) damage to the enjoyment of right to water;
- e) damage to the supply of drinking water in which case the Government in addition is bound to provide adequate drinking water in lieu of that deteriorated drinking water;

The affected person has the opportunity to raise any objection against the compensation determined by the Government and has the right to involve or to participate project activities directly or indirectly.

4.7 The Bangladesh Water and Power Development Board Order, 1972

Under this Order the BWDB is entrusted with the responsibility to prepare a comprehensive plan for the control of flood and development or utilization of water resource in the country. With the approval of the Government it may frame several schemes regarding construction of different structures for development of irrigation, drainage, water supply and flood control as well as for prevention of salinity, water congestion, improvement and extension of channels for inland water transport including their dredging and maintenance of water quality. If any land is required for the purpose of such schemes that may be acquired under the provisions of Acquisition and Requisition of Immovable Property Ordinance, 1982 after hearing the objections, if any and awarding compensation. All the schemes must be enclosed with the proposal for the resettlement or re-housing of persons likely to be displaced by the execution of the scheme.

The relevant provisions of the laws are annexed as Annexure "B".

5. Review of JMBA Compensation Package: The Revised Resettlement Action Plan (RRAP) of the Jamuna Multi-purpose Bridge that created a remarkable precedent was also taken into account as both the FAP-20 and the JMB project was being implemented on adjacent areas.

Compensation under the JMB Project: Total 6960.18 acres of land are acquired for the purpose of construction of the Jamuna Multipurpose Bridge. The acquisition affected directly or indirectly about 80,000 people who need resettlement and rehabilitation. JMBA claimed to give due importance to the issue and for the purpose adopted a Revised Resettlement Action Plan (RRAP) providing all possible mitigation measures against the adverse effects caused by the involuntary displacement of the people on their social and economic systems. RRAP aimed not only at the resettlement and rehabilitation of the people who were involuntarily displaced from their farm land or homestead land, lost their structure, properties, business/industries and sources of employment and income, but also provided certain specific facilities and benefits for the host communities as well with a view to compensating for the pressure on the local resources and maintaining friendly terms between the resettlers and the host people.

For the Purposes of RRAP Involuntary Displacement would mean

Displacement of People from their Homes against their desire
 Loss of Productive Assets (Land, Business etc.)
 Loss of Social-Cultural Ties
 Loss of Access to Livelihood

The RRAP aimed at:

- i. Improving the economic status of the affected people
- ii. Help the affected people in restoring their earlier socio-economic status

A Comparison between the RRAP of JMB and the FAP-20

SL. NO.	TYPES OF LOSS	ENTITLEMENT	
		RRAP OF JMB	FAP-20
1.	Loss of Cultivable Land, Waterbody	i. Replacement Value of Land Determined by Land Market Survey ii. Stamp-Duty	-----
2.	Loss of Homestead, Commercial and Industrial Land	i. Replacement Value Determined by Land Market Survey ii. Stamp Duty	-----
3.	Loss of Living Quarters, Other Physical Structures, Trees, Plants and Crops	i. CCL for Structures, Trees and Fruits ii. Trees and Other Salvageable Materials Free of Cost Within a Specified Time iii. A Combined Transfer and House Construction Grant to Each Household in Two Installments, Tk. 2,000 + Tk. 5,000= Tk. 7,000 iv. Free Sapling @ 10 Sapling per Household	-----
4.	Loss of Profession and Work (Share-Cropping, Mortgaging or Leasing in Agricultural Land)	i. One Time Cash Grant of Tk 100 per Decimal of the Acquired Land Share Cropped ii. Free Training and Credit Facilities on Income Generating Activities to the Suitable candidates	-----
5.	Loss of Wage Income	One Time Cash Grant of Tk. 3600	-----
6.	Adverse Impact on Host Population due to Relocation	The Entitlements will be Provided for the Host Community as a Whole. No Individual Entitlement in General	-----

Note: The Types of Loss in the JMB area correspond to the Losses in the FAP-20 Project although the professional loss differs in nature. However, the above comparison would show inequality and discrimination in policy making.

6. Development of Claim Forms and the Power of Attorney: The procedures and formalities observed in considering compensation claims was very lengthy and critical. The ignorance of the affected people as to the actual legal requirement and their inability for financial and other reasons in many instances frustrated the objects of the laws. The basic in preparing forms was an innovative effort of BELA in tune with the legal pronouncements and the existing practices on collection of necessary information regarding the applicant and their claims to satisfy the authority and the law.

To tackle with the existing vices prevailing in the process of submitting required information while claiming compensation and avoid unnecessary delay, a new format was prepared by BELA wherein all relevant information justifying the claim would be included precisely. The preparation necessitated

collection and extensive studies on procedures and practices followed both inland and in other countries. The form contained the following basics:

- a. Full identification of the PAP;
- b. Damage sustained by the applicant;
- c. Number of L.A. Case (in case of land acquisition);
- d. Two schedules describing the loss including identification of property;
- e. Amount claimed as compensation.
- f. Date of submission.

A few attachments to the form were made for delimiting the scope of further clarification. These included photocopies of property related title documents, professional certificate, wakalatnama (power of attorney) authorizing BELA to undertake legal action etc. Wakalatnama is the instrument whereby a person assigns a lawyer to take legal action on his behalf. Considering the total number of applicants, the wakalatnamas were developed and printed by BELA instead of buying them at higher prices. The field surveyors performed the huge task of getting them signed by the PAPs. The lawyers assigned by BELA also signed the Wakalatnamas. On obtaining the permission of the President, Tangail Bar Association the applications were made and approval obtained after long persuasion at the appropriate level.

Copy of the Compensation Form and Wakalatnama are annexed and marked as Annexure "C" series.

7. Preparation of Compensation Manual: The unique aspect of the Project was that it was designed to ensure that the PAPs were compensated not only for land loss but also for all sorts of damages they have incurred. The law recognized many legal injuries in addition to land loss, but the existing compensation practice never quantifies those damages into monetary terms. A separate compensation manual had to be developed on scrutinizing local and foreign laws and practice on compensation, accounting and economic theories on environmental loss, constitutional rights and case studies by the information flow availed from e-mail.

In determining the total amount, 10% inflation rate on a total loss for ten years has been considered. The rationale being there would have been no such losses with regard to property or profession for at least a period of ten years had there been no such intervention by FAP-20. The mental distress and depression in addition to the concrete physical loss was also considered.

COMPENSATION MANUAL

1. (a) In Case of Acquired Land

Average Present Value of the Land + 50% CCL + {(Annual Income from Crops Production x Time from Year of Acquisition to Present Year) x 10% Money Inflation}

(b) In Case of Forced Acquisition

Average Present Value of the Land + 50% CCL + (Annual Income from Crops Production x Time from Year of Acquisition to Present Year) x 10% Money Inflation + 50% Penalty Money for Taking Forced Possession of Land.

Acquisition Without Maintaining the Lawful Procedure would be Treated as Unlawful, i.e., Acquisition without Serving Notice under Sections 3, 6 and 7 of the Ordinance.

2. In Case of Homestead Land

Current Market Value of the House and Household Materials + Value of the Related Homestead Land should be Measured by Formula # 1A

3. In Case of Trees, Plants and Crops

(a) Trees and Plants: Present Average Market Value + {(Annual Income from Fruits and Fuel x 10 Years) + 10 % Money Inflation}

(b) Bamboo Clump: Present Value of Bamboo Clump {(Considering 75% as Matured) x Ten Years} + 10 % Money Inflation

(c) Crops: Present Annual Income x Ten Years + 10% Money Inflation

4. In Case of Transfer of Business/ Homestead Land

(a) Business: Actual Cost of Transfer + {Difference between the Previous and Present Income (in case of less income only) x 5 Years} + 25 % Resettlement Cost

(b) Homestead Land: Actual Cost of Transfer + Rehabilitation Grant per Head Tk 20,000 (This Grant will be applicable only for them who have been living at the place for 20 years)

Compensation for mental hazard should be granted in both cases per head @ Tk 200,000 for adults and 50,000 for infants (age between 5-18 years). This grant will be applicable only for them who have been living at the place for twenty years in case of homestead land.

COMPENSATION MANUAL (cont....)**5. In Case of Land Detached from Acquired Land**

(a) In Case of Acquired Land: Average present Value of the Land + 50% CCL + {(Annual Income from Crops Production x Time from the Year of Acquisition to Present Year) x 10% money Inflation}

(b) In Case of Forced Acquisition: Average present Value of the Land + 50% CCL + {(Annual Income from Crops Production x from the year of Acquisition to Present Year) x 10% Money Inflation} + 505 Penalty Money for Taking Force Possession

Acquisition without maintaining the lawful procedure will be treated as unlawful i.e. acquisition without serving notice under section 3, 6 and 7 of the Ordinance

1. In Case of Different Impacts

(a) Ill-Fertility: {Difference of Annual Income x 10 Years} + 10% Money Inflation

(b) Erosion: {Difference of Annual Income x 10 Years} + 10% Money Inflation

(c) Water-Logging: {Difference of Annual Income x 10 Years} + Per Head Tk. 5,000 grant for Health Hazard and Environmental Pollution x 10 Years

(d) Drainage: Difference of Annual Income x 10 years

2. Loss of the Change of Profession

Actual Value of the Instruments Used + {(Annual Income x Up to Age of 60 Years) + 10% Money Inflation}

Tk. 500,000 should be granted in case of professional loss for mental depression (age minimum 14 Years Upwards)

3. In Case of Mental Loss Formula # 4 and 7 Should Apply**4. Others:**

(a) *Right to Fishery*: Annual Income from Catching Fish x 10 Years + 10% Inflation

(b) *Right to Water*: Per Head Grant Tk. 2000

(c) *Right to Healthy Environment*: Per Head Grant Tk. 10,000

(d) *Right to Social Security*: Tk. 300,000 Grant for Injured Women and Tk. 200,000 for Each Child in Case of Divorce and Re-marriage

8. Filling Up the Compensation Forms: The filling up of the compensation form required great bulk of information and special techniques. The following activities were performed to fill up the forms properly:

8.1. Coding the villages surveyed: The villages surveyed and the PAPs were given specific code and serial numbers respectively to facilitate easy identification and avoid mess up during claim proceedings. A slip containing the village code number and the serial number was given to each PAP. All the forms, wakalatnama & other relevant documents were marked and maintained with the same numbers so that the documents would not get misplaced.

8.2. Rules to be observed in filling up the form: The field surveyors were provided with a directory containing the rules and conditions to be followed according to the compensation manual in filling up the form. The regular staffs also trained them as to how and why the conditions should be followed.

9. Submissions of Claims before Appropriate Body in Prescribed Form: 4, 513 (Four thousand five hundred and thirteen forms) had been filled up and submitted to the Office of the District Commissioner in phases (50 per working day as per agreement with the authority) from 72 villages both inside and outside the Project area. List and locations of the villages surveyed for compensation claims are shown in the Map on pages 25 and 26.

FINDINGS AND OUTCOME

At the primary stage, twenty eight (28) villages were selected from inside the CPP area and a total of 941 PAPs were interviewed to identify the nature and type of the losses. Nine (9) villages were selected from outside the area and 250 respondents were interviewed to get a picture of losses and injuries outside the embankment. The following were the major findings:

Structure-base Observation

Inside CPP Area

-During the rainy season, water coming from the sluice gate of Kharda Jugini- Dheetpur gate of Laohajung River entered the Singergona and Krishnapur beel (marshy land). Over flooding by such entrance caused damage to the agricultural lands and crops. Before the construction of the gate two crops were grown but after the construction only one crop was growing. While water logging brought in misfortune for the villagers, a former chairman of the Union council forcefully released



Water logging at Dhitpur village

grasscup fry in the water causing damage to the fertility of the land and crops.

-Southern area inside the Jugni Main inlet is Krishnapur village. For constructing the embankment land was acquired unlawfully without serving any prior notice to any person of the village. Some influential persons of the village collected and distributed compensation money to those only who paid a share to them. According to the PAPs, the money they received was half of the actual value of the land.



Unlawful acquisition at Krishnapur

-About 150-fisherman family lived in the Katua Jugini Daha (depression) and they earned their livelihood by catching, cultivating and selling fishes. But as the gate remained closed at rainy reason the Daha (depression) turned into beel (marshy land) with fixed water flow thereon. Local influential persons having lease of those beels started cultivating fish therein and the original fishermen lost their profession and were forced to a



Pollution of stagnant water in Krishnapur



Water logging at Bhatchanda gate

d. Moreover villages got no notice or compensation on land acquisition.

-The Chilabari-Baghil khal was excavated about 10 years ago. Under this project it is re-excavated and broadened about 20 feet. The sluice gate constructed on this khal remained connected with the Laohajung River and when water came through this khal land erosion was caused on the both bank damaging cultivable land and homestead land.

-The Rasulpur medium inlet regulator was constructed on the union council road that the villagers considered useless. The culvert could meet the need of the Project and to construct the regulator and culvert land was taken forcefully leading to a serious clash between the contractor's musclemen and villagers. Several police cases were filed in this respect.

-An old khal was passing through the middle of Sadullapur village and the sub-compartment gate was constructed at the northern starting point of the khal. The closure of the Gate increased the flow of the water outside and the adjoining village of Rasulpur was washed by the floodwater during the recent flood of 1998.

-The sluice gate of Jolphoy was constructed in 1994 though nobody got any compensation for the land acquired. The authority unlawfully acquired the land that was the property of the Eid Gah mosque the acquisition of which, being a religious place was strictly forbidden by the law.

Outside CPP Area

-The Moishakanda village is situated outside the north-west side of the Jugni main inlet. Major means of incomes of the inhabitants of this village was riverine transportation of people and goods by boat through Laohajung River to the Tangail town. The boatman community lost their profession due to the structural interventions of FAP-20 and was living disastrous life. Many members of the community migrated to the town and became rickshawpuller or day labourers to earn their livelihood. Although a substitute road was

disastrous life.

-The Bhatchanda gate remained closed at rainy season creating water logging. A Khal (Canal) was proposed to be excavated with construction of a system of drainage to solve the problem but the people protested as it was feared to endanger the cultivable land of 300 family and there was no proposal to pay compensation.

-The Aloarai Para sluice gate is constructed on the connecting khal (canal) of Laohajung River without fixing the control fan. The water came forcefully from the Laohajung River through this khal causing severe land erosion on both sides, as the cement wing wall was not been constructe



Land erosion for uncompleted construction

proposed to be constructed under the CPP the same would turn to be expensive for the villagers.

-Another affected village outside of the Jugini main inlet regulator was Foliarghona village situated on the northern side of the main inlet. Before constructing the structures 3 crops were grown in a year and at present only one crop is grown a year. In rainy season when the gate remained closed, a vast area of this village remained water logged with serious damage to crops, fertility of land and the environment.

Major Losses

On analysing the claims of the 941 PAPs covered in the first phase, three major types of losses were identified categorized broadly as *seasonal, actual and probable*. Table 1 gives the frequency distribution of these three types of losses. It was observed that actual loss occurred in maximum cases. About 64% people had lost their homestead or cultivable land along with trees, plants and yields. In 60% cases seasonal losses was identified and in 42% cases the respondents feared probable loss in near future.



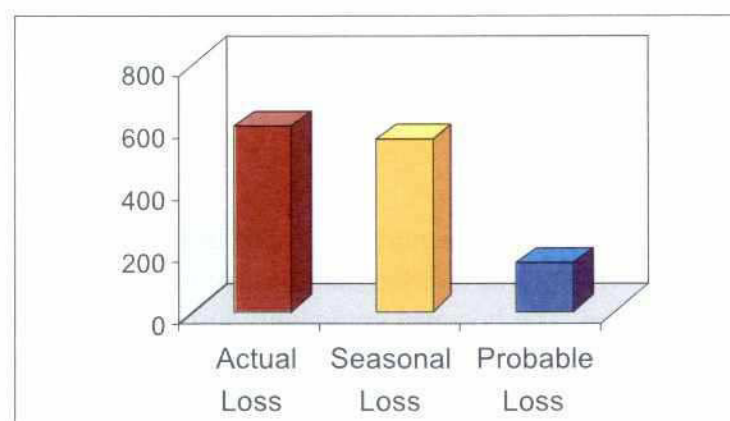
Water pollution at the Foliarghona Village

TABLE 4. 1

Percentage Distribution of Major Losses

Type of losses	Numerical Number	Percentage
Seasonal	564	60
Actual	602	64
Probable	158	41

Chart 1



In preparing or filling the compensation claim form the project covered a wider geographic area comprising a total of 72 villages (inside 39, outside 33) with 4513 claimants. The findings are presented by the following charts.

Losses Inside the Project Area

The three broad categories of losses were again classified into nine sub-heads depending on their extent and nature. The losses were thus further divided into:

(After page 28)

4. Forced Acquisition of Land;
5. Loss of Place of Residence and Homestead Land;
6. Loss of Trees, Plants and Crops;
7. Loss for Transfer in Residence/ Business;
8. Lands Detached from Acquired Land;
9. Infertility of Land, Erosion/Water Logging/Drainage;
10. Loss and Change in Profession;
11. Mental Sufferings; and
12. Other Losses including Right to Water, Fishery Property, Sound Environment.

Table 4. 2 and Chart 2 represents the different type of losses that occurred in the selected 39 villages inside the CPP Project area. It reveals that the maximum numbers of losses were registered due to infertility of land, erosion, and water logging, drainage. Land erosion was perhaps the most predictable and damaging of all the losses. The social impacts of land erosion were immense. Entire villagers and their land remained exposed of being swept into the rivers and they often became homeless or destitute. Due to unplanned designing and regulation of water many areas inside the Project area were facing the problem of water logging which led to environmental pollution and health hazard. About 35 percent people in the surveyed villages lost their lands due to erosion, water logging and infertility of land.

In dry season the water flow in the main river Dhaleshwari, Pungli and Laohajung decreased and in some cases there was no water in the river which compelled the people of the area to change their intergenerational profession and they were living below the poverty level. 25% people most of them were boatmen and fishermen, had either change, or lost their occupation. In these cases the FAP authority did not provide any compensation to these affected people as per the legal system of compensation.

Among the 4513 PAPs, 919, i.e about 21%, people had lost their trees, plants and yields. The cause behind this was that the existing embankment was either widened or new structure was constructed on the existing one and most of the households in villages were just adjacent to the embankment.

The main objectives of CPP is to improve the agriculture through integrated water management system and therefore in designing the Project the authority ought to have bear in mind avoiding acquiring cultivable and homestead land. The Project findings showed that 24% people lost their cultivable land and 23% people lost their homestead land.

The compensation system and the determination the value of land and other properties are cumbersome and irregular. Poor record keeping and erratic registration of transfer of land in combination with deliberate

attempts by the people to understate transfer values of the land often lead to under compensation. In our study the total amount of loss occurred was Tk. 102,34,85,00 and these were the losses occurred mainly due to land acquisition, trees, plants, yield loss, and occupational loss. In a very few cases the affected people received compensation only for acquisition of land but the amount was inadequate. The amount received as compensation was only Tk.17, 28,565 (seventeen lakh twenty thousand and five hundred and sixty five) amounting only 1.69% of the total amount of losses*.

In all the cases due to such negligence and refusal to pay compensation, people faced enormous mental sufferings and pressure. The Manual of BELA included one item for compensating the mental damages that FAP-20 caused to the PAPs.

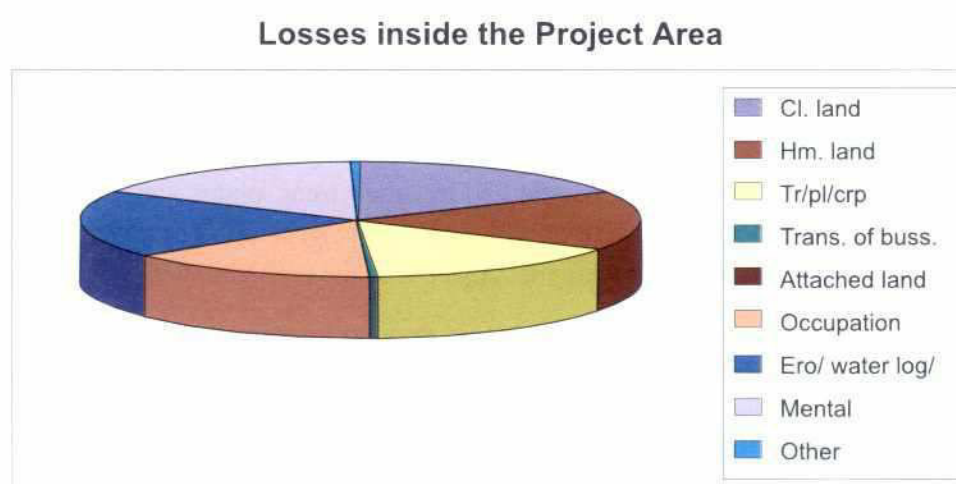
Table 4. 2

Type of Losses	Number of PAPs
Land acquisition/forced acquisition	1057
Homestead land	1014
Trees/plants/crops	919
Transfer in residence/business	30
Lands detached from acquired land	0
Infertility of land, erosion/ water logging drainage;	888
Loss and change in profession	1145
Mental sufferings;	1034
Other losses including right to water, fishery property, sound environment.	10

* CPP Progress report, 1997

Chart 2

Losses Sustained by the People Inside the Project Area



Losses Outside the Project Area

The direct impact of flood control projects should be to improve the agricultural output in the area but the findings of BELA was different. While identification of damage those sustained by the people outside the project area were also considered that the CPP authority failed to appreciate. In this process, investigation was conducted in 33 villages outside but adjacent to FAP-20 area. **Table 4.3 and chart 3** represents the damages sustained by the people in these villages. The nature of losses outside the project area was little different from inside. The maximum losses occurred here was due to land erosion, water logging and infertility of land. Though officially the authority acquired no land outside the project area BELA identified 198 cases where the embankment was made on some cultivable lands. These people were not even notified before acquisition and they did not receive any compensation.

Table 4.3

Losses Sustained by the People Outside the Project Area

Type of Losses	Number of PAPs
Land acquisition/forced acquisition	198
Homestead land	-
Trees/plants/crops	707
Transfer in residence/business	-
Lands detached from acquired land	-
Infertility of land, erosion/ water logging drainage;	715
Loss and change in profession	209
Mental sufferings;	220
Other losses including right to water, fishery property and sound environment.	11

Chart 3

Losses Outside Project Area

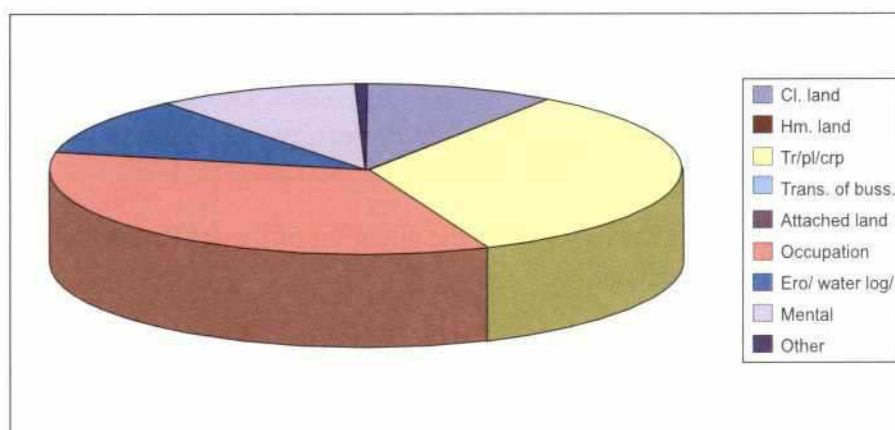
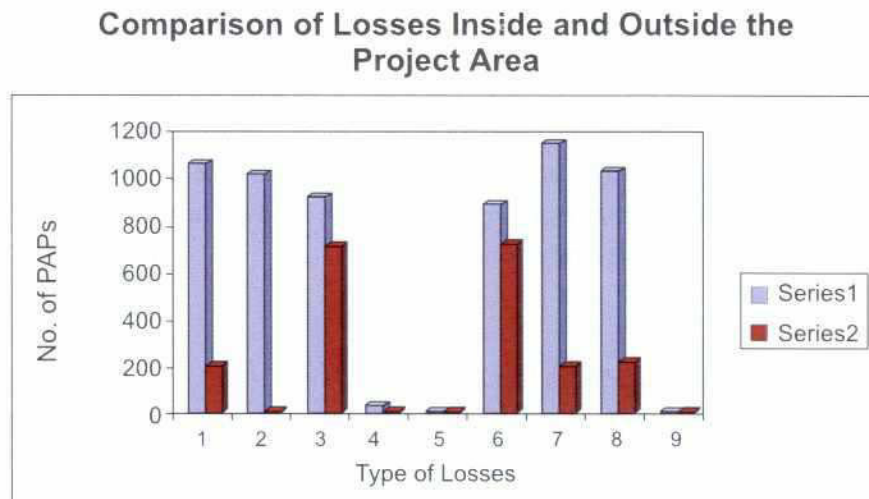


Chart 4: Comparison of Losses Between Inside and Outside the Project Area

Impact at the Local Level

The first phase of the Project of BELA made striking efforts to aware people about their legal rights and their enforcement through proper authorities. The affected villagers as well as other inhabitants of the villages during the first phase of project implementation acquired significant knowledge about laws, their legal rights and possible remedies.

Different aspects and diversity of the losses were examined and losses were calculated in monetary terms following set rules and on scrutinising other available compensation guidelines like the JMBA. Information about the socio-economic status of the PAPs including family structure, gender issues etc. were also collected. This would help the researchers and the policy makers in obtaining gender specific information to analyse the complex situation in their respective fields. Again, the information received while filing compensation claims could provide gender-wise analysis and would help to take actions for improving the status of women, a pre-requisite to economic development of the country. This is also crucial as the discrimination against women was apparent in the compensation package and the implementation FAP-20 gave no special consideration as to its probable impact on women. However, with an increase in loss of profession and income due to the implementation of the Project, women were reported to have in tortured and subjected to other forms of cruelty.

The Project also made concerted efforts to sensitise the situation of the PAPs through articles, case studies and press releases in national and local dailies.

For Impact of BELA's Advocacy at the National Level, Please see Chapter VII

CHAPTER V

ADVOCACY AT THE NATIONAL LEVEL

People's Victory in the Court of Law

In the first phase of the Project of BELA, two different cases were filed in the High Court Division of the Supreme Court challenging-

- i. *the designing and implementation of the Project; and*
- ii. *the unlawful violation of the laws on compensation by the Project authorities.*

The legal interventions before the judiciary brought in a two-fold victory of the attempts of BELA. While the High Court verdicted in favour of people's right to compensation, the Appellate Division (AD), in a landmark judgment, addressed the thrush-old question of standing or right to sue. The Judgment of the AD opened up the horizon of Public Interest Litigation (PIL) in the country implying thereby an access to the judiciary of the millions who, due to various inability, remained unheard in the process of justice. Organisations like BELA were, thus, allowed to pursue the claims of these disadvantaged people, a decision that surely advanced the cause of justice.

The following is an attempt to present before the readers the main extracts of the judgment of the Supreme Court.

i. Public Interest Litigation: A New Era in Legal History

A Writ Petition (**W.P. 998 of 1994**) was filed by BELA in June'94 for asserting the lawful rights of the people affected or likely to be affected by the unlawful implementation of the Flood Action Plan (FAP) in the district of Tangail. The Petition was rejected by the High Court Division on 1 June'95 the ground that BELA, not being aggrieved itself, had no right to sue on behalf of the people of Tanagil. In other words, as petitioner BELA was not "person aggrieved" as strictly required under Article 102 of the Constitution and thus had no standing or right to sue on behalf of others.

As per Article 102 (1) the High Court Division on the application of any person aggrieved, may give some directions or orders to any person or authority, including any person performing any function in connection with the affair of the Republic, as may be appropriate for the enforcement of any of the fundamental rights conferred by part III of this constitution.

This has been a major obstacle in the legal administration of the country for individuals or organisations that *bona fide* espouse the cause of others. The constitutional requirement of "person aggrieved" has been a threshold question in the development of public interest or social action litigation and Bangladesh had no history of such activism by the civil society organisations. The rejection of the Petition of BELA led to a systemic effort in opening up the horizon of PIL.

While an appeal was preferred before the AD of the Supreme Court against the judgement of the High Court Division (C.A. No. 24 of 1995), a separate Petition (WP No. 1576 of 1994) was filed with the High Court also in which an inhabitant of Tangail claiming himself to be affected by the Project volunteered to

be the Petitioner. One Sikandar Ali mondol of village Gala under Tangail Sadar Police Station sought relief on behalf of himself and the other PAPs.

The Verdict of the AD:

The AD in its historic judgement dated 25 July'97 granted standing to BELA. It involved into several critical aspects of constitutional interpretation and the judgement favoured the institution of PIL, a decision extremely crucial in a country like ours where 65% of the people have no access to the judiciary. The decision of the judiciary would allow voluntary societies, representative organisations, trade unions, and constitutional activists and individuals having no personal interest in a cause to test the validity of a law or an action of a public official affecting the general people. In this landmark judgement, the AD took a firm stand on the modern liberal trend of PIL leaving aside the traditional view of *locus standi*. It decided to interpret the term 'a person aggrieved' with a progressive attitude and thus widened the Writ jurisdiction of the High Court Division. Some extracts from the judgement of the AD may be of interest to the readers:

A group of pertinent, bona fide and well-recognised attributes and purposes in the area of environment and having a provable, sincere, dedicated and ESTABLISHED status is asking for a judicial review of certain activities under a flood action plan undertaken with foreign assistance on the ground inter-alia of alleged environmental degradation and ecological imbalance and violation of civil laws in certain areas of the district of Tangail. The question is, does it have sufficient interest in the matter for standing under Article 102?

As to the *locus standi* of the petitioner-appellant it was stated that the appellant is the Secretary General of Bangladesh Environmental Lawyers Association, shortly BELA, an association registered under the Societies Registration Act, 1860. BELA has been active since 1991 as one of the leading organisations in the field of environment, ecology and relevant matters of public interest. It has studied policies, surveyed and examined legal, quasi-legal issues, institutional aspects and traditional issues on environment and ecology and actively participated in many government, non-government and independent national and regional/international activities and has gained widespread recognition both at home and abroad. BELA being an Association of Lawyers has been raising the legality of the FAP activities on all available occasions, especially as an invited panel speaker in the Second Conference on the Flood Action Plan held at Dhaka in March, 1992. BELA's questioning of the legality of FAP and FPCO evoked derogatory remarks from certain quarters. BELA also received written complaints from a number of aggrieved people from Tangail District seeking legal assistance and other supports after having been frustrated in pursuing their own remedies with the FAP-20 authorities, human rights organisations, etc. The media has also repeatedly published the adverse environmental and ecological impact of FAP-20 authorities, human rights organisations, etc. As an environmentally concerned and active organisation BELA responded to the complaints of the local people and conducted investigations at various times in 1992-93 in the FAP-20 areas. During the local inspection it was found that a significant number of people of the project area were against the project. They alleged that they had no participation in the project and that they were not willing to be the subject of an experiment risking their lives and livelihood. The petitioner-appellant annexed copies of evidence of local complaints as Annexe-F series.

Dr. Mohiuddin Farooque, learned Advocate appearing with the leave of the Court, himself argued the appeal on behalf of the petitioner-appellant. He submits that the words "any person aggrieved"

occurring in Article 102 of the Constitution have to be read in the context of the entire Constitution, not in isolation. Article 102 is an institutional vehicle for ventilating the rights and duties under the Constitution and not a mere procedural device. Article 38 of the Constitution confers on every citizen the right to form association and BELA has been registered as an association under the Societies Registration Act, 1860 with the aims and objects, *inter alia*, to organise legal measures to protect environmentally sensitive and fragile ecosystems. BELA devoted its time, energy and resources in studying the FAP project ever since its inception, meeting local people, listening to their grievances and carrying a lot of research on their behalf to find out the legal and constitutional infraction that FAP-20 has committed. In view of its dedicated commitment to prevent environmental degradation it has acquired standing in its own right to represent the legal issues involved in the project in the writ jurisdiction. It can claim a legal relationship with the Court in pursuance of its declared aims and objects as the right to form an association also embraces the right to pursue the association's lawful objects as well. Dr. Farooque then referred to Article 21(1) of the Constitution, which is as follows:

“ 21. (1) It is the duty of every citizen to observe the Constitution and the laws, to maintain discipline, to perform public duties and to protect public property.”

In working to protect the environment, Dr. Farooque claimed to be performing his public duty under the Constitution and the Professional Canon of Ethics for the Lawyers.

The Court went on:

“This is not to say that Article 102 has nationalised each person's cause as every other person's cause. The traditional view remains true, valid and effective till today in so far as individuals rights and individual infraction thereof are concerned. But when a public injury or public wrong or infraction of a fundamental right affecting an indeterminate number people is involved it is not necessary, in the scheme of our Constitution, that the multitude of individuals who has been collectively wronged or injured or whose collective fundamental rights have been invaded are to invoke the jurisdiction under Article 102 in a multitude of individual writ petitions, each representing his own portion of concern. In so far as it concerns public wrong or public injury or invasion of fundamental rights of an indeterminate number of people, any member of the public, being a citizen, suffering the common injury or common invasion in common with others or any citizen or an indigenous association, as distinguished from a local component of a foreign organisation, espousing that particular cause is a person aggrieved and has the right to invoke the jurisdiction under Article 102.

It is, therefore the cause that the citizen-applicant or the indigenous and native association espouses which will determine whether applicant has the competency to claim a hearing or not. If he espouses a purely individual cause, he is a person aggrieved if his own interests are affected. If he espouses a public cause involving public wrong or public injury, he need not be personally affected. The public wrong or injury is very much a primary concern of the Supreme Court, which in the scheme of our Constitution for exercising the judicial power of the people.

The High Court Division will exercise some rules of caution in each case. It will see that the applicant is in fact espousing a public cause, that his interest in the subject matter is real and not in the interest of generating some publicity for himself or to create mere public sensation, that he is

acting bona fide, that he is not a busybody or an inter-loper, that it is in the public interest to grant him standing and that he is not acting for a collateral purpose to achieve a dubious goal, including serving a foreign interest.

We hold therefore that the association-appellant was wrongly held by the High Court Division not to be a "person aggrieved" in the facts and circumstances of the case and we hold further that the appellant is "any person aggrieved" within the meaning of both Article 102 (10) and Article 102(2)(a) of the Constitution.

ii. FAP-20 be Implemented only in Compliance with Legal Provisions

On deciding on the issue of BELA's *locus standi* in bringing in W.P 998 of 1994, the AD directed a bench of the High Court Division to decide on the merits of the case. This Petition along with the Petition filed by Sikandar Ali Mondol (1576 OF 1994) was heard analogous by a division bench of the High Court comprising Mr. **Justice Kazi Ebadul Hoque** and Mr. **Justice A.K. Badrul Huq** on July 28, August 5 and 6 of 1997. The Judgement was given on 28-8-1997.

The following paragraphs of the Judgement appeared to be supportive of further activism to uphold the legally recognised rights of the people.

In Writ Petition No. 998 of 1994, the petitioner is Dr. Mohiuddin Farooque, Secretary General, "Bangladesh Environmental Lawyers association", briefly, "BELA", a group of environmental lawyers. "BELA" was registered under the Societies Registration Act, 1860. The petitioner has been authorized by a resolution of the Executive Committee of "BELA" to represent the same and move the High Court Division of the Supreme Court of Bangladesh under Article 102 of the Constitution. Petitioner claims that "BELA" has been active since the year 1991 as one of the leading organizations with documented and well recognized expertise and achievement in the field of environment, ecology and relevant matters of public interest and "BELA" has developed itself into an active and effective institution on environmental regulatory frame work with wide spread recognition. Writ Petition No. 998 of 1994 has been initiated *pro bono publico*. Initially, the petition was summarily rejected by the High Court Division on the ground of *locus standi*. The Appellate Division has sent the matter to the High Court Division for hearing on merit after setting aside the said order of rejection holding that the petitioner has *locus standi* to file and maintain the writ petition.

In Writ Petition No. 1576 of 1994, the petitioner is Sekandar Ali Mondol, a farmer, living in the village of Khaladbari under Police Station Tangail Sadar in the District of Tangail for generations and owns small piece of ancestral land, part of which he uses as homestead and part for cultivation for subsistence and cash earning of his family. The petitioner's land is under the process of acquisition under 'FAP-20' project.

The Court verdicted:

From the materials on record and also the extract of speech made by the former Finance Minister and the present Food and Agriculture Minister, it seems that the compatibility/viability/feasibility of 'FAP-20' is not above question. Previous experience manifested that huge structural projects in the water sector were executed and then left without adequate provisions for their maintenance and the target achievements, hence, remained too far from realization. Since 1960, a huge fund had been

spent on water development project like flood control and drainage project. Despite this, the benefits have been much less than planned and projected. Embankment alignments were sometimes poorly planned leading to failure and frequent retirements. The multiple use of embankments was rarely taken into consideration at the planning stage. Drainage project suffers from severe drainage congestion due to faulty hydrological assessments and the absence of an adequate drainage network and the lack of proper maintenance after the construction of embankments. A common symptom of drainage problem is public cut and these are often so serious that they compromise scheme viability. In this context, it should not be lost sight of that most of the period, since the later part of the year 1958, except for a short interregnum from the year 1972-75, the country was virtually under military rule, sometimes open, sometimes concealed and bureaucracy ruling supreme and the people or their representatives having no say in the planning or implementation of developmental programmes, specially those for controlling flood problems. Since, there is democratic Government from the year 1991, it is expected that people friendly developmental schemes, specially for controlling flood problem, would be undertaken and implemented in accordance with the laws of the land. To formulate policy is the affairs and business of the Government and Court cannot have any say in the matter. Court can only see whether in the matter of implementation of any scheme, the laws of the land have been violated or not.

It is submitted from the side of the petitioners that the natural and ecological changes that would entail due to 'FAP-20' project will threaten and endanger two national archaeological resources namely, the "Attia Mosque" and the "Kadim Hamdani Mosque" which are in the list of archaeological resources and protected against misuse, destruction, damage, alteration, defacement, mutilation etc. under the Antiquities Act, 1968 in the spirit of Article 24 of the Constitution.

Article 24 of the Constitution enshrines that state shall adopt measures for the protection against disfigurement, damage or removal of all monuments, objects or places of special artistic or historical importance or interest. The protection guaranteed under Article 24 of the Constitution to protect the said Attia Mosque and Kadim Hamdani Mosque must be ensured and no damage, whatsoever, must not be done to the said two historical Mosques.

It is vigorously canvassed from the side of the petitioners that 'FAP-20' project has raised severe obvious criticisms regarding its environmental and ecological soundness and also committed serious breaches of laws and the same cannot be described as a Developmental project. It is further urged that 'FAP-20' activities is detrimental to the life and property of lacs of people and would deprive the affected people of their "Right to Life" by destroying the natural habitat which are protected under Article 31 and 32 of the Constitution and the Government also got no right to conduct experiment on people's life, property and profession in the name of a project. The question is whether state has a right to conduct experiment on people's life, property and profession disregarding the existing laws of the land.

The right or power of a sovereign state to appropriate private property to particular use for the purpose of promoting the general welfare is called, in America, "Eminent Domain". State necessity or need for taking the particular property of a citizen is the very foundation for the exertion of the power of "Eminent Domain". The term "Eminent Domain" was coined by Hugo Grotius in his Treatise "De Jure Belliet Pacis" in 1625. Cooley in Constitutional Limitation Volume-II page-1110 states:

"The definition implies that the purpose for which it may be exercised must not be a mere private purpose. The right of Eminent Domain does not imply a right in the sovereign power to take the property of one citizen and transfer it to another even for a full compensation where the public interest will in no way be promoted by such a transfer".

The said doctrine was adopted in the famous "Declaration of Rights of Man" after the French Revolution that "the individual could be dispossessed of his property if the public interest so required. This declaration even speaks in precise terms of "the public need".

Law provides for paying just compensation for taking the property of a citizen for state necessity or need in the exercise of power of "Eminent Domain". In *United States of America Vs Iska W. Carmack* 329 U.S. 230-248 (91 Law Edition) of United States Supreme Court Report Page 209 it is clearly posited that the Fifth Amendment postulates that private property cannot be taken for public use without just compensation. The Supreme Court of United States thus stated:

"The Fifth Amendment to the Constitution says "nor shall private property be taken for public use, without just compensation". This is a tacit recognition of a pre-existing power to take private property for public use, rather than a grant of new power. It imposes on the Federal Government the obligation to pay just compensation when it takes another's property for public use in accordance with the federal sovereign power to appropriate it. Accordingly, when the Federal Government thus takes for a federal public use the independently held and controlled property of a state or of a local subdivision, the Federal Government recognizes its obligation to pay just compensation for it and it is conceded in this case that the Federal Government must pay just compensation for the land condemned".

It must be borne in mind that the "Eminent Domain" is restricted or limited by the constitutional fiat like Fundamental Rights guaranteed under the Constitution. 'FAP-20' is an experimental project for controlling flood. In the event of undertaking of such experimental project, payment of adequate and Just compensation to all the persons affected directly or indirectly or casually, are to be ensured and all risks, damage, injuries etc. must be covered. Sufficient guarantee must be integrated with the project from the initial stage and genuine people's participation of the affected people must be ensured and that must not be a public show. "Eminent Domain" does not authorize the state to act in contravention of the laws of the land in planning and implementing the project. Strict adherence to the legal requirement must be ensured so that people within and outside the project area do not suffer unlawfully. No person shall be deprived of his property except under the law of the land; otherwise it would be subversive of the Fundamental principles of a democratic Government and also contrary to the provisions and spirit of the Constitution.

It is significant to note here that the project called "Jamuna Multipurpose Bridge Project" has drawn detailed procedure for re-settlement of the displaced and affected persons and perceived the same as a developmental programme from the inception of the project. "Jamuna Multipurpose Bridge Authority" had chalked out "Revised Re-settlement Action Plan", shortly, 'RRAP'. But in 'FAP-20' project, no plan by the authority for re-settlement/ re-housing of displaced and affected persons directly or indirectly or casually appears to have been under-taken. The people under the 'FAP-20'

project got the fundamental right as enshrined under Article 31 of the Constitution to enjoy the equal protection of law and to be treated in accordance with law. It need be stated again that no property can be acquired and no people can be adversely affected in the name of developmental project, here the 'FAP-20' project, without taking adequate measures against the adverse consequences as well as the environmental and ecological damage.

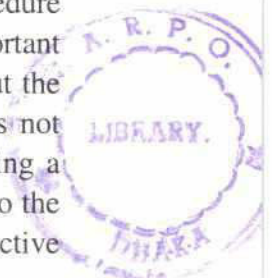
The petitioners have alleged that environmental hazard; damage and ecological imbalance will be caused by the activities of 'FAP-20'. In the case of *Dr. Mohiuddin Farooque Vs. Bangladesh and others* being Civil Appeal No. 24 of 1995 arising out of judgement and order dated 18.8.1994 passed by the High Court Division in Writ Petition No. 998 of 1994, 49 DLR (AD) 1-1997 BLD (AD) 1, A.T.M. Afzal, C.J. has dwelt at length on the growing concern and global commitment to protect and conserve environment irrespective of the locality where it is threatened. In the same case B.B. Roy Chowdhury, J. observed-

"Articles 31 and 32 of our Constitution protect right to life as Fundamental Right. It encompasses within its ambit, the protection and preservation of environment, ecological balance, free from pollution of air and water, sanitation without which life can hardly be enjoyed. Any act or omission contrary there to will be violative of the said right to life".

Life cannot be sustained without its basic necessities such as food and shelter and it cannot, also, be enjoyed fruitfully without and all facilities of health care, education and cultural enjoyment and all the above requirements of life cannot be had without proper means of livelihood. In that context, the question arose whether right to life includes right to livelihood. In the advanced economically developed countries known as "Welfare State", Government provides social security benefits to the citizens who have no means of livelihood due to unemployment and other reasons. The concept of the Laissez faire of the Nineteenth century arose from a philosophy that general welfare is best promoted when the intervention of the State in economic and social matters is kept to the lowest possible minimum. The rise of the "Welfare State" proceeds from the political philosophy that the greater economic and social good of the greater number requires greater intervention of the Government and the adoption of public measures aimed at general economic and social welfare.

Article 21 of the Constitution of India is similar to Article 32 of our Constitution. Article 21 of the Constitution of India enjoins- "No person shall be deprived of his life or personal liberty except according to procedure established by law". The Indian Supreme Court in the case of *Olga Tellis and others Vs. Bombay Municipal Corporation and others*, AIR 1986 SC 180, interpreted Article 21 of the Indian Constitution in the following terms: -

"The sweep of the right to life conferred by Art. 21 is wide and far-reaching. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective



content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life liveable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life".

In our jurisdiction, this question as to the meaning of right to life was raised for the first time in the case of *Dr. Mohiuddin Farooque Vs. Bangladesh and others*, 48 DLR HCD 438 to which one of us (Kazi Ebadul Hoque, J.) was a party. In that case after discussing various decisions of different jurisdictions specially of the Supreme Court of India it was held:

"Right to life is not only limited to the protection of life and limbs but extends to the protection of health and strength of workers, their means of livelihood, enjoyment of pollution-free water and air, bare necessities of life, facilities for education, development of children, maternity benefit, free movement, maintenance and improvement of public health by creating and sustaining conditions congenial to good health and ensuring quality of life consistent with human dignity".

In that case no question of deprivation of life for want of livelihood was involved. But in the instant cases before us, the question is whether right to life under Articles 31 and 32 of the Constitution would be adversely affected by the deprivation of livelihood of the citizens. It has already been noticed that section 28 of The Embankment and Drainage Act, 1952 provides for payment of compensation for injuriously affecting certain rights of inhabitants upon which their livelihood depends. This provision, thus, recognizes right to livelihood of the citizens of the country. In the facts and circumstances of these two cases it is clear that livelihood of some inhabitants of 'FAP-20' project area dependant on fishing would be adversely affected. We, thus, find that life of those persons would, ultimately, be affected due to the deprivation of their such livelihood. So, we are of this view that right to life under Articles 31 and 32 of the Constitution also includes right to livelihood. Since, the aforestated provisions of law has provided for compensating such adverse affect to the livelihood of the inhabitants of the 'FAP-20' project area, there is no question of violation of Fundamental Right.

In a Pilot Project, although, positive targets are expected but that would not automatically over-rule the potential of negative consequences or even failure of the project. Admittedly, 'FAP-20' is an experimental project. In the case of *Shehla Zia Vs. WAPDA*, PLD 1994 (SC) 693, referred to from the side of the petitioners, high tension electric wires and grid station near and over residences created possibilities of electro-magnetic field injurious to human health. The Supreme Court of Pakistan held:

"In this background if we consider the problem faced by us in this case, it seems reasonable to take preventive and pre-cautionary measures straight away instead of maintaining status-quo because there is no conclusive findings on the effects of electro-magnetic field on human life. One should not wait for conclusive finding as it may take ages to find out and therefore, measure should be taken to avoid any possible danger and for that reason one should not go to scrap the entire scheme but could make such adjustment, alterations or additions which may ensure safety and

security or at least minimize the possible hazards (PP 710-711)."

The Compartmentalization Pilot Project, 'FAP-20', being an experimental project, precautionary measures are needed to be integrated into the project to ensure that no citizen suffers damage from an act of the authority save in accordance with law.

Turning now to the question how far the judiciary can intervene in such matter. In S.A.D.E. Smith's "Constitutional and Administrative Law" Fourth Edition, Page 562 as referred to by Dr. Mohiuddin Farooque, it is stated:

"Action taken by a public authority not only runs the risk of being ultra-vires in substance but may in certain cases be ultra- vires in form: Certain powers are exercisable only subject to procedural safeguards enshrined in the enabling statute. The relevant Act may require that some person or organization be consulted before action is taken or an order made. Notice of intention to act may have to be given in a particular form or by a specified date. What happens if the procedure laid down is not complied with by the authority? First the courts will classify the procedural or formal requirement as mandatory or directory. If a requirement is merely directory then substantial compliance with the procedure laid down will suffice to validate the action; and in some cases even total non-compliance will not affect the validity of what has been done. If a mandatory requirement is not observed then the act or decision will be vitiated by the non-compliance with the statute. This does not mean that the act or decision has no legal effect and can be ignored or treated as void. The House of Lords has stressed that the use of such terms as void and avoidable has little practical meaning in administrative law where the supervisory jurisdiction of the High Court operates to ensure the proper exercise of powers by public authorities. Non-compliance with a mandatory procedural requirement results in the act or decision being susceptible to being quashed by the High Court which will then make whatever order to the public authority it sees as appropriate to remedy the unlawful action taken".

In this context, we like to quote a passage by his Lordship Mr. A.T.M. Afzal C.J. from a paper under the Heading "Country Statement-Bangladesh" presented at the Regional Symposium on the Role of Judiciary in Promoting the Rule of Law in the Area of Sustainable Development, Colombo, Sri Lanka, 4-6 July, 1997:

"It is worth noting that many sectoral laws explicitly contain provisions to inform local people about projects and to both invite and resolve objections raised. For example, the 1927 Forest Act requires the inquiry and settlement of all private claims when restrictions are to be imposed when the status of a public forest is changed through re-classifying as a Reserved or Protected Forest. The 1920 Agricultural and Sanitary Improvement Act and the 1952 Embankment and Drainage Act explicitly guarantee the rights of local populations and interest-holding parties in proposed project areas to examine and raise objections to the project being considered. Furthermore, neither legal rights nor interests can be extinguished without appropriate compensation. Many of the adverse local, social and environmental impacts induced by development projects could be avoided or



minimized if the procedures of law were followed. Some laws contain inter sectoral restrictions on development projects which are neither followed nor enforced. An example of this is the Conservation of Fish Act, 1950 which provides in the schedule a long list of rivers and their segments where no water control measure can be undertaken, so that natural spawning and feeding grounds of fish remain undisturbed. These examples prove that it is a tragedy when public agencies flout their own laws and then chase the people for violating the law to justify the failures of their so-called development projects. In such situations, judicial review of administrative action would be effective in upholding rule of law".

Judicial review of the administrative action should be made where there is necessity for judicial action and obligation. Such action must be taken in public interest. The purpose of Judicial review is to ensure that the citizen of the country receives protection of law and the administrative action comply with the norms of procedure set for it by laws of the land. Judicial Power is the "safest possible safeguard" against abuse of power by administrative authority and the judiciary cannot be deprived of the said power.

It has already been noticed that Article 31 of our Constitution gives the right to protection of law to the life, liberty, property etc., Article 32 ensures that no one can be deprived of life and liberty except in accordance with law and thus protects life from unlawful deprivation. Article 40 gives every citizen right to enter upon lawful profession or occupation and Article 42 protects right to property. The petitioner of each of the writ petitions alleges the violation of the Fundamental Rights guaranteed under Articles 31, 32, 40 and 42 of the Constitution. All the above Fundamental Rights are subject to law involved in the matter. In the event of violation of Fundamental Right or even any violation of the law of the land, this Court under judicial review of the administrative action can interfere with unlawful action taken by any administrative authority. It has, already, been noticed that 'FAP-20' activities have been undertaken by the respondents in accordance with the law of the land regarding the adoption and approval of the scheme but violations of some provisions of the law of the land in implementing the project is found but the Fundamental Rights stated above do not appear to have been violated.

Now, the question is whether this Court will declare the activities and implementation of 'FAP-20' project to be without lawful authority for the alleged violation of some of the provisions of the afore stated laws of the land.

From the materials on record it appears that 'FAP-20' project is a developmental project, although experimental, aimed at controlling flood which regularly brings miseries to the people of the flood prone areas of the district of Tangail specially during the rainy season of the year. A substantial amount appears to have been spent and the project work has been started long before and also partially, implemented. Success and not the failure of the project is expected. In the event of any interference into the 'FAP-20' activities, the country will be deprived of the benefits expected to be derived from the implementation of the scheme and also from getting foreign assistance in the developmental work of the country and, in future, donor countries will be apprehensive in coming up with foreign assistance in the wake of natural disaster. At the present stage of the implementation of the project, it will be unpractical to stop the work and to undo the same. But in implementing the project, the respondents, cannot with impunity, violate the provisions of laws of

the land referred to and discussed above. We are of this considered view that 'FAP-20' project work should be executed complying with the afore stated requirements of laws of the land.

In the facts and circumstances and having regard to the provisions of law, we propose to give some directions to the respondents for strict compliance of the same in the greater public interest:

The respondents, thus, are directed

- (a) to comply with the provisions and procedures contained in section 28, 30, and 31 of The Embankment and Drainage Act, 1952 (East Bengal Act I of 1953).
- (b) to comply with the provisions contained in Article 11(1)(c) of Bangladesh Water and Power Development Boards Order, 1972 (President's Order No. 59 of 1972) for re-settlement and re-housing of persons actually displaced from their residences by the execution of the scheme, that is, implementation of 'FAP-20' Project,
- (c) to secure the archaeological structure (site) of the 'Attia Mosque' and 'Kadim Hamdani Mosque' falling within the 'FAP-20' Project area from any damage, disfigurement, defacement and injury by the project activities.

and

- (d) to ensure that no serious damage to the environment and ecology is caused by 'FAP-20' activities.

Before parting with the matter, we are inclined to observe that the people of Bangladesh live with flood and fight with flood for Centuries. The people of Bangladesh face the painful experience of flood causing colossal damage to crops and properties. Faced with the peculiar geographic and climatic situation, it becomes a difficult task to control flood and other catastrophes that fall on the people of Bangladesh. Flood water come from outside, No action can be affective until the upstream flow can be checked and controlled. Under the International Law, the upstream states got a tremendous responsibility to play part in regulating and taking integrated approach in tackling flood related hazards and the burden of the load of flood cannot be placed on Bangladesh alone.

Before concluding, we express our deep appreciation to Dr. Mohiuddin Farooque and his Organization "Bangladesh Environmental Lawyers Association", "(BELA)" who are championing the cause of the public and the downtrodden people of the community, who as helpless citizens, cannot ventilate their grievances before the courts of law and, also, making efforts to protect and conserve the environment and ecology of the country and "BELA" is coming forward with Public Interest litigation (PIL) before the courts of law.

In the result, both the Rules are made absolute-in-part. The respondents are allowed to execute and implement the 'FAP-20' Project activities subject to the strict compliance with the directions made above.

Next Step Forward

The FAP-20 aroused wide range sensitivity in various sectors including statutory bodies, non-governmental organisations, external funding agencies and local people who all took their respective stand in various angles. Issues like external support for such anti-people project were vehemently raised by social action groups and the crucial factor of externality in so-called development activities addressed at both the recipient and donor end. Amidst such wide sensation, planning for providing legal assistance to affected people and designing a Project like this was quite courageous and challenging and without involving itself into any contradiction or debate, BELA has successfully completed the first phase and with a unique advocacy has proved its stand in definite and clear terms.

During the first phase the basic groundwork for future action has been completed. The judgement in the two cases and the outcome of the local level activities added new dimension to the persuasive efforts of BELA in pressing for the realization of the rights of the PAPs who place strong confidence in BELA.

With support from ICCO and NOVIB, a second phase of the Project titled "Legal Assistance to the People Affected by the FAP-20" is underway to pursue the claims submitted to the local administration and also to submit new claims to bring in permanent changes in governance. It is expected that Phase II would enable BELA to carry forward and uphold the spirit of the Constitution and law through requiring public agencies to manage public property on behalf of the people and in participation with the people.

Annexure-A

মুক্তকণ্ঠ

The Muktakantha

বৈশাখ ১৩৮৬ □ বর্ষ ১ সংখ্যা ১৪১ □ ঢাকা প্রকাশ, ১৩ কার্তিক ১৩৮৬ □ রংপুর-১৪১ □ ১৭ নভ ১৯৩৬ □ পৃষ্ঠা ১৬ □ খণ্ড ৬ টীকা

টাঙ্গাইলে পানি উন্নয়ন বোর্ডের পাইলট প্রজেক্টের বিরূপ প্রতিক্রিয়ায় মাছ উৎপাদন কমেছে 'পাঁচশ' মৎস্যজীবী পরিবার বেকার

টাঙ্গাইল, ৩ মার্চ (সংবাদদাতা) : পানি উন্নয়ন বোর্ডের বহুল আলোচিত 'ক্যাপ-২০' এর আওতাধীন কম্পার্টমেন্টলাইজেশন পাইলট প্রজেক্টের বিরূপ প্রতিক্রিয়া পড়ছে টাঙ্গাইলের মৎস্যজীবীদের উপর। পাঁচ মৎস্যজীবী পরিবার ইতিমধ্যে বেকার হয়ে পড়েছে। প্রকল্প শুরু করার সময় তাদের পুনর্বাসনের কথা থাকলেও গত আট বছরে ক্ষতিগ্রস্ত মৎস্যজীবীদের পুনর্বাসন করা হয়নি।

টাঙ্গাইলে বন্যা নিয়ন্ত্রণ ও সৃষ্ট পানি ব্যবস্থাপনা গড়ে তোলার লক্ষ্যে নদারলাওসহ কয়েকটি বিদেশি রাষ্ট্রের অর্থ সাহায্যে '৯১ সালের অক্টোবর মাসে কম্পার্টমেন্টলাইজেশন পাইলট প্রজেক্ট (সিপিপি) এর কাজ শুরু করা হয়। প্রকল্পে বরাদ্দকৃত অর্থের পরিমাণ একশ' ১৭ কোটি টাকা। ২০০০ সালের মধ্যে প্রকল্পের কাজ শেষ হওয়ার কথা। টাঙ্গাইল সদর, দেলদুয়ার, বাসাইল ও কালিহাতি থানার ১২টি ইউনিয়নের ২২০টি গ্রামের ১৩ হাজার তিনশ' পাঁচ হেক্টর জমি এই প্রকল্পের আওতায় আনা হয়েছে। প্রকল্প এলাকার যুগিনীতে লৌহজং নদীর উপর 'মেইন ইনলেট' সহ বেশ কিছু শ্রুইস গেট নির্মাণ করা হয়েছে, ফলে বন্ধ হয়ে গেছে

পানির স্বাভাবিক স্রোত। পানির স্বাভাবিক স্রোত বিগিত হওয়ায় মাছের উৎপাদন অস্বাভাবিক হ্রাস পাচ্ছে। প্রকল্পের শুরু হওয়ার আগে প্রকল্প এলাকার বিলভলোতে বছরে ১২৫ থেকে ১৫০ টন মাছ উৎপাদিত হত। এখন সেখানে মাছের উৎপাদন মাত্র ৫০ টনের মত। এছাড়া, লৌহজং এর উপর 'মেইন ইনলেট', বিভিন্ন স্থানে শ্রুইস গেট ও ডেড্রিভ নির্মাণের ফলে প্রকল্প এলাকায় নৌচলাচল বন্ধ হয়ে গেছে। একদিকে অস্বাভাবিকহারে মাছের উৎপাদন হ্রাস, অপরদিকে নৌ-চলাচলের পথ বন্ধ হওয়ায় টাঙ্গাইল সদর থানার খারিঙ্গা, বার্তা, ভাটচান্দা, যুগিনী, চারাপাড়ি, পোড়াবাড়ি, ডিলিমপুর, পাথরাইল, পয়লা, আউলটিয়া প্রভৃতি গ্রামের পাঁচ শতাধিক মৎস্যজীবী পরিবার বেকার হয়ে পড়েছে। প্রকল্পের কাজ যখন শুরু হয় তখন মৎস্যজীবীরা তাদের ভবিষ্যত-অনুবিধার কথা ভুলে দূরে নৌ-চলাচল উপযোগী 'মেইন ইনলেট' ও শ্রুইস গেট নির্মাণের প্রস্তাব দিয়েছিল। 'মেইন ইনলেট'টি নৌ-চলাচল-উপযোগী করে নির্মাণের পরিকল্পনা থাকলেও প্রকল্প কারণে তা বাতিল করা হয়। এ সমস্যা ক্ষতিগ্রস্ত মৎস্যজীবীদের কাছে বিল, হাতির বাতাস উজানা, নদী খননসহ তাদের কাজে দিয়ে পুনর্বাসনের

আশ্বাস দেয়া হয়। কিন্তু দীর্ঘদিনেও এসবের কিছুই করা হয়নি।

ক্ষতিগ্রস্ত মৎস্যজীবী সমিতির আহানায়ক সাধন কুমার দাস জানান, 'কর্তৃপক্ষ আমাদের শুধু আশ্বাসই দিচ্ছে, কাজের কাজ কিছুই করছে না। মাছের অভাবে, কাজের অভাবে এখন আমাদের বড়ই দুর্দিন চলছে।'

সিপিপি'র কারণে ক্ষতিগ্রস্ত মৎস্যজীবীরা ক্ষতিপূরণ ও পুনর্বাসনের দাবিতে এখন আন্দোলনে নেমেছে। ইতিমধ্যে গত ১৮ ও ১৯ ফেব্রুয়ারি তারা যুগিনী 'মেইন ইনলেট'ের সামনে বিক্ষোভ সমাবেশ করেছে। ১৮ ফেব্রুয়ারি সিপিপি'র কর্মকর্তা ও ১৯ ফেব্রুয়ারি প্রকল্প এলাকা পরিদর্শনকারী জার্মান মৎস্যদীপ দলের একটি প্রতিনিধি দল ক্ষতিগ্রস্ত মৎস্যজীবীদের বিক্ষোভের মূল্যোর্মণ হন।

বিক্ষোভকারীরা সিপিপি কর্মকর্তা ও জার্মান প্রতিনিধি দলের কাছে তাদের দাবি-দাওয়া তুলে ধরে।

ক্ষতিগ্রস্ত মৎস্যজীবী সমিতির একটি সূত্র জানায়, অবিলম্বে উপযুক্ত ক্ষতিপূরণ না দিলে এবং কর্মসংস্থান ও পুনর্বাসনের ব্যবস্থা না করলে বৃহত্তর আন্দোলন গড়ে তোলা হবে।



টাঙ্গাইল : যুগিনী 'মেইন ইনলেট' সামনে ক্ষতিগ্রস্ত মৎস্যজীবীদের বিক্ষোভ সমাবেশ

"বৈদিক মুক্তকণ্ঠ"

১৯-০২-৯৮ ইং

টঙ্গাইলে মৎস্যজীবীদের বিক্ষোভ সমাবেশ

টঙ্গাইল, ১৮ ফেব্রুয়ারি (সংবাদদাতা) :
পানি উন্নয়ন বোর্ডের বহুল আলোচিত
ফ্যাপ-২০-এর কম্পার্টমেন্টালাইজেন
পাইলট প্রজেক্ট- সিপিপি'র আওতাধীন
ক্ষতিগ্রস্ত মৎস্যজীবীরা আজ সকালে
উপযুক্ত ক্ষতিপূরণের দাবিতে যুগনি মেইন
ইনলেটের সামনে এক সমাবেশের
আয়োজন করে। ক্ষতিগ্রস্ত মৎস্যজীবী
সম্প্রদায়ের আহ্বায়ক সাধন কুমার দাস,
মহাদেব কুমার দাস প্রমুখ সমাবেশে বক্তব্য
রাখেন। বক্তারা বলেন, 'আমাদের বারবার
প্রতিশ্রুতি দেয়া সত্ত্বেও উপযুক্ত ক্ষতিপূরণ
দেয়া হচ্ছে না। সিপিপি কর্তৃপক্ষ
আমাদের কাজ দেয়ার কথা বলেও প্রতারণা
করছে।' টঙ্গাইল সদর, দেলদুয়ার,
বাসাইল ও কালিহাতী থানার প্রায় পাঁচ
শতাধিক মৎস্যজীবী সিপিপি'র কারণে
ক্ষতিগ্রস্ত হচ্ছে।

দৈনিক সবুজ বাংলা

THE DAILY SABUJ BANGLA

:: ঢাকা শনিবার ১৬ ফাদুন ১৪০৪ বাংলা :: ৩০ শাওয়াল ১৪১৮ হিজরী :: ২৮ ফেব্রুয়ারী ১৯৯৮ ইং ::

টাঙ্গাইল বিক্ষোভের মুখে সি,পি,পি প্রতিনিধিদল

টাঙ্গাইল থেকে এস, এম আওয়াল
মিয়া: ক্ষতিগ্রস্ত জেলে সম্প্রদায়ের
বিক্ষোভের মুখে
কম্পার্টমেন্টাইজেশন লাই প্রজেক্টের
(সি পি পি) দাতা দেশ জার্মানির
প্রতিনিধিদল মেইন ইনলেট পরিদর্শন
করতে পারেনি। জেলেরা জার্মান
প্রতিনিধি দলের কাছে তাদের
ক্ষতিপূরন দাবী করেছে। গত ১৯
ফেব্রুয়ারী টাঙ্গাইল সদর থানার
ফুনী গ্রামে নৌহাজং নদীর উপর
স্থাপিত মেইন ইনলেট পরিদর্শন
করতে আস জার্মানের ৬ জন সংসদ
সদস্য এলাকার ক্ষতিগ্রস্ত সহস্রাধিক
জেলে পরিবার তাদের পানি ফিরিয়ে
দেয়ার দাবী জানায়। সি পি পি'র
ইনলেটের ফলে ঐ এলাকায় আগের
মত পানি নেই। পানি না থাকার
কারণে মৎস্য উৎপাদন ব্যহত হচ্ছে।
জেলেরা তাদের জীবিকা নির্বাহ
করতে পরছেন। তাদের পরিবারে
নেমে এসেছে দুঃরতিক। অনেক
জেলে পরিবারের সদস্যরা অনাহারে
দিন কাটাচ্ছে জেলেরা মানবেতর
জীবন নিয়ে পাঁচ বছর যাবত অপেক্ষা
করে কোন প্রকার আর্থিক সাহায্য
ক্ষতিপূরন এ পর্যন্ত পায়নি। অপেক্ষায়
থাকতে থাকতে সি পি পি'র কার্যক্রম
বর্তমানে শেষ পর্যায়ে এস পৌছেছে।
এন জি ও ওয়ার্ল্ডফর অল ও
বাংলাদেশ পরিবেশ আইন জীবী
সমিতি জেলদের নৈতিক সমর্থন
করেছে। জেলে সম্প্রদায়ের নারী
পুরুষ ঐ দিন আসা জার্মান প্রতিনিধি
দলের সদস্যদের কাছে তাদের
অভিযোগ জানায়। জার্মান প্রতিনিধি
দল তাদের মূল প্রোগ্রামে না গিয়ে
জেলে সম্প্রদায়ের সাথে আলাপ
করেন ও তারা যাতে ক্ষতি পূরন পায়
সে বিষয়ে জার্মানে গিয়ে আলোচনা
করবেন বলে এ আশ্বাস প্রদান করেন।

সংবাদ

কর্মশালার অভিমত

ইউনিট সংস্করণ- ২০৪/২৮৫

ফ্যাপ-২০ জনস্বার্থবিরোধী স্থায়ী ক্ষতি হবে ৫ লাখ লোকের

টাঙ্গাইল, ২০শে এপ্রিল (নিজস্ব সংবাদদাতা)।— 'ফ্যাপ-২০' প্রকল্পকে জনস্বার্থবিরোধী এবং এর ফলে প্রায় ৫ লাখ লোক স্থায়ী ক্ষতির শিকার হবে বলে মত প্রকাশ করেছেন বিশেষজ্ঞরা। তারা বলেন, বিপুল অর্থ ব্যয়ের এই প্রকল্প দ্বারা কতিপয় আমলা, ঠিকাদার ও মস্তানই শুধু লাভবান হয়েছে।

আজ টাঙ্গাইল জেলা পরিষদ মিল-নায়তনে এডাব, সিইএন এবং রাস-এর উদ্যোগে আয়োজিত 'ফ্যাপ-২০' এর প্রতিক্রিয়া শীর্ষক কর্মশালায় সভাপতিত্ব করেন সিইএন-এর চেয়ারপারসন খুশী কবির। স্বাগত বক্তৃতা করেন এডাব-এর

পরিচালক শামসুল হুদা। বক্তৃতা করেন রাস-এর গবেষণা পরিচালক ডঃ স্বপন আদনান, বেলা'র পরিচালক (কর্মসূচি) রেজওয়ানা হাসান, এডাব-টাঙ্গাইলের সভাপতি জাকির হোসেন, প্রবীণ সমাজকর্মী মালতী প্রভা দে, এডভোকেট পরিমল রায়, অধুনালুপ্ত টাঙ্গাইল সদর উপজেলা পরিষদের চেয়ারম্যান আবদুস সালাম চাকলাদার, এডভোকেট হাবিবুল হক খান চৌধুরী বেনু, ফ্যাপ-২০ প্রকল্পে ক্ষতিগ্রস্ত বেলাল হোসেন, আলী হোসেন, আবু বকর সিদ্দিকী, মহির উদ্দীন, সাধন চন্দ্র দাস, শুকুরী বেগম, মঞ্জু রানী প্রামাণিক, এম এ আজিজ, শওকত আলী প্রমুখ।

রাস-এর গবেষণা পরিচালক ডঃ স্বপন আদনান বলেন, কিছু মানুষের উপকার ও লাখ লাখ মানুষের ক্ষতির জন্য ফ্যাপ-২০ ধরনের প্রকল্প নেয়া হয়। '৯২ সাল থেকে এ প্রকল্পের বিরোধিতা শুরু হয়েছে। ৫

বছর আগে এ প্রকল্প বন্ধ করা হলে মানুষের এত ক্ষতি হতো না। দাতা সংস্থা এবং দেশী সুবিধাবাদীদের জেদের কারণেই এ প্রকল্প বাতিল করা হয়নি। রেজওয়ানা হাসান বলেন, উচ্চতর আদালত ফ্যাপ প্রকল্পে ক্ষতিগ্রস্ত মানুষের অধিকারের স্বপক্ষে রায় দিয়েছে। এডাব-টাঙ্গাইলের সভাপতি জাকির হোসেন বলেন, টাঙ্গাইলে বন্যা নেই। তবে কার স্বার্থে ফ্যাপ-২০ নামে বন্যা নিয়ন্ত্রণ, পানি ব্যবস্থাপনা?

তিনি বলেন, এই প্রকল্পের ফলে প্রায় ৫ লাখ লোক স্থায়ী ক্ষতির কবলে পড়েছে। প্রবীণ সমাজকর্মী মালতী প্রভা দে বলেন, ৯৪ থেকে আমরা ফ্যাপ-২০-এর বিরুদ্ধে আন্দোলন শুরু করি। মস্তান দিয়ে ঠিকাদাররা আমাদের জীবননাশের হুমকি দিয়েছে। কিন্তু আমরা ভয়ে পিছিয়ে যাইনি।

তিনি বলেন, ক্ষতিগ্রস্ত জনগণকে সাথে নিয়ে আমরা ফ্যাপের বিরুদ্ধে এক্যবদ্ধভাবে আন্দোলন গড়ে তুলবো।

P R E S S C L I P P I N G S

মুক্তকণ্ঠ

SEPTEMBER: 07, 1998, ০৭,

Daily/ Weekly/ Others

Place

Date

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সিপিপি বাঁধে ভাঙন □ টাঙ্গাইল শহর তলিয়ে যাওয়ার আশংকা

রাশেদ রহমান, টাঙ্গাইল, ৬ সেপ্টেম্বর : টাঙ্গাইল শহর তৃতীয় দফা বন্যার পানিতে তলিয়ে যাওয়ার আশংকা দেখা দিয়েছে।

সদর থানার রসুলপুরে সিপিপি'র বাঁধের ব্যাপক এলাকা ভেঙে যাওয়ায় এ আশংকার সৃষ্টি হয়েছে। প্রবল বেগে বাঁধের উজানের পানি শহরের দিকে ছুটে আসছে। শহরবাসীর আশংকা পানি বৃদ্ধি অব্যাহত থাকলে বন্যার পানিতে শহর তলিয়ে যেতে পারে।

১৯৮৮ সালের ভয়াবহ বন্যায় টাঙ্গাইল শহরের কোন কোন এলাকা ১০/১২ ফুট পানির নিচে তলিয়ে যায়। বন্যার কবল থেকে শহরকে বাঁচানো ও সুখম পানিবন্টন ব্যবস্থাপনা চালুর লক্ষ্যে পানি উন্নয়ন বোর্ড পরীক্ষামূলকভাবে 'ফ্লাড অ্যাকশন প্ল্যান-ফ্যাপ'-এর আওতায় কম্পার্টমেন্টা-লাইজেশন পাইলট প্রজেক্ট-সিপিপি' চালু করে। জার্মানী ও নেদারল্যান্ডস কয়েকটি দেশ ও দাতা সংস্থার আর্থিক সহযোগিতায় একশ' ১৭ কোটি টাকা ব্যয়সাপেক্ষ এই প্রকল্পের কাজ শুরু হয় '৯১

সালে। টাঙ্গাইল শহর ও সদর থানার সাতটি ইউনিয়নসহ ১২টি ইউনিয়ন প্রকল্পের আওতাভুক্ত করা হয়। টাঙ্গাইল শহরের পার্শ্ববর্তী লৌহজং নদীর ওপর যুগ্মনিতে মেইন ইনলেটসহ বেশক'টি স্লুইসগেট নির্মাণ এবং কয়েকটি খাল খনন ও পুনঃখনন করা হয়। অভিজ্ঞমহলের ধারণা মূলত টাঙ্গাইল শহরকে বন্যার কবল থেকে বাঁচানোই এই প্রকল্পের মূল উদ্দেশ্য।

সরেজমিন ঘুরে দেখা গেছে, সিপিপি'র স্লুইসগেট ও বাঁধের কারণে টাঙ্গাইলে বন্যার চির দুঃরকম। বাঁধের ভেতরে পানি ঢুকতে পারেনি, বাইরে ভয়াবহ বন্যা। এ কারণে বাঁধের বাইরের বন্যাকবলিত মানুষ এই প্রকল্পের উপর ভীষণ বিস্ময়। বিস্ময় জনতা প্রথম দফা বন্যায় টাঙ্গাইল সদর থানার রসুলপুরে সিপিপি'র বাঁধ কেটে দিয়েছিল। দ্বিতীয় দফা বন্যার সময় সিপিপি কর্মকর্তাদের উপস্থিতিতেই উক্ত কানিং পয়েন্টের অনতিদূরে বাঁধের ব্যাপক এলাকা পানির প্রবল তোড়ে ভেঙে যায়। কর্তৃপক্ষ সেখানে পুনঃবাঁধ নির্মাণ করে

শহরমুখী পানির প্রবল তোড় ঠেকাতে পারেনি। পানির প্রচণ্ড স্রোতে ভাঙন পয়েন্টে দু'টি বাড়ির অধিকাংশ ও নির্মাণাধীন একটি ব্রিজ ভেঙে গেছে। বাড়ি দুটোর পুরো অংশই যেকোন মুহূর্তে বিলীন হয়ে যেতে পারে।

এছাড়াও বাঁধ ভাঙা পানির তীব্র স্রোতের কারণে টাঙ্গাইল-ময়মনসিংহ সড়কের রসুলপুর ব্রিজ ও একটি কালভার্ট এবং ১০/১২টি বাড়ি হুমকির সম্মুখীন। ক্ষতিগ্রস্তরা অভিযোগ করেন, সিপিপি কর্তৃপক্ষের কাছে বারবার অনুরোধ সত্ত্বেও তারা স্লুইস গেটের কপাট খুলে দেননি। তারা রসুলপুরে বাঁধ ভাঙার কারণ হিসেবে উল্লেখ করেন, যেখানে বাঁধ ভেঙেছে সেখানে পাইপ কালভার্ট ছিল। কর্তৃপক্ষ পাইপ কালভার্টটিও টিন দিয়ে বন্ধ করে দেয়ার পর পানির সূতীব্র প্রবাহ বাঁধমস্ত হওয়ায় সেখানে ভাঙন ধরে। মুহূর্তের মধ্যে ভাঙন এত ব্যাপক আকার ধারণ করে যে, সেখানে উপস্থিত সিপিপি'র প্রকৌশলী, কর্মকর্তা, ঠিকাদার অর্ধশতাধিক শ্রমিক আর তা ঠেকাতে পারেনি।

PRESS CLIPPINGS

THE MAKER KANJIALE GRAM

September 07, 1978

Daily/ Weekly/ Others

Place

Date

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Subject

Report/ Feature/ Editorial/ Photograph

টাক্সাইল

১ম পাতার পর

দেব উপাস্যাততেই উক্ত কাটিং
পয়েন্টের শনাক্তকরে বাঁধের
ব্যাপক এলাকা পানির পবর্ল
তোড়ে ভেঙে যায়। কঁড় পিঁফ
যেখানে পুনর্বাঁধ নির্মাণ করে
শহরমুখী পানির পবর্ল তেডি
ঠেকাতে পারেনি। পানির

এছাড়া সোতে ভাঙন পয়েন্টে
জাঁটি বাড়ির অধিকাংশ ও
নির্মাণধীন একটি বিজ ভেঙে
গেছে। বাড়ি ভাঙের পরো
শেষেই যেকোন মতর্কে বিলীন
হয়ে যেতে পারে।

করাখান বাঁধ ভাঙা
পানির মত স্রোতের কারণে
টাক্সাইল সমগ্র এলাকা সড়কের
রক্ষণপত্র বিধি একটি কাল-
ভাঙি এবং ১০/১২টি বাড়ি
ভাঙির সম্মুখীন। কতিগতরা
শ্রদ্ধিযায় করেন সিপিপি
কর্তৃপক্ষের কাছে বারবারি খই-
রোপ সবেদন তারা হুই-
গেটের নগাট গলে টেনেনি।
কারা রক্ষণপত্র বাঁধ ভাঙার
স্বাভাবিক কারণে ভাঙন করেন
যেখানে বাঁধ ভেঙেছে সেখানে
লাইন কাগজটি ছিল। কর্তৃ-
পক্ষ বাঁধ কাগজটিটি গিন
দিয়ে বন্ধ করে দেবার পর
পানির মতী ব পরাচ বাধারত
হওয়ায় সেখানে ভাঙন পরে।
মতর্কের মধ্যে ভাঙন এত
ব্যাপক আকার ধারণ করে যে-
সেখানে উপস্থিত সিপিপি
প্রকৌশলী কর্মকর্তা, সিকা-
দার ও অশিতাধিক শ্রমিক
আর তা ঠেকাতে পারেনি।

টাক্সাইল শহর তলিয়ে যাওয়ার আশংকা

। স্টাক রিপোর্টার ।

টাক্সাইল শহর তলিয়ে দকা
বন্যার পানিতে তলিয়ে যাও-
তার আশংকা দেখা দিয়েছে।
সদর পানির রক্ষণপত্রে
সিপিপি বাঁধের ব্যাপক
এলাকা ভেঙে পড়ছে। এ
আশংকার ফরি হয়েছে।
এবল বেগে বাঁধের উজানের
পানি শহরকে বিধি ভাঙে
আসছে। শহরবাসীর আশংকা
পানি বৃদ্ধি অব্যাহত থাকলে
পাকলে বন্যার পানিতে শহর
তলিয়ে যেতে পারে।

১৯৮৮ সালের ভয়াবহ
বন্যায় টাক্সাইল শহরের কোন
কোন এলাকা ১০/১২ ফুট
পানির নিচে তলিয়ে যায়।
বন্যার কবল থেকে শহরকে
বাঁচানো ও স্রম্য পানিরটন
বাহ্যপনা চালুর লক্ষ্যে পানি
উন্নয়ন বোর্ড পরীক্ষামূলকভাবে
ফ্রিড অ্যাকশন প্লান ফাণ
এর আওতায় কম্পাউন্টমেন্ট-
লাইসেন্সন পাইলট প্রকল্পে-
সিপিপি চালু করে। জার্মানী
ও নেদারল্যান্ডসহ কয়েকটি দেশ
ও দাতা সংস্থার আর্থিক সহ-
যোগিতায় একশ' ১৭ কোটি
টাকা ব্যয়সাধন এই প্রকল্পের

কাল শুরু হয়, ৯১ সালে।
টাক্সাইল শহর ও সদর পানির
সাতটি ইউনিয়নসহ ১২টি
ইউনিয়ন পকসের আওতাধীন
করা হয়। টাক্সাইল শহরকে
পার্শ্ববর্তী লেভেল নদীর পূর্বা
য়গ্নিতে যেমন ইনলেক্টিং
বেশকটি ইউই-গেট নির্মাণ
এবং কয়েকটি খাল খনন ও
পুনঃখনন করা হয়। অডি-
অমহলের পরিণামূলক টাক্সা-
ইল শহরকে বন্যার কবল থেকে
বাঁচানোই এই প্রকল্পের মূল
উদ্দেশ্য।

যতদূরমিন ঘুরে ঘেঁষা গেছে
সিপিপি'র ইউই-গেট ও বাঁধের
কারণে টাক্সাইলে বন্যার চিব
অবস্থা। বাঁধের ভেঙে
পানির কবলে পানিনি, বাঁধের
বন্যাকবলে পানিনি, বাঁধের
ভেঙে উত্তর অংশ বিকল।
জনতা পল্লভ মধ্য বন্যায়
টাক্সাইল সদর পানির রক্ষণ-
পত্রে সিপিপি বাঁধ ভেঙে
মিগেদ্রিয়া। বিলীন দকা
বন্যার সম্মুখীন সিপিপি কর্মকর্তা-
শেখের পাতাখ

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গ্রামবাসী লাঠি সড়কি নিয়ে ধান ক্ষেত পাহারা দিচ্ছে

টান্কাইলে সিপিপি'র খাল কাটা নিয়ে
উত্তেজনা ॥ সংঘর্ষের আশঙ্কা

কিরোজ মান্না, টান্কাইল থেকে

টান্কাইলে কম্পার্টমেন্টালাইজেশন পাইলট প্রকল্প (সিপিপি) দু'টি রেশপেটরের পানি অপসারণের জন্য ঘারিন্দা থেকে নগরজলফই লৌহজং নদী পর্যন্ত আরও একটি খাল খননের কাজ শুরু করেছে। এই খাল সারোটিয়া, আশেকপুর, পয়লা ও নগরজলফই মৌজার (হিজলতলীর চক নামে পরিচিত) মধ্য দিয়ে লৌহজং নদীতে পড়বে। বিশাল এই চকের তরতাজা ইরিধান কেটে ১৮ মিটার চওড়া ৩ মিটার গভীর ৪ দশমিক ২৮ কিলোমিটার দীর্ঘ খাল উক্ত মৌজাবাসীদের জন্য কাল হয়ে দাঁড়িয়েছে। জমি

অনুযায়ী জেলা প্রশাসন সারোটিয়া, আশেকপুর, পয়লা ও নগরজলফই মৌজার ৭ দশমিক ৭৯ হেক্টর জমি হুকুম দখল নেয়ার জন্য জমির মালিকদের নোটিস প্রদান করে। এ নোটিস অনেক জমির মালিক পায়নি বলে জনকন্ঠের কাছে অভিযোগ করেছে। এদিকে ৭ দশমিক ৭৯ হেক্টর জমি অধিগ্রহণ করা হয়েছে, এ জন্য সিপিপি জমির টাকা জেলা প্রশাসনের কাছে পৌঁছে দিয়েছে। তার পরও কেন ক্ষতিগ্রস্তরা টাকা পাচ্ছে না সে বিষয়ে একাধিক অভিযোগ উঠেছে। ১১ দশমিক ২২ লাখ টাকার এই প্রকল্পটি অন্যায়ভাবে বাস্তবায়ন করা হচ্ছে মর্মে প্রকল্প এলাকাবাসী তীব্র প্রতিরোধ সৃষ্টি করেছে। ঘারিন্দা মৌজায় তরতাজা ইরিধান কেটে খাল কাটার কাজ চলছে। তবে ৪ দশমিক

পাহাড়া দিচ্ছে। এই হিজলতলীর চক ৪টি ডিপ টিউবওয়েল ও ১৭টি শ্যালোর মাধ্যমে ইরিধান চাষ করা হয়ে থাকে। দীর্ঘ খাল কাটা হলে ডিপ টিউবওয়েল ও শ্যালোগুলোর জমি হ্রাস পাবে। তাছাড়া এখন পর্যন্ত অনেক জমির মালিকই জানানো যে তাদের জমি অধিগ্রহণ করা হয়েছে। জমির ক্ষতিপূরণ না দিয়েই খাল কাটার কাজ শুরু হয়েছে।

অন্যদিকে উক্ত এলাকাজলোর জমির দাম গত ৫/৬ বছর যাবত প্রতি শতাংশ ৫ থেকে ৭ হাজার টাকা বিক্রি হচ্ছে। সে ক্ষেত্রে অধিগ্রহণে জমির মূল্য প্রতি শতাংশ মাত্র ৯শ' টাকা করে ধার্য করা হয়েছে। সর্বশ্রুটি ঠিকাদার তাদের হুমকি দিয়েছে। যে কারণে পরিস্থিতি আরও ঘোলাটে আকার ধারণ করেছে। এ ব্যাপারে পানি উন্নয়ন



টান্কাইল : ধানী জমির ওপর দিয়ে ঘারিন্দা-নগরজলফই খাল কাটা হচ্ছে

—জনকন্ঠ

অধিগ্রহণের টাকাও অনেকে পায়নি বলে অভিযোগ রয়েছে। উপরন্তু চকের ধান কেটে খাল কাটা হচ্ছে। এই খাল কাটা নিয়ে এলাকাবাসী তীব্র প্রতিবাদী হয়ে উঠেছে। এখানে যে কোন সময় ঘটে যেতে পারে রক্তক্ষয়ী ঘটনা। গত কয়েক দিন থেকেই এ এলাকার লোকজন লাঠি সড়কি নিয়ে জমি পাহারা দিচ্ছে, যাতে ধান কেটে খাল খনন না করতে পারে।

জানা গেছে, '৯৪-৯৫ অর্থ বছরে ঘারিন্দা-নগরজলফই খাল খননের জন্য সিপিপি জেলা প্রশাসনের কাছে একটি প্রস্তাব করে। এই প্রস্তাব অনুযায়ী জেলা প্রশাসন নীতিগতভাবে সিপিপি'কে সহযোগিতা করার জন্য রাজি হয়। সে

২৮ কিলোমিটার খালের মাপ ও চিহ্ন লৌহজং পর্যন্ত স্থাপন করা হয়েছে। আশেকপুর, পয়লা ও নগরজলফই এলাকার মানুষ সব সময় প্রবৃত্ত হয়ে রয়েছে— যদি তাদের জমির ধান কেটে খাল খনন করা হয় তাহলে তারা বুকের রক্ত দিয়ে হলেও এ খাল কাটতে দেবে না বলে জানিয়েছে।

এলাকাবাসীদের মধ্যে কৃষক হাকুন অর রশিদ, মতিয়ার রহমান, মকবুল হোসেন, শামসুর রহমান জনকন্ঠের প্রতিনিধির কাছে বলেছে— 'এ খালের কোন প্রয়োজন নেই, অযথা কাটা হচ্ছে। আমাদের তরতাজা ধান কাটতে দেব না।' এ জন্য গ্রামবাসীরা সব সময় লাঠি, সড়কি নিয়ে হিজলতলীর চক

বোর্ডের নির্বাহী প্রকৌশলীর সঙ্গে আলাপ হলে তিনি জানান, ১৪শ' ৩৮ হেক্টর জমির জলাবদ্ধতা দূর করা এবং জমিতে নিয়ন্ত্রিত বন্যা ও নিকাশন ধারণা থেকে এই খাল খনন করা হচ্ছে। সিপিপি'র অপর একটি সূত্র বলেছে, এই খাল আসলে পুনর্খনন করা হচ্ছে।

এদিকে বুধবার সন্ধ্যায় পয়লা, আশেকপুর ও নগরজলফই গ্রামের শতাধিক মানুষ টান্কাইল প্রেসক্লাবে এক সাংবাদিক সম্মেলন করে। সাংবাদিক সম্মেলনে তারা দাবি জানায়, তাদের ইরিধান নষ্ট করে যেন খাল কাটা না হয়। যদি খাল কাটা হয় তাহলে তারা যে কোন মূল্যে তা প্রতিহত করবে।

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টঙ্গাইল : ফ্যাপ-২০ কর্মসূচির আওতায় খারিন্দানগর জলপাই খাল খনন বন্ধের দাবিতে শহরে বিক্ষোভ মিছিল। — সংবাদ

আবাদী জমি নষ্ট করে খাল কাটার বিরুদ্ধে সমাবেশ ও মিছিল

টঙ্গাইল, ১৩ই এপ্রিল (নিজস্ব সংবাদ- অবিলম্বে ফ্যাপ-২০ কর্মসূচির অধীন দাড়া)।- পানি উন্নয়ন বোর্ডের বন্যানিয়ন্ত্রণ কম্পাউন্টমেন্টাইজেশন পাইলট প্রজেক্টের কর্মসূচি (ফ্যাপ-২০)-এর অধীন আওতায় গৃহীত ঘারিন্দা-নগরজলপাই ঘারিন্দা-নগর জলপাই খাল খনন খাল খনন বন্ধের দাবিতে বিভিন্ন শ্রোগান প্রকল্পের কাজ বন্ধ করার জন্য দেয়। এক পর্যায়ে তারা কম্পাউন্ট-এলাকাবাসী দাবি জানিয়েছে। ৪টি গ্রামের মেন্টাইজেশন পাইলট প্রজেক্টের তথ্য শত শত অধিবাসী এ ব্যাপারে সভা-কেন্দ্র ঘেরাও করে বিক্ষোভ প্রদর্শন করে। সমাবেশ, মিছিল ও স্মারকলিপির মাধ্যমে এর আগে বিক্ষুব্ধ এলাকাবাসী এ ব্যাপারে উদ্বেগ-অসুস্থতার নিকট এ ব্যাপারে দ্রুত দ্রুত কার্যকর ব্যবস্থা গ্রহণের দাবি জানিয়ে কার্যকর পদক্ষেপ গ্রহণের দাবি করেছে। জেলা প্রশাসকের নিকট একটি স্মারকলিপি গত ২৫শে মার্চ টঙ্গাইল সদর থানার পেশ করে।

পয়লা, সাপুটিয়া, আশেপুপুর এবং নগর এলাকাবাসী অবিলম্বে খাল জলপাই গ্রামের শত শত অধিবাসী শহরে খনন কর্মসূচির কাজ বন্ধ করার দাবি একটি বিক্ষোভ মিছিল বের করে। তারা জানান:

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টাঙ্গাইলে খাল খননকে কেন্দ্র করে

টাঙ্গাইল প্রতিনিধি : কম্পাটমেন্টালাইজেশন পাইলট প্রকল্পের (সিপিপি) খাল খননকে কেন্দ্র করে শহরতলির সারোটিয়া, আশেকপুর, পয়লা ও নগরজলট্রফ এলাকায় উত্তেজনা বিরাজ করছে। নিয়ন্ত্রিত পানি ব্যবস্থাপনার সুবিধার্থে সিপিপি এই এলাকায় (হিজলতলি চক নামে পরিচিত) ১৮ মিটার প্রস্থ ৪ দশমিক ২৮ কিলোমিটার খাল খননের সিদ্ধান্ত নিলেও জমি অধিগ্রহণের টাকা কাউকে দেয়নি। এ ছাড়া জমির উঠতি ইরিবোরো ধান কেটে খাল খননের পরিকল্পনা নেওয়ায় গত কিছুদিন থেকেই এলাকাবাসী লাঠিসোঁটা নিয়ে জমি পাহারা দিচ্ছে। যাতে ধান কেটে কেউ খাল খনন করতে না পারে।

জানা যায়, গত ৯৪-৯৫ অর্থবছরে সিপিপি খারিন্দা-নগরজলট্রফ খাল খননের জন্য জেলা প্রশাসনের কাছে প্রস্তাব পাঠালে প্রশাসন সবধরণের সহযোগিতা দিতে রাজি হয়। সে সিদ্ধান্ত অনুযায়ী প্রসাশন এ যৌজাভলোর ৭ দশমিক ৭৯ হেটর

জমি হকুম দখল নেওয়ার জন্য জমির মালিকদের নোটিশ দেয়। কিন্তু অনেক জমির মালিক সে নোটিশ পায়নি। সিপিপি জমি অধিগ্রহণের টাকা জেলা প্রশাসনে জমা দিয়েছে।

এদিকে এ এলাকাভলোতে জমি গত ৫/৬ বছর যাবত প্রতি শতাংশ ৫ থেকে ৭ হাজার টাকায় বিক্রি হচ্ছে। অথচ অধিগ্রহণের ক্ষেত্রে জমির মূল্য নির্ধারণ করা হয়েছে প্রতি শতাংশ মাত্র ৯০০ টাকা। এ ব্যাপারে পানি উন্নয়ন বোর্ডের একজন কর্মকর্তা জানান, ১ হাজার ৪৩৮ হেটর জমির জলাবদ্ধতা দূর করা এবং নিয়ন্ত্রিত বন্যা ও নিকাশনের জন্য এই খাল খনন করা হচ্ছে।

গত ১৯ মার্চ এই প্রকল্প এলাকার প্রায় শতাধিক কৃষক টাঙ্গাইল প্রেসক্লাবে এক সংবাদ সম্মেলনের আয়োজন করে। সম্মেলনে তারা ধান নষ্ট করে খাল না কাটার দাবি জানায়। এরপরও যদি খাল খনন করা হয় তাহলে তারা যেকোনো মূল্যে প্রতিহত করবে বলে ঘোষণা দিয়েছে।



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OPINION

Flood Control Embankments and
Epidemic Kala-azar in Bangladesh

Stephen F Minkin

Kala-azar or visceral leishmaniasis is a deadly disease if not treated. There are thousands of new cases every year. The cost of treatment is out of reach for many people in Bangladesh. The vector for the disease, the sandfly *Phlebotomus argentipes* is very sensitive to environmental changes. *P. argentipes* mature under hot, moist conditions. Populations may become rapidly unstable when larval habitats are protected from flooding.

Under the auspices of FAP 16, Dr Reazur Rahman, Anisul Islam and I organised a series of studies on vector diseases including Kala-azar. This is a summary from the published findings.

Kala-azar cases were clustered within flood protected areas in contrast to other patients who came from villages outside embankments. Living completely within embankments substantially increased risk. People living within embankments were found to have a risk of developing Kala-azar that was 17.69 times higher than among those living outside embankments. A high proportion of Kala-azar morbidity can be explained by living within embankments. In this study, the attributable risk among the population was 88 per cent and the

population attributable risk fraction was 78.8 per cent.

These are large increases in risks. Kala-azar is known to be a volatile disease responding to environmental changes. It is also the cause of very high mortality. The FAP 16 study contained a number of recommendations which were ignored. These included the need for increased surveillance in the FAP 3.1 and FAP 20 project areas. The FAP 20 Project Area was Kala-azar-free at the time of the study but is surrounded by Kala-azar endemic highlands. Changes due to FAP 20 would similarly delay or prevent floods thereby potentially increasing the risk of the disease. (Are the Dutch, Germans and EEC listening?)

I am very concerned about the potential impact of the Jamuna river training on Kala-azar, and on environmental health, in general. Unfortunately because the findings from the Kala-azar study were ignored, larger issues relating to engineering, environmental, health, and disease with continue to plague the nation.

The fact that Kala-azar is a deadly disease affecting thousands of people a year warrants immediate attention. We have

yet to obtain a reasonable response to the study which undoubtedly was seen as a small nuisance on the face of large engineering enterprises. The study was undertaken to inform, not blame. A continued absence of follow-up when such a large increased risk was demonstrated is deplorable.

The World Bank, Asian Development Bank and government need to respond intelligently, if belatedly, to this problem. The current epidemic, dating from 1980, largely developed within World Bank-funded flood control projects before spreading elsewhere. The report 'The Kala-azar Epidemic and its Relationship to Flood Control Embankments' documents the development of the epidemic in Bangladesh.

The problem of epidemics caused by disturbed environment is a very dramatic case of how life and death issues are missed by costly, yet often superficial, approaches to project planning and impact assessments. It is very important for people at all levels of project preparation to understand the wider implications of environmental changes caused by large-scale engineering projects funded by international agencies.

ফ্যাপ-২০ : ক্ষতিগ্রস্তরা ১০২ কোটি টাকার ক্ষতিপূরণ দাবি করেছেন

টান্কাইল, ২৮শে এপ্রিল (নিজস্ব সংবাদদাতা)।- ফ্যাপ-২০-এর কারণে ক্ষতিগ্রস্ত টান্কাইল সদর থানার ১০টি ইউনিয়নের ৭২টি গ্রামের প্রায় ২ হাজার ৮শ' অধিবাসী ১শ' ২ কোটি টাকারও বেশি ক্ষতিপূরণ দাবি করে জেলা প্রশাসনের কাছে দরখাস্ত দিয়েছেন। দাবি পূরণ করা না হলে ক্ষতিগ্রস্তরা আইনের আশ্রয় নেবেন বলে দরখাস্তে উল্লেখ করা হয়েছে। খবর জেলা প্রশাসন এবং সংশ্লিষ্ট অন্যান্য সূত্রের।

টান্কাইলে বন্যা নিয়ন্ত্রণ ও সৃষ্টি পানি ব্যবস্থাপনা গড়ে তোলার লক্ষ্যে পানি উন্নয়ন বোর্ড নেদারল্যান্ডস ও জার্মানি কারের সহায়তায় ১শ' ১৭ কোটি টাকার ফ্যাপ-২০ প্রকল্প গ্রহণ করে। জুন '৯১ থেকে শুরু হয় ১০ বছর মেয়াদি এই প্রকল্পের কাজ। খাল খনন, বাঁধ ও সড়ক নির্মাণ এবং রেগুলেটর ও মুইস গেট নির্মাণের মাধ্যমে বন্যা নিয়ন্ত্রণ, সৃষ্টি পানি ব্যবস্থাপনা, ফসল আবাদ বৃদ্ধি ও মৎস্য চাষের উন্নয়নকে এই প্রকল্পের লক্ষ্য হিসেবে ঘোষণা করা হয়। ইতোমধ্যেই এ প্রকল্পের শতকরা ৯০ ভাগ কাজ শেষ হয়েছে।

প্রকল্প এলাকায় সরঞ্জামিন পর্যবেক্ষণকালে বিভিন্ন এলাকার ভুক্তভোগীরা জানান, প্রকল্পের কাজ করার সময় ভূমি অধিগ্রহণ ছাড়াই অনেকের বসতবাড়ি, ফসলি জমি এবং গাছপালা প্রকল্পের

লোকেরা দখল করে নেয়। বোশরভাগ জমির মালিককে এখনও ক্ষতিপূরণ দেয়া হয়নি। তারা জানান, এ প্রকল্পের ফলে শুকনো মৌসুমে যাতায়াতের সুবিধা হবে। কিন্তু ফসল উৎপাদন মারাত্মকভাবে ব্যাহত হবে, মৎস্য চাষ বন্ধ হবে। ইতোমধ্যেই প্রকল্পের প্রতিক্রিয়ায় প্রায় ২০ হাজার ক্ষেলে বেকার হয়ে গেছে। পানির স্বাভাবিক চলাচল ব্যাহত হওয়ায় প্রকল্প এলাকার বাইরে ৩২টি গ্রাম ব্যাপক নদী ভাঙন ও প্রাবনের শিকার হচ্ছে। অপরদিকে প্রকল্পের ভেতরের পানি আটকে দেয়ায় পানির অভাবে ফসল উৎপাদন মার খাচ্ছে।

ফ্যাপ-২০ প্রকল্পের কারণে প্রত্যক্ষভাবে ক্ষতিগ্রস্তরা জেলা প্রশাসনের কাছে ইতোমধ্যেই ক্ষতিপূরণ দাবি করেছেন। জেলা প্রশাসন এবং সংশ্লিষ্ট অন্যান্য সূত্র জানান, টান্কাইল সদর থানার দাইন্যা, বাঘিল, গালা, কাতুলী, হুগড়া, মগড়া, খারিন্দা, করটিয়া, সিলিমপুর ও পোড়াবাড়ি ইউনিয়নের ৭২টি গ্রামের ২ হাজার ৭শ' ৯৪ জন ক্ষতিগ্রস্ত ইতোমধ্যেই টান্কাইলের অতিরিক্ত জেলা প্রশাসক (রাজস্ব) বরাবরে ১শ' ২ কোটি ৩৪ লাখ ৮৫ হাজার টাকা ক্ষতিপূরণ দাবি করে দরখাস্ত করেছেন। পৃথকভাবে দেয়া এই দরখাস্তে দাবি পূরণ করা না হলে আইনের আশ্রয় নেয়া হবে বলে উল্লেখ করা হয়েছে।

দরখাস্তকারীরা অধিগ্রহণকৃত জমি, বসতবাড়ি, ফসল, আবাস স্থানান্তর, জমির ভাঙন ও জলাবদ্ধতা এবং পোনা নষ্টের ক্ষতিপূরণ দাবি করেছেন। জেলা প্রশাসনের একটি সূত্র জানান, গত ডিসেম্বরের প্রথম সপ্তাহ পর্যন্ত অতিরিক্ত জেলা প্রশাসকের কাছে প্রায় ২ হাজার দরখাস্ত পেশ করা হয়। এই পরিপ্রেক্ষিতে গত ৯-১২-৯৭ তারিখে জেলা প্রশাসনের ভূমি হুকুমদখল শাখা থেকে অতিরিক্ত জেলা প্রশাসক (রাজস্ব) সইকৃত খারক নং জে প্র টাৎ/এল,এ/৯৩-৩৭/৯৭-১৭৪৮ নম্বর এক পত্রে নির্বাহী প্রকৌশলী, সিপিপি বিভাগ, পাউবো, টান্কাইলকে এ ব্যাপারে প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য অনুরোধ করা হয়। কিন্তু এই পত্রের পরও নির্বাহী প্রকৌশলী ক্ষতিগ্রস্তদের দাবি অনুযায়ী ক্ষতিপূরণ প্রদানের ব্যাপারে কোন পদক্ষেপ নেননি। চলতি এপ্রিল মাস পর্যন্ত আরো ৭ শতাধিক ক্ষতিগ্রস্ত ক্ষতিপূরণের জন্য অতিরিক্ত জেলা প্রশাসকের কাছে আবেদন করেছেন। আরো নতুন নতুন আবেদনপত্র জমা পড়ছে। দিন দিন বাড়ছে আবেদনকারীর সংখ্যা। বিভিন্ন এলাকার কয়েকজন ক্ষতিগ্রস্ত এই সংবাদদাতাকে জানান, সংশ্লিষ্ট কর্তৃপক্ষ ক্ষতিপূরণের ব্যবস্থা না করলে তারা (ক্ষতিগ্রস্তরা) বাধ্য হয়ে আইনের আশ্রয় নেবেন।

দৈনিক জানকান্ঠা

স্বাভিন্দ্র্য ও নিরপেক্ষতায় সচেতন

The Daily Janakantha

৷ ঢাকা ৷ পনিবার ৭ আষাঢ় ১৪০৬ বাংলা ৷ ১৫ সফল ১৪১৮ হিজরী ৷ ২১ জুন ১৯৯৭ ইংরেজী ৷ পৃষ্ঠা ১২ ৷ দূর্য্য ৬ টকা

নিজস্ব সংবাদদাতা, টাঙ্গাইল থেকে

টাঙ্গাইলে কম্পাউন্ডেডলাইজেনশন পাইলট প্রকল্প (সিপিপি) কর্তৃক বীরপুৰিয়া গ্রামে একটি বেতলেটৰ স্থাপন নিয়ে দু'টি গ্রুপের মধ্যে বিরোধ চরম আকার ধারণ করেছে। যে কোন সময়ে এবার বক্তৃতা সফরের আশঙ্কা রয়েছে।

টাঙ্গাইলের ৪নং কবাচিয়া ইউনিয়নের বীরপুৰিয়া গ্রামে 'বীরপুৰিয়া বালেশ' ওপর সিপিপি ব একটি বেতলেটৰ স্থাপন নিয়ে একই গ্রামে দু'টি গ্রুপের সৃষ্টি হয়েছে। এক গ্রুপ চাচ্ছে বেতলেটৰটি লৌহজং নদী সংলগ্ন বালেশ ওপর স্থাপন করা হোক। অন্য গ্রুপ চাচ্ছে বেতলেটৰটি বীরপুৰিয়া গ্রামের ভিতরে করা হোক। দীর্ঘ এক বছর থেকে এ বিরোধ চলে আসছে। ইতোপূর্বে বেশ কয়েক বার দু'গ্রুপই সংঘর্ষে লিপ্ত হয়। গত ২৯ জানুয়ারি সিপিপি'র ১৫নং সার-

সিপিপি'র বেতলেটের নির্মাণ নিয়ে বীরপুরে সংঘর্ষের আশঙ্কা

কম্পাউন্ডেডলাইজেনশন পাইলট প্রকল্প (সিপিপি) কর্তৃক বীরপুৰিয়া গ্রামে একটি বেতলেটৰ স্থাপন নিয়ে দু'টি গ্রুপের সৃষ্টি হয়েছে। এক গ্রুপ চাচ্ছে বেতলেটৰটি লৌহজং নদী সংলগ্ন বালেশ ওপর স্থাপন করা হোক। অন্য গ্রুপ চাচ্ছে বেতলেটৰটি বীরপুৰিয়া গ্রামের ভিতরে করা হোক। দীর্ঘ এক বছর থেকে এ বিরোধ চলে আসছে। ইতোপূর্বে বেশ কয়েক বার দু'গ্রুপই সংঘর্ষে লিপ্ত হয়। গত ২৯ জানুয়ারি সিপিপি'র ১৫নং সার-

কাজেব অনুমতি দেয়া হয় তখন গ্রামের অন্য একটি গ্রুপ এতে বাধা দেয়। এ নিয়ে দীর্ঘদিন থেকে বীরপুৰিয়া গ্রামে উত্তেজনা বিবাজ্য করছে। আইন-শৃঙ্খলা পরিস্থিতির মারাত্মক অবনতি ঘটার জন্য কবাচিয়া ইউনিয়নের ভারপ্রাপ্ত চেয়ারম্যান হাফিজুর রহমান একটি আবেদনপত্র সংসদ সদস্য টাঙ্গাইল, টিম লিডার সিপিপিসহ ১০ জায়গায় অনুশিপি দেয়া হয়। এর পরও সিপিপি বিরাট জনগোষ্ঠীকে উপেক্ষা করে বেতলেটৰটি স্থাপন করার জন্য জমি অধিগ্রহণ এবং কাজ করার অনুমতি দিয়ে দিয়েছে সংশ্লিষ্ট ঠিকাদারকে। বীরপুৰিয়া

গ্রামে বেশিরভাগ মানুষ চায় বেতলেটৰটি নদীর কাছাকাছি কোন স্থানে হোক। কিন্তু কয়েক জন পার্শ্বের মানুষ জোর করেই বেতলেটৰটি বীরপুৰিয়া গ্রামের মাঝখানে করার পায়তারা চালাচ্ছে।

সিপিপি এই বেতলেটৰটি তৈরি করেছে ৭টি এলাকার ফসলের জমি, পানি নিষ্কাশন ও প্রয়োজনীয় পানি রাখার জন্য। এই ৭টি এলাকা হচ্ছে ধুলোটিয়া, বিষ্ণুপুর, গোপালপুর, নলসোরা, নুসুনদিয়া, আকশপাড়া এবং বীরপুৰিয়া। বৃষ্টি হলেই পানি জমে থাকে, এতে ফসলের মারাত্মক ক্ষতি হয়।

Annexure-B

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THE ACQUISITION AND REQUISITION OF IMMOVABLE PROPERTY ORDINANCE, 1982

(With amendments up to 1994)

ACQUISITION

3. Publication of preliminary notice of acquisition of property:

Whenever it appears to the DC that any property in any locality is needed or likely to be needed for any public purpose or in the public interests, he shall cause a notice to be published at convenient places on or near the property in the prescribed form and manner stating that the property is proposed to be acquired.

4. Objection against acquisition-

(1) Any person is interested in any property, which has been notified under Section 3 as being needed or likely to be needed for a public purpose or in the public interests may, within 15 days after the publication of the notice, object to the acquisition of the property.

(2) Every objection under sub sec. 1 shall be made to the DC in writing, and the DC shall give the objector an opportunity of being heard either in person or by an agent and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, prepare a report within thirty days following the expire of the period specified under sub sec. (1) containing his opinion on the objections.

(3) The DC shall then-

- a) if the property exceeds fifty standard bighas of land, submit the record of the proceedings held by him, together with his report, for the decision of the Govt.; and
- b) if the property does not exceeds fifty standard bighas of land, submit the record of proceedings held by him, together with his report for the decision of Divisional Commissioner.

Provided that if no objection is raised within the period specified in sub sec. 1, the DC shall instead of submitting the records of the proceedings to the Divisional Commissioner, make a decision within ten days of the expire of the aforesaid period, or within such further period but not exceeding thirty days, as the Divisional Commissioner permits on the request of the DC in writing, about the accession of the property and such decision of the DC shall be final.

(5) Final decision regarding acquisition-

- (1) The Govt. or as the case may be, Div. Commissioner shall after considering the report submitted thereby the DC under sec. 4(3), shall make a decision about the acquisition of property and such decision... shall be final.

Provided that-

- a) where the decision is to be made by the Divisional Commissioner it shall be made within fifteen days from the date of submission of the report, or within such further time but not exceeding one month he may think fit for reasons to be recorded by him in this behalf;
- b) where decision is to be made within a period not exceeding ninety days from the date of submission of the report.
- (2) When the Govt. the Divisional Commissioner or the DC, as the case may be, makes a decision for acquisition of the property..., such decision shall be the conclusive evidence that the property is needed for a public purpose or public interest.

6. Notice to persons interested-

- (1) When the Govt.(DC, Div. Commissioner) has made a decision for acquisition of any property... the DC shall cause public notice to be given in the prescribed manner at convenient places on or near such property stating that the Govt. has decided to acquire the property and intends to take possession thereof and the claims to compensation for all interests in such property may be made to him.
- (2) Such notice shall state the particulars of the property to be acquired and taken possession of, and shall require all persons interested in the property to appear personally or by agent before the DC at a time not being earlier than fifteen days after the date of publication of the notice, and place mentioned therein and to state the nature of their respective interests in the property and the amount and particular of their claims to compensation for such interests.
- (3) The DC shall also serve notice to the same effect on the occupier...and on all persons known or believed to be interested therein.
- (4) The DC may also, by notice require any such person to make or deliver to him at a time, not being earlier than fifteen days after the date of service of notice, a statement containing the name of every other person possessing any interest in the property or any part thereof as co-sharer, mortgagee or otherwise and of the nature of such interest and profits if any, received or receivable on account thereof.

7. Award of compensation by DC-

- (1) On the date so fixed, or on any other date to which the inquire has been adjourned, the Deputy Commissioner shall proceed to enquire into the statement, if any, which any person has made pursuant to a notice given under sec. 6 and into the value of the property at the date of the publication of the notice under sec. 3 and into the respective interests of the persons claiming the compensation and shall make an award of-
 - a) The compensation which in his opinion shall be allowed for the property; and
 - b) The apportionment of the said compensation among all the persons known or believed to be interested in the property, of whom or of whose claims he has information.

8. Matters to be considered in determining compensation-

- (1) In determining the amount of the compensation to be awarded for any property to be acquired under this part, the DC shall take into consideration-

a) the market value of the property at the date of publication of the notice under sec. 3:

Provided that in determining the market value The DC shall take into account the average value to be calculated in the prescribed manner, of the properties of similar description and with similar advantages in the vicinity during one year preceding the date of publication of the notice under sec. 3;

10. Payment of compensation-

- (1) On making an award under sec. 7, the DC shall, before taking possession of the property, tender payment of the compensation awarded by him to the persons entitled thereto according to the award and shall pay it to them within sixty days from the date of deposit by the requiring person of the estimated amount of compensation under sec. 7(3) unless prevented by someone...

10A. Payment of compensation to bargadar-

Notwithstanding..., when the property acquired under contains standing crops cultivated by bargadar, such portion of compensation as may be determined by the DC for the crops shall be paid to the bargadar in cash.

11. Acquisition and possession-

- 1) When the compensation has been made or deemed to have been paid..., the property shall stand acquired and vest absolutely in the Government free from all encumbrance and the DC shall take possession thereof.
- 2) Immediately after the acquisition...a declaration by the DC in the prescribed form to the effect shall be published in the official Gazette.

12. Abatement or revocation of acquisition proceedings-

- 1) Notwithstanding anything contained in this Ordinance, where in any case the estimated amount of the award of compensation has not been deposited by the requiring person for acquisition of any property under sec. 5 within the period specified in sec. 7(4) all proceedings in respect of such acquisition shall on the expire of that period stand abated and a declaration to that effect shall be published in the official Gazette.
- 2) The DC with the prior approval of the Govt.... may by notification in the official Gazette, revoke all proceedings in respect of acquisition of any property at the time before the compensation of the compensation.
- 3) When any compensation stand abated or revoked, the DC shall make an award determining the amount of compensation due for the damage suffered by the owner in consequence of proceeding thereunder and the cost reasonably incurred by him in the prosecution in the

proceeding under this part relating to the said property and shall pay the compensation accordingly.

17. Use of acquired property-

- 1) No property acquired shall, with the prior approval of the Govt. be used for purpose other than the purpose for which it is acquired.
- 2) If any requiring person uses any acquired property in contravention of the provision of the sub sec. (1), or does not use it for the purpose for which it is acquired, he shall be liable to surrender the property to the DC on being directed by him to do so.

28. Application to Arbitrator-

- 1) Any persons interested who has not accepted any award made by the DC may within forty five days from the date of service of notice of the award make an application to the arbitrator for revision of the award together with the grounds of objection.

29. Notice of hearing-

The Arbitrator shall on receipt of an application, cause a notice specifying the date on which he will proceed to hear the application and directing their appearance before him on that day, to be served on the following persons namely:

- a) the applicant
- b) all persons interested in the objection
- c) the DC
- d) the requiring persons

32. Form of award of arbitrator-

- (2) Where the amount of compensation determined by the arbitrator is higher than the amount specified in the award of DC an additional compensation at the rate of ten percent per annum on such additional amount shall be payable till the amount is paid or offered for payment.

34. Appeal against the award of Arbitrator-

- (1) An appeal shall lie to the Arbitration Appellate Tribunal constituted under this Act.
- (4) A decision of the Arbitration Tribunal is final.
- (5) Where the amount of compensation determined by the AAT is higher than the amount specified in the award of the Arbitrator an additional compensation at the rate of ten percent shall be payable till the amount is paid or offered for payment.

Provided that the compensation determined by the AAT in respect of each land owner shall not exceed the amount specified in the award of the arbitrator more than ten percent.

34A. Payment of additional compensation-

Where additional is required to be paid in pursuance of an award under this part, such compensation shall be paid immediately after the said additional amount is deposited by the requiring persons with the DC.

Provided that the requiring persons shall deposit the additional amount with the DC within one-month from the date of receipt of notice in his behalf.

THE EAST BENGAL EMBANKMENT AND DRAINAGE ACT, 1952.

(East Bengal I of 1953)

This Act consolidate the laws relating to embankment and drainage and to make better provision for the construction, maintenance, management, removal and control of embankments and water-courses for the better drainage of lands and for their protection from floods, erosion or other damage by water.

Sec.2 (ii) Embankment includes every bank, dam, wall and dike made or used for excluding from or for retaining water upon any land; every sluice, spur, groin, training wall, burner other work annexed to, or portion of, any such embankment, and made or executed for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters and also all buildings intended for purpose of inspection or supervision, but does not include any ail or ridge surrounding dividing a field or any public or private road;

3. In this act, unless there is anything repugnant in the subject or context, -

(ii) "Embankment" includes every bank, dam, wall and dyke made or used for excluding water from of for retaining water upon any land; every sluice, spur, groyne, training wall, berm or other work annexed to, or portion of, any such embankment; every bank, dam, dyke, wall, groyne or spur made or executed for the protection of any such embankment or of any land from erosion or over flow by or of rivers, tides, waves or water; and also all buildings intended for purposes of inspection and supervision, but does not include any ail or ridge surrounding or dividing a field or any public or private road;

(iv) "Land" includes interests in land and benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(v) "Owner", used in relation to a land, means a person who has a right, title or interest in that land, and is either in actual possession of it or has an immediate right to actual possession thereof, and includes his trustee, heirs, assigns, transferees and legal representatives, but does not include person who, under the system generally known as *adhi, barga or bhag*, cultivates such land;

Provided that where any person is, under the terms of any contract between him and the Government, liable to do any act or execute any work specified in Part II of this Act, for the benefit of any area, such person shall be deemed to be the owner in relation to any land in such area and shall be deemed to be in possession of such land;

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- (vii) "Public embankment" means in embankment vested in or maintained by the Government;
- (ix) "Water-course" includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water.
4. (1) Every embankment, water-course and embanked tow-path maintained by the Government, and all land, earth, pathways, gates, berms and hedges belonging to or forming part of, or standing on, any such embankment or water-course shall vest in the Government.
- (2) The embankments mentioned in Schedule A to this Act and every embankment and water-course which may be restored to or included in such Schedule under section 37 or section 38 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government; and all other public embankments and water-courses shall, subject to the provision of section 65, be held by the Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.
5. Except as otherwise provided in this Act, all plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water course or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Provincial Government for such purpose, without payment of compensation for the use or removal of such earth or other materials. The Engineer may cause all such plots or parcels of land to be ascertained, surveyed and demarcated.
7. Subject to the provisions of Part III, whenever it shall appear to the Engineer that any of the following acts should be done or works (including any work of repair) executed, that is to say:-
- (2) that any embankment which connects public embankments or forms by junction with them part of a line of embankments or is necessary for the protection of the neighboring area, should be repaired;
- (3) that any embankment, or any obstruction of any kind, which endanger the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with any water-course or with the general drainage or the flood drainage of any tract of land, should be removed or altered;
- (5) that any sluice or water-course should be made, or that any water-course should be altered for the improvement of the public health, or for the protection of any village or cultivable land;
- (6) that any road which interferes with the drainage of any tract of land should be altered or that any water-course under or through such road should be constructed;
- he shall prepare or cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works, in accordance with the prescribed rules or as may be specially directed by the Government, together with such plans and specifications of the same as may be required. He shall also prepare or cause to be prepared from the survey map of the district, a map showing the boundaries of the lands likely to be benefited or

affected by the said acts and works, and he shall issue a general notice of his intention to execute or cause to be executed such works.

8. Such general notice shall be in the prescribed form stating, as far as possible, the prescribed particulars of all lands which are likely to be affected by the proposed work and to be chargeable in respect of the expenses of executing the same and shall be published in the prescribed manner. A copy of the said estimates, specifications and plans together with a copy of the maps aforesaid, shall be deposited in the office of the Engineer and shall be open to the inspection of any person interested who shall be allowed to take copies thereof and to file objections, if any, against the execution of the proposed work, within thirty days from the date of the publication of such notice.

10. (1) After holding on inquiry, the Engineer shall proceed as follows, that is to say,-

(a) if he considers that the proposed act or work or any modification of the same should not be done or executed, or

(b) if he considers that the proposed act or work or any modification of the same should be done or executed,

he shall record his decision to that effect and submit a report to the Irrigation Superintending Engineer to whom he is subordinate.

11. Any person aggrieved by a decision of the Engineer under section 10 may, within thirty days from the date of its announcement, prefer an appeal to the Irrigation superintending Engineer to whom the Engineer is subordinate. After the expiry of the said period, the Irrigation Superintending Engineer shall proceed to consider the report and the appeal, if any, and after making such further inquiry, as he may deem necessary, may record an order confirming, modifying or reversing the Engineer's decision and shall, as soon as possible, forward through the Chief Engineer of Irrigation, the report submitted by the Engineer, together with his remarks or order on appeal, if any, for the consideration of the Provincial Government.

12. On receipt of such report, the Provincial government shall proceed to consider the same and shall pass such orders as it deems appropriate. Every order that the proposed work, or any modification thereof, be done or executed shall be notified in the Official Gazette.

14. (1) Whenever an order shall have been passed in cases falling under clause (6) of section 7 directing that any road owned by a local authority, which interferes with the drainage of any tract of land, be altered, or that any water course be constructed under or through such road, the Engineer may require such authority to make such alteration or construct such water-course, and in the events of its failing to comply with such requisition in such manner and within such time as the Engineer may prescribe, the Engineer may cause the road to be altered or the water-course to be constructed by the officers of the Government.

15. (1) (a) If any person desires that a bridge, culvert, syphon or sluice be made in any public embankment for the purpose of drainage, or

(b) if, within any area which has been included in a notification under section, 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered, or the any new water course be

made, or that any water-course be obstructed or diverted, he may make an application in writing to the Engineer.

(2) The application shall contain such particulars of the lands likely to be benefited or affected by the work as may enable the engineer to judge of the advantage which may be derived from the project.

(3) If it should appear to the Engineer that the work applied for is one which may be executed with advantage, the procedure mentioned in the 7th and following sections of this Act shall be followed in respect of the proposed work.

16. Whenever the Engineer shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary, or that land is required for widening an existing embanked tow-path, or for construction of a new embanked tow-path, he shall make a report to that effect to the Collector of the district concerned, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed or of the land required. The Collector shall submit such report to the Government through the Commissioner of the Division in order that proceedings may be taken for obtaining possession of such trees, houses, huts and buildings or land in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purpose.

18. The Engineer may make any repairs in and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

19. (1) Whenever any person desires that a temporary road-way should be made over, or that temporary water-course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer or to any person appointed in that behalf by the Engineers.

(2) Such Engineer or person shall communicate the application with his opinion to the Irrigation Superintending Engineer of the area concerned and shall await the Irrigation Superintending Engineer's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same or cause it to be executed without waiting for the orders of the Irrigation Superintending Engineer.

20. Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

21. (1) It shall be lawful for the Engineer, or any person whom he may authorize in writing in that behalf, in order to carry out any of the purposes of this act, to enter upon and survey, and take levels of any land; to dig or bore into the sub-soil; to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such Engineer; to set out the boundaries of the land proposed to be taken and the intended line of the work proposed to be made thereon; to mark such levels, boundaries and line, by placing marks and cutting trenches; and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle.

Provided that the engineer or such person shall not enter into any building or upon any enclosed courtyard or garden attached to a dwelling house without previously giving the occupier thereof at least seven days' notice in writing of his intention to do so, except with the written consent of such occupier.

(2) The Engineer or other person so authorized shall, at the time of such enquiry, tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the Collector whose decision thereon shall be final.

22. Whenever it deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by the Government, it shall be lawful for the Engineer, or any person authorized in writing in that behalf, to enter in and upon the lands mentioned in section 5, and to take possession of, appropriate and remove any earth or other material from such lands, and to use the same for the purposes of such repairs.

23. When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the Government shall, upon application for that purpose made by the owner thereof, acquire such lands under the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

24. Whenever the Engineer shall be of opinion that any delay in the execution of any act or work specified in section 7, would be attended with grade danger to life or property, he may forthwith execute or cause to be execute such act or work:

Provided that he shall without delay prepare or cause to be prepared the estimates, specifications and plans of such act or work together with a copy of the map as provide in section 7, and shall cause general notice to be given that the act or work mentioned therein has already been commenced; and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act are directed.

25. Whenever it may have been determined in the final order to be passed on any such enquiry that anything done by the Engineer under the last preceding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the Government to be assessed according to the provisions of contained in Part IV of this Act; and, on receipt of any application to that effect by the Engineer from any person so affected, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be, at the expense of the Provincial Government, restored as nearly as possible to the state in which they were when the Engineer commenced to act under the provisions of this Part.

27. Whenever, in the course of proceedings under this Act, save as hereinafter provided, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

28. Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right to the use of water or other right of property, shall, have been injuriously affected by any act done or any work executed under the due

exercise of the powers of provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation:

Provided that the refusal to execute any work for which application is made shall not be deemed to be an act on account of which a claim for compensation can be preferred under this section.

30. When any such claim is made, proceedings shall be taken for determining the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

31. In every such case which is referred to the judge and assessors or to arbitrators for the purpose of determining whether any, and if so, what amount of compensation should be awarded, the judge and assessors or the arbitrators-

(i) shall take into consideration-

- (a) the market-value of the property or right injuriously affected at the time when the act was done or the work executed,
- (b) the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right,
- (c) the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed, and
- (d) whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person; but

(ii) shall not take into consideration-

- (a) the degree of urgency which has led to the act or work being done or executed, and
- (b) any damage sustained by the claimant, which if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

32. Notwithstanding anything contained in any other law for the time being in force, whenever any land or earth from any land is required for the purposes of any works commenced in pursuance of the provisions of section 24 or for the purposes of section 18 in cases where the Collector shall be of opinion that proceedings for the acquisition of such land, according to the provisions of section 27, would cause delay, he shall cause a proclamation to be issued in the prescribed form giving notice thereof at convenient places in the locality in which such land is situated, where upon, vest absolutely in the Government, free from all incumbrance. The Collector may take actual possession of the land as soon as it so vests in the Government.

33. Whenever any land vests in the Government under the provisions of the next preceding section, the Collector shall cause a general notice to be issued in the prescribed form at convenient places on or near the land so vested, stating that the Government shall take possession of the land, and that claims to compensation for all interests in such lands shall be made to him.

35. After service of such notices, proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, 1894, or any other law for the time being in force for the acquisition of land for public purposes.

THE BANGLADESH WATER AND POWER DEVELOPMENT BOARDS ORDER, 1972.

(President's Order No. 59 of 1972)

2. In this Order, unless there is anything repugnant in the subject or context,-

(c) "controlled station" means a power generating station declared as a controlled station under clause (d) of Article 15;

(g) "power" includes hydraulic as well as thermal power, electrical energy, steam, gas or any other power notified as such by the Government in the official Gazette;

(j) "undertaking" includes any business, project scheme, asset, right, power, authority and privilege and any property movable and immovable, including land, building, work, machinery, cash or bank balance, reserve fund, investments, and nay other right and interest in, or arising out of, such property and any book of accounts, register, record and any other document of whatever nature relating thereto.

3. (1) On the commencement of this Order, there shall be constituted, for carrying out the purposes of this Order, two Boards-one to be called the Bangladesh Water Development Board and the other to be called the Bangladesh Power Development Board.

4. (1) The Water Board shall consist of a Chairman and not more than five other members to be appointed by the Government.

(1A) The Power Board shall consist of a Chairman and not more than six other members to be appointed by the Government.

9.(1) The Water Board shall prepare, for the approval of the Government, a comprehensive plan for the control of flood in, and the development and utilization of water resource of, Bangladesh.

(2) The Board shall have power to take up any work as contemplated in clause (3) or any other work that may be transferred to it by the Government and to aises levy thereof subject to the approval of the Government.

(3) The Board may frame a scheme or schemes for the whole of Bangladesh or any part thereof providing for all or any of the following matters, mainly :-

(a) construction of dams, barrages, reservoirs and other original works; irrigation, embankment and drainage, bulk water supply to communities and recreational use of water resources;

(b) flood control including water-shed management;

(c) prevention of salinity, water congestion and reclamation of land;

(d) except within the limits of sea-ports, maintenance, improvement and extension of channels for inland water transport, including dredging of channels, but excluding all such operations as may be assigned by the Government to any other agency;

(e) regulation of channels to concentrate river flow for more efferent movement of water, silt and sand, excluding all such operations as, in the opinion of the Government, may be carried out by any other agency.

10. (1) The Power Board shall prepare, for the approval of the Government a comprehensive plan for the development and utilization of power resources of Bangladesh.

(2) The Board shall have power to take up any work as contemplated in clause (3) or any other work that may be transferred to it by the Government and to realize levy thereof subject to the approval of the Government.

(3) The Board may frame a scheme or schemes for the whole of Bangladesh or any part thereof providing for all or any of the following matters, namely:-

(a) generation, transmission and distribution of power;

(b) construction, maintenance and operation of power houses and grids.

(4) The Power Board may place wires, poles, wall brackets, stays, apparatus and appliances for the transmission of electricity for the transmission of telegraphic or telephonic communications necessary for the proper execution of a scheme.

11. (1) Every scheme prepared under clause (3) of Article 9 or clause (3) of Article 10 shall be submitted, for approval, to the Government with the following information:-

(a) a description of the scheme and the manner of its execution;

(b) an estimate of costs and benefits, the allocation of costs to the various purposes to be served by the scheme and the amounts to be paid by the beneficiaries;

(c) a statement of proposal by the Board for the resettlement or rehousing, if necessary, of persons likely to be displaced by the execution of the scheme.

(2) The Government may sanction or may refuse to sanction or may return for reconsideration any scheme submitted to it under clause (1), or may call for such further details or information about the scheme or may direct such further examination of the scheme as it may consider necessary.

12.(1) Any scheme framed by an agency in Bangladesh other than a Board in respect of any of the matters enumerated in clause (3) of Article 9 or clause (3) of Article 10 shall, if its estimated cost exceeds the amount to be prescribed by the Government, be submitted to the Government through the board concerned and the Government may pass any of the orders contemplated by clause (2) of Article 11.

(2) A board may, with the approval of the Government, undertake the execution of any scheme or exercise technical supervision and administrative and financial control over the execution of any scheme framed or sponsored by any agency in respect of the matters enumerated in clause (3) of Article 9 or clause (3) of Article 10.

14. Subject to the provisions of any other law for the time being in force, the Water Board-

(a) shall have control over the flow of water in all rivers and channels of Bangladesh subject to private rights, and the under-ground water resources of any region of Bangladesh;

(b) may, with the approval of the Government, prescribe standards for the operation and maintenance of all irrigation, embankment and drainage works;

(c) may, with the approval of the Government, prescribe simplification of methods of charges for the supply of water and for standardization of the system of supply.

17. (1) Each Board may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Order.

(2) without prejudice to the generality of the power conferred by clause (1), each Board may-

(a) under any work, incur any expenditure within the budget or any special allotment, procure plant, machinery and materials required for its use and enter into and perform any such contracts as it may consider necessary and expedient;

(b) acquire by purchase, lease, exchange or otherwise any land or interest in land or dispose of by sale, lease, exchange or otherwise such land or any interest in such land;

(c) seek and obtain advice and assistance in the preparation or execution of a scheme from any local authority or agency of the Government and such agency or authority shall give the advice and assistance sought by the Board to the best of its ability, knowledge and judgment:

Provided that the Board shall pay the cost if such advice and assistance entails additional expenditure to the local authority or the agency.

(3) The acquisition of any land or any interest in land for a Board under this Article or for any scheme under this Order shall be deemed to be an acquisition for a public purpose within the meaning of the Acquisition and Requisition of Immoveable Property Ordinance 1982 ...or any other law for the time being in force, and the provisions of the said Act or law shall apply to all such proceedings.

18. Without prejudice to the generality of the powers conferred by any other provision of this Order, the Water Board may-

(a) control and operate the dredger fleet, its ancillary crafts, appurtenances and equipment including launches, house boats, fuel and water bags, floating and shore workshops, pipe lines, pontoons, pumps and other construction equipment belonging to the Government on such terms and conditions as may be prescribed by the Government;

(b) direct the owner of any private land-

(i) to carry out measures for training of water courses passing through his land;

(ii) to undertake anti-erosion operations including conservation of forests and re-forestation :

Provided that compensation shall be paid to persons affected by such direction in such manner as may be prescribed;



(c) restrict or prohibit, by general or special order, the clearing and breaking up of land in the catchment area of any river:

Provided that compensation shall be paid to persons affected by such order in such manner as may be prescribed;

(d) direct that any work which has been required to be done by any person under the two preceding sub-clauses and which remains undone shall, after notice to such person and after consideration of any objection raised by him, be executed by the Board and may specify the proportion in which the risk and expenses of such work shall be borne by notice and after such enquiry as the Board considers necessary, is held by the Board to be responsible for the execution of such work in whole or part.

19. (1) The Chairman or any person authorized by him in writing may, after serving due notice to the owner, enter upon and survey any land, erect pillars for the determination of intended line of works, make boring and excavations, and do all other acts which may be necessary for the preparation of any scheme:

Provided that when the affected place does not vest in the Board, the power conferred by this clause shall be exercised in such manner as to cause the least interference with, and the least damage to, the rights of the owner thereof.

(2) When any person enters upon any land in pursuance of clause (1), he shall, at the time of entering or as soon thereafter as may be practicable, pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount, so paid or tendered, the dispute shall be referred to the Deputy Commissioner whose decision shall be final.

21. (1) As soon as any scheme has been carried out by a Board or at a latter date, the Board may arrange by a written agreement with a local authority or other agency within whose jurisdiction any particular area covered by the scheme lies to take over and maintain any of the works or services in that area and, if the Board fails to obtain the assent of such local authority or other agency, it may refer the matter to the Government, and the Government may give such directions to the local authority or other agency as it may deem fit.

(2) The Government shall have the power to direct a Board to hand over any scheme to any agency of the Government or a local authority:

Provided that the Government shall not direct the Power Board to hand over any power scheme carried out by that Board.

22. (1) The Government may appoint such officers, advisers or consultants and other employees to serve under each Board as may be necessary for the efficient performance of the functions of such Board on such terms and conditions as it may determine.

26. **The rates** at which the Water Board shall sell water and the Power Board shall power shall be so fixed as to provide for meeting the operating cost, interest charges and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any tax and a reasonable return or investment.

THE DEVELOPMENT ACT, 1935.**(Bengal Act XVI of 1935)**

An Act to provide for the development of lands in Bangladesh and to impose a levy in respect of increased profits resulting from improvement works constructed by the Government.

2. In this Act, unless there is anything repugnant in the subject or context,-

- (1) "agricultural lands" include lands used for the growing of vegetables and the like but does not include fruit gardens, orchards or home-stead lands;
- (4) "dead or decayed river" includes any river into which, or along any part of which, water has ceased to flow as freely as it would have flowed if it had not been diverted or obstructed whether owing to natural causes or as a result of interference by man, and includes also any depression which at one time formed part of a riverbed but through which there is no longer any perennial flow of water;
- (5) "improvement work" means any work of improvement constructed before the 26th day of March, 1971, by the government or constructed or proposed to be constructed after that date by the Government which the Government has, by notification, declared to be an improvement work for the purposes of this Act;

3. Whenever, in the opinion of the Government, any improvement work has increased or is likely to increase the profits from the produce from any agricultural land, or to increase the outturn of such produce, within any area, the Government may, by notification, declare its intention to impose an improvement levy within that area.

17. (1) Any person may appeal within thirty days from the date of service of the notice under section 14 or of a revised notice, if any, under sub-section (2) of section 15 or from the date of republication of a statement under sub-section (1) of section 15, whichever is later, to the Commissioner of the Division, on the ground that he has been wrongly shown in the statement as liable to pay the improvement levy or that the amount shown in such statement as payable by him is incorrect, and the decision of the Commissioner of the Division of such appeal shall, subject to the provision of sub-section (2), be final.

(2) The Government may, on application made within thirty days from the date of the order of the Commissioner of the Division, revise such order.

18. No objection shall be taken to the imposition of an improvement levy, nor shall the liability of any person to pay the same be questioned, in any other manner than that provided in this Act.

24. (1) If, in the opinion of the Government it is desirable for the purpose of collecting information regarding the outturn of produce from any agricultural land, the Government may, by general or special order, authorize any officer and his servants and workmen, subject to rules made under this Act, to enter upon any land and to do any acts necessary for the purpose of obtaining such information:

Provided that no person shall enter into any building or upon any enclosed courtyard or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously

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giving such occupier at least seven days' notice in writing of his intention to do so,

- (2) If, in the opinion of any officer authorized under sub-section (1), it is necessary to remove any crop for the purpose of ascertaining, by weighment or otherwise, the amount of the produce derived from any land, he may, subject to rules made under this Act, and after giving notice in writing, forthwith take possession of any standing crop on such land or part thereof, and may cause such crop to be cut and to be removed within such reasonable period as he may consider necessary.
- (3) In every case under sub-section (2), such officer shall offer to the persons interested compensation for the standing crop cut and, subject to rules made under this Act, for any other damage caused during the process of cutting and removal; and, if such offer is not accepted the value of the crop cut and the amount of the damage so caused shall be assessed by the collector in the prescribed manner.

28. (1) Within a notified area water may be supplied from a canal to any land notwithstanding the fact that no application has been made under section 74 of the Irrigation Act, 1876.

(2) In any notified area specified by the Government, by notification, in this behalf any person by whom an improvement levy is payable under section 10 shall, subject to the provisions of sub-section (1) of section 27, be bound by any rules made under the Irrigation Act, 1876, for the time being in force, as if he had presented an application under section 74 of the said Act and such application had been granted.

29. Notwithstanding anything contained in the Irrigation Act, 1876, no person shall have a right to a supply of water under that Act in a notified area within any period prescribed in this behalf.

33. (1) The Government may, from time to time, publish by notification a list of rivers or depressions which it intends to declare to be dead or decayed rivers.

34. No person shall be entitled to claim any compensation under this or any other Act for any injury, damage or loss caused by a dead or decayed river which has been revived as a result of an improvement work, or by any other river into which it flows or spills, unless the injury, damage or loss is such as would have rendered the Government liable to pay compensation had the river not been revived.

Explanation.-A dead or decayed river is said to be revived when an increased volume of water is, by any means whatsoever, caused to flow freely into or along any part of such dead or decayed river.

35. Subject to the provisions of section 34, whenever-

- (a) any damage is caused as a result of the prohibition, removal or modification of an obstruction under section 31 or section 32, or
- (b) any land or right of property is injuriously affected by any improvement work in respect of which an improvement levy is imposed under this Act,

the person by whom any damage or loss is sustained shall not be entitled to claim any compensation for such damage or loss under any other Act, but such person may, not later than six

months after the first occurrence of the injury in respect of which the claim is preferred, prefer to the Collector a claim for compensation.

36. (1) When a claim is preferred under section 35, the Collector shall, in the prescribed manner, after such inquiry as he deems proper and after considering any representations which may be made to him determine the amount of compensation, if any, which shall be granted.

(2) In determining whether any and, if so, what amount of compensation shall be granted, the Collector shall be bound by the provisions of any rules made by the Government] under this Act regulating the grant of compensation under this section.

THE AGRICULTURAL AND SANITARY IMPROVEMENT ACT, 1920 (Bengal Act VI of 1920)

An Act to consolidate and amend the law relating to the construction of drainage and other works for the improvement of the agricultural and sanitary conditions of certain areas in Bangladesh.

2. In this Act, unless there is anything repugnant in the subject or context,-

(10) a "scheme" includes-

- (a) a survey and plans.
- (b) estimates of the cost of the work involved in such scheme,
- (c) a description or map of the local area, and
- (d) a report on the scheme;

(11) "tenant" means a person, whether resident or non-resident in the local area, who holds land or premises for any purposes whatsoever under another person, and is, or but for a special contract would be, liable to pay rent for that land or premises to that person, and includes any rent-free holder or temporary occupant of land or premises.

3. Whenever an application is received by the Collector from a local authority or local authorities, or any person, or person, recommending the undertaking of any work for the improvement, or for the prevention of the deterioration, of the agricultural or sanitary condition of any area, or if the Collector is himself of opinion that the undertaking of any such work is necessary, he shall cause such inquiries as he may deem necessary to be made and shall thereafter consult the local authority or local authorities concerned :

Provided that if after such inquiries, the Collector is satisfied that the proposed work will constitute a minor scheme which is mainly agricultural in character, reference to any local authority shall not be necessary but may be made if the Collector deems it desirable.

4. (1) On completion of the necessary inquiries and after consultation, when necessary, with the local authority or local authorities, the Collector shall-

- (a) if he considers that the proposed work should not be done, pass an order to that effect; or
- (b) if he considers that the work proposed or modified should be done, take action as hereinafter provided.

(2) An appeal shall lie to the Commissioner against every order by the Collector under clause (a) of sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.

5. (1) Whenever it has been decided under section 4 to proceed with any work, the Collector shall direct the Engineer to prepare a scheme.

(2) When the Engineer has prepared any such scheme, he shall forward it to the Collector, who may, subject to such rules as may be prescribed in this behalf, make such modifications therein as he may deem necessary.

6. As soon as possible after the receipt of the scheme, the Collector shall publish a notice in the prescribed manner calling for objections or suggestions thereon by any local authorities, or person interested, within such time as may be prescribed.

7. In the case of minor schemes, the collector shall, as soon as possible after the expiry of the period fixed by the notice published under section 6, proceed in the prescribed manner to consider any objections or suggestions received in regard to the scheme.

8. (1) The Collector may-

(a) reject the scheme referred to in section 7, or

(b) subject to such rules as may be prescribed in this behalf, accept it with such modifications as he may deem necessary, and shall determine, in the prescribed manner, the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed.

(2) An appeal shall lie to the Commissioner against every order by the Collector under sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.

9. In the case of major schemes, the Collector shall, as soon as possible after the receipt of the scheme, in addition to the publication required by section 6, refer it to the Commissioner, and the Commissioner shall forthwith appoint a committee, to be constituted in the prescribed manner, with the collector as Chairman, representing the local authorities and the landowning, cultivating and other interests of the area to which the scheme relates.

10. (1) On the expiry of the period fixed by the notice published under section 6, the committee shall proceed in the prescribed manner to consider any objections or suggestions in regard to the scheme received by the Collector, and may either accept the scheme with such modifications as it may deem necessary, or reject it.

(2) Whenever a scheme has been accepted by the committee, it shall frame proposals, in the prescribed manner, regarding the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed.

(3) An appeal shall lie to the Government against every order by the committee under sub-section (1) or (2); within sixty days of such order.

11. When proceedings under section 10 have been completed, the committee shall forward the scheme through the Commissioner to the Government, together with its proposals for financing and distributing the cost thereof.

12. The Government shall consider the scheme and proposals of the committee, together with any appeals, which may have been received under section 10, sub-section (3), and may reject them or accept them, with such modifications as they may consider necessary, and the order of the Government thereon shall be final.

13. (1) As soon as possible after a scheme has been accepted under section 8, or section 12, the Collector shall direct the Engineer to execute the work.

14. The [Government] may, at the request of the Collector, acquire under the provisions of the Acquisition and Requisition Immovable Property Ordinance, 1982 any land required for the purpose of this Act.

“Land “ in this section has the same meaning as in clause

(a) of section 3 of the Land Acquisition Act, 1894.

23. Whenever any land, other than land taken or acquired for the purpose of this Act, or any right of fishery, right of drainage, right of the use of water, or other right of property, is injuriously affected by any act done, or any work executed under this Act, the person in whom such property, or right is vested may prefer a claim by petition to the Collector, for compensation;

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

24. (1) No claim under section 23 shall be entertained which is made later than three years after the completion of the work by which such right is injuriously affected.

(2) For the purposes of this section, the date of the completion of the work shall be the date of the publication of the statement and particulars referred to in section 18, sub-section (2).

25. When any such claim is made, proceedings shall be taken with a view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable....

26. In any such case which is referred by the Collector to the Court for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Court shall take into consideration-

First, the market value of the property or right injuriously affected at the time when the act was done or the work executed;

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right;

Thirdly, the consequent diminution of the market value of the property or right injuriously affected when the act was done or the work executed;

Fourthly, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed or from any work connected therewith, in which case they shall

set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person :

Provided that the Court shall not take into consideration-

First, the degree of urgency which has led to the act or work being done or executed;

Secondly, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

28. All outlets and water-channels, natural or artificial, included in a scheme under this Act, whether reconstructed, cleared, altered, enlarged, excavated or cut under this Act or not, and the construction and maintenance of embankments and dams and works therein, or connected therewith, shall be subject to the law for the time being in force regulating the construction and maintenance of public embankments rivers, channels and outlets.

29. All lands which are taken, or acquired permanently under this Act for the purpose of a scheme, and any work constructed under this Act, and all water-channels, embankments and dams included within the scheme, whether reconstructed, cleared, altered, enlarged, excavated, or cut under this Act, or not, shall be vested in the Collector on behalf of the Government, or subject to such conditions as may be prescribed, in such local authority, or person as the Government, may by general or special order, direct :

Provided that when the total cost of any work has been paid by any local authority, or person, the said lands and works, including any water-channels, embankments and dams, shall, subject to such conditions as may be prescribed, vest in such local authority, or person.

30. The local authority, or person in whom the lands, or works, water-channels, embankments, and dams, are vested shall be responsible for their maintenance, subject to such rules as may be prescribed :

Provided that if the collector is satisfied that such maintenance is being neglected, or that it is desirable, in the public interest, that such maintenance should be undertaken by the Government, he shall report, through the Commissioner, to the Government, who may direct that the duty of maintenance be undertaken by the Government.

32. (1) Any person who, without lawful authority, creates, or causes to be erected, any weir or other obstruction in any outlet or water-channel, or cultivates the bed of a water channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred Taka for every such offence.

(2) It shall be in the discretion of such Magistrate to direct any such offender to remove or pay for the entire cost of the removal of any such obstruction.

33. The Commissioner, the Collector, and a committee appointed under section 9 shall have all such powers as are conferred on a Civil Court by the Code of Civil procedure, 1908, for the purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any inquiry, or appeal, as the case may be, which they may be empowered to make or entertain under this Act.

34. No proceeding under this Act shall be defeated or invalidated by reason of any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission.

THE IRRIGATION ACT, 1876
(Bengal Act III 1876)

2(3) "drainage work" means any work in connected with a system of irrigation which has been or may hereafter be made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, wrirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns;

(4) "flood-embankment" means any embankment constructed or maintained by the Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be declared by the Government to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments;

4. Nothing contained in the Embankment and Drainage Act, 1952, shall apply to any canal or flood embankment as defined in this Act.

6. Whenever it appears expedient to the Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the government for the purpose of any existing or projected canal, the Government may, by notification in the Official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

7. At any time after the day so named, any canal-Officer acting under the orders of the Government in this behalf may enter on any land and remove any obstructions, and may close channels, and do any other thing necessary for such application or use of the said water.

8. As soon as it is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 May made before him.

A copy of section 11,12 and 13 shall be annexed to every such notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which

compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

11. No compensation shall be awarded for any damage caused by

- (a) stoppage or diminution of percolation or floods;
- (b) (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of rafting timber or watering cattle. But compensation may be awarded in respect of any of the following matters:
- (d) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground, in use at the date of the issue of the notification under section 6;
- (e) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water through any natural channel which has been used for purpose of irrigation within the five years next before the date of the said notification;
- (g) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Limitation Act, 1908 Part IV;
- (h) any other substantial damage, not falling under any of the above clauses (a), (b) or (c), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of compensation under this section, regard shall be had to the diminution in the market value, at the time of awarding compensation of the property in respect of which compensation is claimed; and, where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Government under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

19. Any person on whom notice may be served under the same last preceding section, and any person interested in any property in respect of which such notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

28. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in

occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be fixed in the notice, for the purpose of making inquiry as to the amount of compensation.

40. Whenever it appears to the Government that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Government may, by notification published in the Official Gazette prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

QUESTIONNAIRE

1. Identification of the affected person :
 - a) Name :
 - b) Father/Husband's Address :
 - c) Present
2. Number of family members : Male Female
3. Number of earning members : Male Female
4. Occupation of earning members : Present Past
5. Amount of total lands in possession (in acre) :
6. Amount of homestead lands in possession (in acre) :
7. Nature of losses incurred :
 - a) Actual
 - b) Seasonal
 - c) Probable
8. Type of damage sustained :
 - a) Homestead land
 - b) Cultivable land
 - c) Trees/Plants & Crops
 - d) Occupational Loss
 - e) Water logging
 - f) Land erosion
 - g) Environment pollution
 - h) Others
9. Causes
 - a)
 - b)
 - c)
 - d)
 - e)
10. Amount of land loss
 - a) Homestead land
 - due to acquisition or others : b) Cultivable land
11. Amount of losses (in Taka) :
12. Compensation realised (in Taka) :

ওকালতনামা

জেলা টাঙ্গাইল

মোকাম আদালত

মোকাদ্দমা/মামলা নং..... ১৯৯

..... বাদী/দরখাস্তকারী

বনাম

..... বিবাদী/প্রতিপক্ষ

পক্ষে ওকালতনামা

আমি নিম্ন স্বাক্ষরকারী, পিতা :, সাং
 পোঃ, থানা : জেলা : টাঙ্গাইল, নিম্নবর্ণিত বিজ্ঞ এ্যাডভোকেট
 সাহেব/সাহেবগণকে টাঙ্গাইলের ফ্যাপ-২০ এ কারণে ক্ষতিগ্রস্তদের ক্ষতিপূরণ আদায় সংক্রান্ত কার্যক্রম ও উপরোল্লিখিত
 মোকদ্দমা পরিচালনা করবার জন্য আইনজীবী নিযুক্ত করিলাম এবং মোকদ্দমার মঙ্গলার্থে যে সমস্ত বৈধ কার্যক্রম গ্রহণ
 করবার প্রয়োজন তাহা এবং আমার পক্ষে টাকা জমা দেওয়া ও উঠানো, মোকদ্দমার দলিল, কাগজপত্রাদি জমা দেওয়া,
 উঠানো যাবতীয় কার্যক্রম পরিচালনা করবার সর্বময় ক্ষমতা অর্পণ করিলাম। এতদ্বার্থে স্বেচ্ছায় অত্র ওকালতনামায়
 স্বাক্ষর/টিপসই প্রদান করলাম। ইতি-

.....

উপস্থাপনকারীর স্বাক্ষর ও তারিখ

ক্ষমতাপ্রাপ্ত এ্যাডভোকেট/এ্যাডভোকেট মহোদয়গণ :

নামস্বাক্ষর

- ১। ডঃ মোহিউদ্দিন ফারুক
- ২। মির্জা কামরুল হাসান
- ৩। মির্জা হোসাইন হায়দার
- ৪। খলিলুর রহমান
- ৫। মোঃ ইকবাল কবির
- ৬। শাবনাজ জাহেরীন

