

Inclusive Exclusion: Constructing a Hindu Minority and the Contradictions of Law and Land Ownership in Bangladesh

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ABSTRACT

This paper examines how a legal doctrine sanctioning land appropriation from a Hindu minority in Bangladesh, the Vested Property Act, constitutes and regulates space, meanings, and subjects. Foregrounding relations of property ownership, I show how the appropriation of private property, embedded in contingent social, political, and cultural relations, shape the making of place, security, and subjectivity. I argue that relations of social inclusion mark minority identities and suggest that the marginalized are directly and indirectly targets of state action. Thus, relations of inclusion are consequential for how rights claims are enacted literally, on the ground, to shape subjects, forms of subjection, and the materiality of lived space. Two spatial scales are noteworthy: the construction of majoritarian regimes, and the contingent practices of rule and subjection. I support this argument with evidence from court records and interviews collected over the past 15 years.

KEYWORDS

Social inclusion, Majoritarian rule, Land appropriation, Subjectivity, Law

RÉSUMÉ

Ce papier examine comment le Vested Property Act, une doctrine légale sanctionnant l'appropriation de terre appartenant à une minorité hindoue du Bangladesh, constitue et réglemente l'espace, significations et sujets. Tout en mettant en avant les relations issues de la propriété privée, mon intention est de démontrer comment les régimes d'appropriation de la propriété privée, ancrés dans des relations contingentes sociales, politiques, et culturelles, affectent les conceptions de l'espace, de la sécurité et de la subjectivité. Je considère que les relations d'inclusion sociale définissent les identités des minorités et suggère que les marginalisés font directement ou indirectement l'objet de l'action de l'État. Ainsi, les modes d'inclusion affectent-ils la manière dont les revendications de droit sont formulées. Deux espaces sociaux sont importants dans ce contexte : la construction de régimes majoritaires et les pratiques contingentes de règles et de subjection. Cette communication sur l'analyse de fichiers judiciaires et interviews collectés sur une période de 15 ans.

MOTS CLÉS

Inclusion sociale, règle majoritaire, appropriation de la terre, subjectivité, droit

This project is informed by the historical experience of the enactment of the Vested Property Act in Bangladesh, and on current debates on subject formation and critical geographies of space (Blomley, 2003; Foucault, 2004; Gieryn, 2000; Jeffrey *et al.*, 2012; Mezzadra *et al.*, 2013; Vasudevan *et al.*, 2008). Together, these empirical and conceptual interventions provide an optic to explore the constitutive making of identities, subjection,

and rights, as well as relations of marginalization, belonging, and social inclusion, where citizens can be turned into subjects whose rights and security no longer deserve protection. I address the following animating question: How does the implementation of the Vested Property Act, a policy that defines the state's right to appropriate land and its return, both create and draw upon religious difference as a basis for belonging and as an instrument that recasts space and its use? This question is situated in the accumulative practices that shape struggles over property and constructions of legitimacy to enable rights, including the state's right to expropriate property, to be differentially applicable to different social constituencies. I interpret processes of legitimation as the substance of rule making and of the making and remaking of hegemonic morality and normative sensibility that establish the conditions of belonging and inclusion, as well as relations of minoritization and exclusion (Blomley, 2003). Said differently, I wonder who has rights, and whose rights can be compromised without the fear of reprisal or the possibility of broad-based social unrest (Harvey, 2004). Abrams (1977), and Corrigan and Sayer (1985), influenced by a Foucault and Durkheim, are especially suggestive for understanding the institutional and discursive practices that are enshrined in law and embedded in everyday routinized symbolic gestures and moral judgments.

In Bangladesh, where a predatory political formation akin to those marked as a kleptocracy operates under a variant of crony capitalism, land appropriations control and concentrate scarce resources that can be leveraged for state patronage, as well as for private gain. But land grabs are not simply appropriations from an undifferentiated population where the default is likely to be the small-scale and vulnerable subsistence producer. Rather, property appropriations are seizures that target particular populations, including the poor, in ways that legitimate their doing so without sparking broad-based reprisal. I will show that the Enemy/Vested Property Act was established precisely to justify land enclosures of Hindu property, marking Hindus as critical sites for questioning how targets of appropriation are selected and how violent forms of appropriation are legitimized in the name of modernity, progress, and national security. In Bangladesh, targeting the Hindu minority population for such appropriations both create and reproduce relations of subjection that draw on the legacy of partition and the 1971 independence struggle (Samaddar, 2010; Mezzadra *et al.*, 2013).

These relations can be suggestively framed by the following questions: How do the social relations that embody land and property appropriations, notorious for their enactment through "conquest, enslavement, robbery, murder, in short, force, [which] plays the greatest part", help to create particular kinds of subjects (Marx, 1867: 668) and landscapes? What role does policy and governance, including regional policy and claims of national interest and security, play in legitimating and securing particular relations of land expropriation? What, for example, is the role of bureaucratic elites in facilitating and securing land appropriations through violent, as well as non-violent, means? Finally, in what ways does the construction of the other and the marginalization of particular populations help to legitimate property grabs? Together, answers to these questions will expose place-making as a process of subject formation and physical infrastructure.

To address these questions, I trace the career of the Vested Property Act (VPA) in Bangladesh, first promulgated in 1948 by the then Pakistan Government, to legitimate dispossessing the Hindu community of its right to (primarily) landed property, but also,

to buildings and other physical infrastructure (Barkat *et al.*, 1997). The various instantiations of the Act and its confirmation, with minor modifications throughout the history of now independent Bangladesh, opens to scrutiny the mechanisms that secure land expropriation and private forms of capture thereby providing a window on the construction of subjects, community, and place.

By unpacking the different regimes in East Pakistan, and subsequently the military and democratic formations of Bangladesh, I examine the making of majoritarian rule where the reproduction and salience of religious difference has been an ongoing project of state and nation-making. With the 1947 partition of India into the predominantly Muslim state of Pakistan, including its East and West Wing, and the Hindu majority state of India, efforts were made to build a national imaginary in Pakistan defined by Islam as its unifying feature. The Pakistani state first did so by introducing Urdu, identified as an Islamic language, as the lingua franca, which would include the primarily Bengali speaking East Wing. Its purpose was to bring the two Wings of the country, separated by more than 1,000 miles, together under the frame of Islam and against the threat of "Hindu" India, as well as against Bengali nationalism in the East that was viewed as a culture and language infused with Hindu linguistic and religious idioms and people. This language initiative failed, and eventually would be reflected in the long struggle in the East against West Pakistani rule. With independence in 1971, the syncretic tradition in Bangladesh appeared secure and came at the cost of the deaths of numerous Hindu citizens by the Pakistani army. But this seeming victory also reasserted Hindus as other, establishing minority-majority relations in religious rather than ethnic terms.

Sheik Mujib (1971-1975), the father of the country, who came to power under the banner of democracy, secularism, socialism, and nationalism, however, would quickly abandon a substantive commitment to secularism and restore efforts to build belonging in the idiom of Islam. The military regimes that followed the murder of Mujib in 1975 (Zia Rahman 1976-1981 and Hussain Mohammad Ershad 1983-1990) would continue this movement, first by deleting from the Constitution secularism as a state principal and adding "Bismillah ar-Rahman ar-Rahim" (In the Name of God, Most Gracious, Most Merciful) before the Preamble, and also by replacing the words "historic struggle for national liberation" with "historic war for national independence. Then, in 1988, Islam was declared the state religion. These initiatives marginalized Hindus and were further entrenched through everyday processes of cultural and social enclosure, such as when Muslim prayer before public meetings and on television were first promoted and then required, and with the introduction of religious education as compulsory from Class I-VIII. Critical to this process of rule, place-making, and belonging was Zia's distinction between Bengali and Bangladeshi identities, where the former was linked to West Bengal and Hindu India, and Bangladeshi was marked as Muslim. In these ways, Hindu citizens of Bangladesh were constructed as a distinct minority community and as potential enemies of the state. This cultural landscape reveals the synergy between the making of place as a national or state project that is concerned with controlling Bangladesh's borders or physical landscape, and the normative sensibilities that shape relations among citizens.

Expectations changed with the public uprising against the autocratic regime of General Ershad that led, in 1991, to the first democratic elections. The history of the Vested Property Act under democratic rule reveals an ebb and flow of support for the Act, but

not for its implementation that, despite its passage by Parliament, has yet to be operationalized. What this means in practice is that land expropriation continues to be justified as part of a national imaginary, while for the Hindu minority, their claims for the return of vested property remain an unfulfilled expectation. Modifications to the Act's implementation strategy has accompanied each regime in power but, as for now, little has happened to secure the ownership rights of Hindu citizens. Rather, each of the two political parties in power since 1991 have used the Act to expropriate the land and buildings of Hindu owners across class and region differences. Further, as currently framed, the implementation of the Act would build on an acknowledged system of corruption among rural bureaucrats who would hold responsibility for adjudicating Hindu property claims.

As land seizures continue, including the taking of buildings located in towns where they are increasingly valued, even Hindus with resources and connections to top-level administrators may be unable to ward off property grabs. Under such conditions, and without holding accountable those who use their power to grab land, there is little guarantee that Hindu owners will be able to secure their rights over property and citizenship and secure their place of belonging in the body politic. Instead, as I hope to show, struggles over property will reproduce contingent relations of subjection. The examples I will bring to bear will expose processes of dispossession as a set of social practices that include the seizure of property, the governance structures that legitimate such takings, and the subjection of those who are targeted for expropriation despite their possible legal right to property. As these processes unfold, they are especially suggestive for understanding the coconstitution of subjects and space/place, or of the formation and reproduction of people and landscapes as ongoing practices that unsettle presumptions about the fixity of preexisting or bounded configurations of social collectivities or spatial arrangements.

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