Using Rights-Based Strategies to Secure Land Rights for Poor and Vulnerable Groups

The Nijera Kori Experience in Bangladesh
1. Using Rights-Based Strategies to Secure Land Rights for Poor and Vulnerable Groups: The Nijera Kori Experience in Bangladesh

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LIST OF ABBREVIATIONS USED:

CAT: Convention Against Torture
CEDAW: Convention on Discrimination Against Women
CRC: Convention on the Rights of the Child
BRAC: Bangladesh Rural Advancement Committee
DfID: Department for International Development
GB: Grameen Bank
HPSP: Health and Population Sector Projects
ICCPR: International Covenant on Civil and Political Rights
ICERD: International Convention on the Elimination of Racial Discrimination
ICESCR: International Covenant on Economic, Social and Cultural Rights
IDS: Institute of Development Studies
NGO: Non-governmental organizations
OHCHR: Office of the United Nations High Commissioner for Human Rights
RDRS: Rangapur Dinajpur Rural Services
1. Background and Rationale:

**Country and Programme Context:** The Constitution of Bangladesh, promulgated in 1972, clearly underlines the country’s commitment of rights for all. However, in reality, the situation for its citizens is one of violations of basic rights as much as the observance of rights. These violations of basic rights or lack of respect for the rights of the citizens have serious repercussions in accessing justice or realizing the right to development for the vast majority of the country’s population who are poor and vulnerable, and who rely for their survival on relationships that position them as dependent on more powerful patrons.

Such violations or constraints in realizing rights have been further exacerbated by a situation, far from unique to Bangladesh, but nevertheless especially prevalent and pervasive in Bangladesh – that of widespread corruption and lack of transparency and accountability at various levels. It is important to note at this juncture that a lack of any effective provisions for a ‘right to information’ law has further bred the endemic corruption and resultant lack of accountability and transparency present at virtually all levels of governance in the country, leading ‘Transparency International’ to have rated Bangladesh as the ‘most corrupt country in the world’.

**Policy and Legal Framework:** The 1972 Constitution of Bangladesh embodies the principles of democracy, nationalism, socialism and secularism and lays out the guiding principles related to the rights of the citizens. These include the fundamental right to life and personal liberty, privacy, equality, non-discrimination, freedom of movement, religion, expression, thought and conscience, and even of property. The Constitution further states that any law that is in contravention with these fundamental rights will be considered void, and that no law in conflict with fundamental rights can be enacted. The Constitution provides enforceability of fundamental rights by way of petition in the Supreme Court of the country. Also, the Constitution has provisions containing Fundamental Principles of State Policy that address the need for the State to ensure the availability of food, shelter, employment and education for all its citizens. It could thus be stated that the Bangladeshi Constitution is the guiding document that not only lays down the rights that the citizens are entitled to, but also provides the State’s obligations towards the fulfillment of such rights by ensuring their justiciability of the same.

The international legal framework to which Bangladesh subscribes through its ratification of various international conventions on rights is also quite comprehensive – the country has acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the International Convention on the Elimination of Racial Discrimination (ICERD); the Convention on Discrimination Against Women (CEDAW); the Convention Against Torture (CAT); and the Convention on the Rights of the Child (CRC). The country has also ratified the CEDAW Optional Protocol and the two CRC

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Optional Protocols. However, as is common with many countries of the sub-continent, there is a limited respect paid to the international obligations voluntarily undertaken, including the ‘reporting’ imperative.

**The Role of Civil Society in Securing Rights:** Against such a backdrop, it is notable to mention that civil society in Bangladesh, particularly the non-governmental (NGO) sector, has sought to compensate for various deficits that characterize the lives of poor and vulnerable groups in accessing and realizing various rights, including the right to development. The incredible capital that these organizations bring into the country in the form of funds and services is reflected in their size, range of activities, geographical spread and coverage. In a country like Bangladesh, it not only shows a huge outreach to the people but also demonstrates the need for such activities. Many observers even state that the NGO movement (and the services they undertake) in the country are almost akin to what the Government of a country undertakes - many NGOs have primary constituency bases that are larger than the local Government constituency base in many areas across the country. Most of the Bangladeshi NGOs subscribe primarily to poverty reduction as their main thrust of work and empowerment of the poor through group-related activities.

**There are broadly four types of NGOs present in Bangladesh:**

i) The first type of organizations are basically ‘micro finance’ organizations like the Grameen Bank (GB) that place their main emphasis on the economic dimension of empowerment through a method of providing financial services for the poor with a view to develop market access, enterprise development and economic accumulation.

ii) The second type of organization focuses on social service delivery such as health, education and welfare - such services has helped to an extent in promoting human capital in the context of the poor. The work of these types of organizations is reflected in the contributions of such NGOs like the Bangladesh Rural Advancement Committee (BRAC).

iii) The third type of the organization (in general, they are known as “social development organizations”) are those that combine both of the previous two concepts. They have brought about a new dimension, which could be termed as the political dimension of empowerment. The work of such organizations is reflected in the work undertaken by NGOs like the Rangapur Dinajpur Rural Services (RDRS).

iv) The fourth type of organizations are called “social mobilization organizations”. These emphasize the importance of political empowerment through challenging the power structures and accessing justice by promoting the rights of the people. They have a strategy of asserting that the most effective way to bring about change is through influencing the socio-political process.

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5 Ibid. Refer to footnote No. 3.
There are around 22,000 NGOs in Bangladesh (Thornton et al., 2000); thus, 80% percent of the Bangladeshi villages have some form of NGO presence and about 35% of the country’s population benefits directly from their activities.5

6 Ibid. Refer to footnote above
Prominent amongst this fourth type of organizations is “Nijera Kori”, which, in Bangla means: “we will do it ourselves”. As the name suggests, it is an organization that is striving to bring about social change through applying the strategy of social mobilization to bring about socio-political empowerment through its style of working and activities. While there is a considerable diversity amongst NGOs about their strategies for achieving the goal of empowerment, many focus on economic empowerment as the means and the ends to realize their rights. Few attempt to directly address the “rights deficit.” Nijera Kori’s strategy is however different from the traditional empowerment strategies that often focus on economic empowerment – the organization seeks to build the capacity of the poor and empower them to mobilize in defense of their rights and in pursuit of justice. Its focus therefore is on “collective” rather than individual capabilities and is very much rooted in rights-based principles and is the subject of focus in this paper.

2. The Study of the Nijera Kori Initiatives in Securing Land Rights for Poor and Vulnerable Groups, using Rights-Based Strategies

Case Study/Project Context - Land Rights Issues in Bangladesh: A study of the rights-based strategies used by Nijera Kori will not be complete without situating it in the context of land rights (and access to land and related livelihood security issues) in Bangladesh. The country’s unique location at the delta of the three major rivers of the sub-continent has resulted in a dynamic system by which land is continually lost or gained as a result of riverbank erosion and accretion. Land survey and settlement thus provide a means of recording changes in area and characteristics of land, registering deeds and issuing land titles.

Access to land in Bangladesh can be either through private or public transfers. However, private transfers tend to be restricted to the non-poor. For the poor, the main source of land rights is through the public distribution system and they have been given priority in the distribution of khas (un-allotted Government agricultural land) land. Such settlement operations are intended primarily for the poor, who do not have the time or money to mutate land records, and this process has resulted in the system of Record of Rights - when land rights are transferred, the transaction needs to be registered for updating the records. Land administration in Bangladesh thus entails: i) survey and settlement; ii) registration; and, iii) management of land records. There are, however, problems associated with each of these functions that have contributed to the disenfranchisement of the poor in relation to their land rights (see Box 1 below).

\footnote{Ibid.}
Box 1: Procedures and Systems that Hamper Access of Land Rights by Poor and Vulnerable Groups

The systems of land settlement, registration and management that have resulted in disenfranchisement of the poor are as follows:

i) Land Settlement: There have been a number of settlement operations, the procedures of which have contributed to inconsistencies and errors in the recording of rights. These include:

- Creation of the original record of rights by the Cadastral Survey (1888–1940) - many are still accepted as evidence by Bangladeshi courts;
- The conducting of the State Acquisition Settlement in East Pakistan in 1956–64 - this concentrated on revising the record-of-rights, but without full-scale correction of existing village maps. Many records were handwritten, leading to large-scale forgeries and tampering. Large areas of khas land ended up being allotted to the rich;
- The starting of a Revisional Settlement in 1965–66 to rectify the above problems - there are however conflicting reports as to how near to full coverage the Settlement achieved;
- The launching of a Zonal Settlement operation in 1984 to undertake survey and settlement operations in 22 district headquarters simultaneously. However, budgetary constraints impeded this process and the scope of work was reduced to 5 districts. The work is still ongoing. The World Bank estimates that records of rights for the entire country will be available by 2015–20 (by which time the contents of this work will be obsolete).

ii) Land Registration: Land registration merely records isolated transactions. It does not prove titles, validates the transactions or even give the registration officer the authority to verify the authenticity of the deeds. The absence of a system of simultaneous mutation and registration increases opportunities for producing false deeds for multiple transfers of both private and Government khas lands.

iii) Land Records’ Management: Some of the confusion in land rights system stems from the production and maintenance of different records for the same piece of land. At present, there are three sources of records:

- Registers kept under the Registration Act of 1908 and maintained by the Ministry of Law;
- Records of rights maintained by the Assistant Commissioner (Land);
- Publication of results of settlement and revisional settlement operations – this task is the responsibility of the Directorate of Land Records and Surveys.

This division of responsibilities for producing the initial record of rights and maintaining them over time results in inaccurate and incomplete records; moreover, these records are rarely updated. Finally, along with denial of access to Government khas land, (principally either because the land has not been surveyed, has been incorrectly surveyed, is under dispute or has been illegally occupied), the poor also face problems of proving how “poor” they are. Definitions of who is landless and qualifies for the purposes of settlement of khas land have undergone many changes over the past decades, breeding further confusion and allowing officials to exercise discretion that have proved detrimental to the poor.

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8Ibid.
Nijera Kori and the Genesis: Against such a backdrop, Nijera Kori started working with poor and vulnerable groups of landless peoples to help build their collective capacities so that they can demand and claim their rights. While the organization works on diverse rights issues affecting the poor, its work in enabling landless groups to demand and access land rights has demonstrated significant results and the processes used to secure such rights will be the subject of inquiry in Section 3.

Nijera Kori was started in an embryonic form to rehabilitate the famine stricken destitute women who had been migrating in flocks to the capital city of Dhaka city at the end of 1974. Initially a relief-oriented initiative providing food, shelter and income generating skills to women in distress, the organization has evolved with the times and situations. Initially, it had maintained its independence by avoiding funds from bilateral donors and multilateral lending agencies. Such independence was facilitated via building partnerships with smaller international NGOs, who were ready to provide funds without changing the direction and the beliefs of the organization. Due to fiscal constraints that hampered some of the organization’s operations, Nijera Kori decided to partner with one bilateral donor - the UK Department for International Development (DFID); this partnership was based on a commonly agreed-upon Code of Conduct through a Partnership Agreement.

The organization’s core programme is the ‘Social Mobilization, Voice and Democracy Programme’ – this is currently operational in 17 districts and supported by DFID. The objective of the programme, in itself, is rights-based – “to increase effective pressure on Government, political and other elites to provide better access to decision-making processes, resources and services for poor men and women”.9

‘Empowerment’ in the Nijera Kori context is defined as a process of social change by which those who have been denied the capacity to make their choices or realize rights become enabled to do so. An evaluation by the Netherlands Ministry of Foreign Affairs (1998) suggested that the emphasis on social mobilization largely took place in response to national factors, namely the imposition of military rule between 1976 and 1991 and the subsequent curtailment of mobilization activities by NGOs. Nijera Kori has now evolved to gradually established itself as a non-conventional activist NGO that is different from others in its approach and understanding of the problems of the poor.

Stakeholders Involved: From its very inception, Nijera Kori’s activities (as per the organization’s long-term vision strategy) were started with those stakeholders in the areas that are densely populated by the poor who basically depend on the sale of their physical labor for their livelihood. Many of these working areas fell in the vicinity of the seacoasts and river basins. Additionally, Nijera Kori also works in some specific areas where most of the inhabitants belong to the vulnerable communities (slum-dwellers, weavers, blacksmiths, tobacco and sugarcane farmers and the like) and in the areas where fundamentalism, human rights abuses and violations against women are a typical phenomenon. By working with such disadvantaged groups and acting as a catalyst in helping them demand and realize rights, the organization has helped foster the principles of equity and non-discrimination.

9 http://www.u4.no/projects/project.cfm?id=277
Objectives of Nijera Kori: The primary objective of the organization is to help capacitate poor and vulnerable groups in realizing their rights by empowering them through various rights-based strategies, thus freeing them from the traditional service provider-client relationship that many NGOs perform.

3. Process:

Rights-Based Strategies Used in Securing Land Rights: Nijera Kori acts as a catalyst and uses strategies that mainly focus on socially and politically empowering the poor and vulnerable groups by making them understand (and thus, confront) the power structures that hamper their realization of rights. These strategies focus on the following principles that are rooted in rights-based standards, mainly those relating to empowerment, participation, equity and non-discrimination:
* A focus on empowerment of poor and vulnerable groups;
* Use of collective capital instead of individual capabilities using participatory techniques; and,
* Use of social mobilization strategies that are rooted in equity and non-discrimination.

Its democratic management structure; non-credit policy (for instance, Nijera Kori does not give any material assistance to its target groups, but helps them to organize themselves and develop cooperation among the members based on mutual trust and confidence); and, pro-people role of the staff have further helped in fostering and implementing the above principles in practice.

While not necessarily opposed to a ‘supply of services’ approach – the organization believes that it is often possible to integrate a rights-based approach with a services approach in that the infrastructure and network and the goodwill generated by the supply of services can sometimes be creatively used for rights-based mobilization (for instance, Nijera Kori provides group members with some legal aid support when the groups are unable to cover the cost of cases themselves) – the strategies used primarily focus on enabling and building collective capabilities to achieve outcomes.

Such strategies are discussed below:

![Diagram: Using rights-based strategies to secure land rights for poor and vulnerable groups](image_url)

Figure: Using rights-based strategies to secure land rights for poor and vulnerable groups

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10 By Upala Devi Banerjee
Formation of landless groups: One of the main strategies Nijera Kori uses is to form (and consequently) empower the landless groups via various social mobilization strategies. The rationale behind formation of these groups is to gradually strengthen and achieve a reputable identity, which ultimately ensures its share in the local power structures, like the local union (the lowest and only democratically-elected level of local Government, consisting of 13 members)\(^{11}\) or locally elected committees, such as bazaar (market) committees, school committees and so on. One interesting feature of the group formation is that there are separate groups for both women and men. The reason behind having separate groups is both for strategic reasons of giving space to women to enable them to empower themselves, and also due to the prevailing socio-religious bias, which stresses exclusion and seclusion of women from society. At a later stage, when both women's and men's groups are more receptive and able to work together as equals and when committees are formed at different organizational levels from both female and male members, the committees are integrated (since by then, they are assumed to be gender sensitized through an organizational process). The composition of these primary landless groups could be anything between 16 to 30 members.

Capacity development via training programmes: After the formation of the groups, Nijera Kori organizes various training programmes for such groups as mentioned above, basically under the following two types:

- Training for the landless groups;
- Human development training.

Training on issues like "Leadership Development", "Joint Production Management", "Right and Access to Information" and "Globalization and Sustainable Development" are being imparted to the landless groups comprised of 20-25 participants (both female and male) who were once given basic training and have shown promise in undertaking rights-based work. Furthermore, para-legal training is also provided in all the work areas where the group members fall victim to false cases, human rights abuses and other forms of harassment. The landless groups organize workshops for evaluating their activities, identifying strengths, weaknesses, local problems and remedial measures, for analyzing the issues of concern, and, above all, for formulating strategies for conducting their movements.

Human development training, at the basic level, is imparted to female and male members (who may or may not be landless but who are vulnerable) separately, while at the advanced level, the same is imparted jointly.

The strategies of social mobilization: The formation of landless groups and training is followed by capacitating them to undertake various social mobilization strategies to realize rights. Social mobilization is undertaken by the landless groups on various justice issues - corruption of union councils, money-based village justice systems

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(shalishes), corruption in the health and education sector, false cases against the landless and so on (see box below).

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**Box 2: Using Social Mobilization as a Strategy to Access Land Rights: The Case of Khaleda and Chaina Singha**

The process of entering a village and organizing the people seems to invariably begin with allocating a young and dynamic activist to a set of villages. Khaleda and Chaina Singha are two such women activists that work on social mobilization in the Comilla region.

Land rights issues facing villages in this region are many and varied. In the Dabidar Thana of the Comilla region, for instance, the principal issue of concern is the eviction of tens of thousands of people who lost their lands on which they lived, due to river erosion from the embankment areas. The people had successfully resisted evictions for ten years, but the threat of eviction has not receded. In the Chandina Thana (local area police-jurisdiction) of the same region, landlords are exploiting poor landless laborers by not giving them their due wages.

Khaleda, working in the Chandina Thana of the Comilla region, focuses on organizing people to get better wages from their landlord. She faces tough resistance from the landlords who often ask as to why she is living as a single woman so far away from home. Her methodology is to use cultural tools like songs of freedom and liberation as a means of organizing the poor. Chaina Singha of Comilla region also uses such strategies. Such strategies have proved to be quite successful – villagers in this district have become more aware, outspoken and confident. Some of them were also involved in militant struggles for land against the landlords, who had for centuries taken control of all of the land and resources. What is striking is the collectivity nature of their decision-making processes. Issues such as child marriages, the problems related to khas land and other issues are discussed, and decisions minuted in a formal manner in a register maintained for the purpose.

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**Some of the important social mobilization strategies are:**

i) Money saving drive and joint economic activities as an integral social mobilization strategy to access land rights issues: When the landless form a group, they determine their amount of monthly savings taking into account the financial ability (to contribute) of the poorest member of the group. The overall responsibility for collection and safekeeping of the savings lies with the landless organization. Nijera Kori staff provides necessary advice and technical support, if required, to the groups; the organization, however, neither plays the role of collector nor as a ‘bank’ for their savings.

When a group reaches a certain level of consciousness and accrues a reasonable amount from its savings, it starts undertaking ‘joint economic activities’. Joint
economic activity is an integral part of regular access to land rights activities of the groups. For instance, landless groups have been carrying out joint economic activities by taking lease of individually owned (khas) land, or acquiring khas land, water bodies, transportation, livestock, opening and running of schools, etc., depending on local conditions and opportunities available in the activity area.

ii) Undertaking social mobilization via the means of cultural activities: Cultural activities are an integral part of Nijera Kori's social mobilization process. The purpose of cultural activities is to develop social awareness about disparities, injustices and deprivations, removal of prejudices from society, and strengthening solidarity among the masses by promoting human rights values through cultural practices. For instance, cultural groups of Nijera Kori collaborate with landless organizations to organize a cultural ‘padajatra’ (procession) once a year – this procession, walking on foot around the villages for 3 to 7 days, organizes various cultural events in the open public places. The organization has found that universal appeal against inhuman disparities in the society generated through such cultural activities strengthens social resistance.

iii) Using advocacy as a social mobilization tool: As in any rights-based strategy, advocacy has been used as a social mobilization, awareness and pressure-building tool by the landless groups, both to create pressure on the duty-bearers (related Government departments) and in building awareness on land rights issues with various civil society stakeholders. Advocacy in the form of protests, campaigns, blockades and gheraos (spontaneous protest in which a large number of people besiege an institution to gain redress against a perceived injustice) have been widely used for impinging on duty-bearers to undertake proper application of the existing laws; undertaking joint initiatives with multi-stakeholders (like journalists, lawyers, women activists, teachers and in collaboration with duty-bearers) for resolving local problems (like the campaign against commercial shrimp-farming); ensuring reciprocal accountability; et al. Such measures have also succeeded to an extent in bringing all these various stakeholders on a common platform to debate and dialogue on issues of related and common concern.

**Capacity/Role of Duty-Bearers (including the Private Sector/Related Frameworks) in Addressing Demands:** The social mobilization strategies and the struggles by landless groups have resulted in pressurizing the duty-bearers, especially at the local levels, to undertake some measures via which they can address demands. One such measure is the 5-year plan of the Government to ensure participation of grass-roots level people in implementing Health and Population Sector Projects (HPSP). To achieve such participation, stakeholder committees have been formed at union and thana levels, wherein landless group members have been invited to contest elections to become members of such committees. The objectives of such stakeholder committees include public awareness raising, identifying health problems and irregularities in the health system, and working with Government service-providers to overcome those problems.

At a macro-level, the Government has started acknowledging the empowering, capacity development and monitoring role that an organization like Nijera Kori has

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12 Ibid. Refer to footnote No. 11.
and has initiated their participation in various collaborative activities. For instance, in the Bagatipara Thana of Natore District, the Government has solicited Nijera Kori’s participation for implementing the ‘Strengthening the Election Commission for Improvement in the Electoral Process Project’ of the Bangladesh Election Commission. The most important objective of this project is to give an idea about issues relating to democracy, election, accountability and basic rights of the voters.\footnote{Ibid. Refer to footnote No. 3.}

**Monitoring to Ascertain Rights-Based Outcomes from the Rights-Based Strategies:**

The organization has developed in-built organizational monitoring mechanisms to ascertain the outcomes of its strategies. Nijera Kori invests in maintaining detailed reports of all its meetings and discussions as well as publishes an annual report. Keeping track of change through qualitative reporting mechanisms contributes to its own internal learning processes by helping it to monitor which forms of change gather momentum over time, and which fade away, and why.

The organization also suggests a different way of achieving accountability – that of social auditing, wherein the organization uses such an audit system to ascertain the extent to which it has a stake in the activities undertaken and solicits the participation of all the people associated with or affected by such activities (to determine whether the activities undertaken are achieving its objectives, if it is living up to its values, and if those objectives and values are relevant and appropriate). Such a process of monitoring is two-fold – it determines the extent to which it, as an organization, has been able to achieve outcomes and how accountable it is to its stakeholders while achieving such outcomes; on the other hand, such a process also involves dialogue with the stakeholders and hence, the stakeholders are also better able to decide (and influence) how far the processes involved have helped them, as a group, to achieve outcomes.

4. **Outcome (Results):**

As a result of the rights-based principles that are inherent in the strategies adopted, landless groups across Bangladesh are not just accessing land (and related rights) issues but also have used such social capital to achieve and realize other rights outcomes:

- **Accessing education:** The landless groups, by coming together, have established schools on their own initiative, using group savings and collecting social subscriptions (outcomes that have come about from the money saving drive and joint economic activities). Through such initiatives, children of landless parents have been able to access basic education in areas where the Government sponsored educational institutions are not available.

- **Accessing other livelihood opportunities:** Livestock development activities, as a livelihood opportunity, is another initiative that has occurred due to the social mobilization strategies that has resulted in landless groups coming together. Such activities, undertaken, for instance, in the coastal regions of Paikgacha and...
Charjabbar – two remote areas – have used indigenous methodology and are currently being carried out from the Noongola Training Center in Bogra.

- Establishing land rights in the government khas lands: The landless groups conduct movements on various issues like establishment of the rights of the landless on Government khas lands and water bodies; eviction of the illegal land usurpers; resisting looting of the crops produced by the landless; etc. Such collective energies have also resulted in landless and marginalized framers regaining lands from illegal usurpers.

- Joining cudgels in the fight against commercial shrimp farming: The fight against commercial shrimp farming in Bangladesh has reached new proportions, especially as the violence against the paddy farmers (whose lands are being usurped by the more powerful shrimp farmers) has intensified. Nijera Kori has organized these farmers to unite and fight for claming back their lands. Saline water resistance committees have been formed with the participation of the representatives of various professional groups and landless group leaders to make the resistance movement into a social movement. In these committees, 50 per cent of the members are representatives from landless organization, while the remaining 50 per cent are representatives from various professional groups. Participation of women members is also ensured in these committees. To ensure justiciability of the rights of these effected peoples, Nijera Kori has also petitioned the High Court (the Court has since challenged the legality of the Government's decision to declare the south-western coastal areas of Bangladesh a shrimp cultivation zone, asking the Government to explain why the area could not be allotted to the landless).

- Targeting violence and other prejudices against women and religious fundamentalism: By coming together to fight against issues that affect them, the landless groups have not only succeeded in targeting land related issues but also addressed diverse gender-related prejudices and religious fundamentalism issues in their constituencies – issues relating to dowry, divorce, polygamy, rape, physical torture, and fatwa (legal ruling or decision given by an Islamic religious leader) being cases in point. Gender empowerment and equity has occurred in more ways than one. For instance, women may start out challenging the taboo about being heard in the public domain by appearing in group dramas along with men - one of the routine cultural activities carried out by the Nijera Kori cultural groups - and then find that the self-confidence they have gained operating in the public domain over time allows them to consider standing for local elections. These are secondary effects that occur over time in response to the direct effects of Nijera Kori’s work.

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14 Bangladesh being a land-hungry country, there is no additional land that could be brought under shrimp cultivation. Thus, paddy fields are being replaced for shrimp farms and have led to violent clashes between the shrimp farmers and the paddy farmers. The large owners of the shrimp ponds are supposed to take the land on lease, but in most cases, they are occupying it forcibly, forcing the original landowner to move out and hand it over for shrimp cultivation. This is the starting point for the conflict, further exacerbated by the bringing in of armed guards from outside these areas to protect the farms from stealing and looting. But in the process, these guards become protectors of the shrimp farmers and have used violence against the paddy farmers, who are protesting to claim back their lands. "Prawn farming threatens coastal communities", by Kim Hunter Gordon, Radio Netherlands, 15 July 2003. Source: [http://www2.rnw.nl/rnw/en/features/development/030715prawn.html](http://www2.rnw.nl/rnw/en/features/development/030715prawn.html)
- **Fighting against other societal irregularities:** The collective energies harnessed via social mobilization strategies have resulted in other gains too. The landless groups have been able to collectively wage protest movements against the irregularities and criminalized and corrupt loan systems; demand for just wages; issues detrimental to society (like gambling, paddling (and consumption) of drugs, and so on. In a way, it has thus been seen that the demand for accessing land and related rights have been harnessed to demand rights and address other issues of social concern.

- **Ensuring Representation in Various Committees:** The social mobilization and empowerment strategies have resulted in many landless group members getting elected to various Committees, thus ensuring that their voices are heard and reflected in decisions affecting them. For instance, some landless group and female members have contested and won seats in the union parishad elections in some areas. Quite a few male and female landless group members have also been elected to the management committees of Government/private primary schools and a fairly large number have been elected to village and bazaar management committees. Some members are being nominated in the working area civil committees that have been formed to prevent theft, dacoity, and other crimes. Finally, representatives of various professional groups, landless group male and female members are now being represented in various development committees, (like the Char Development and Settlement Project, road/culvert construction repair, etc).15

5. **The Value Added of Using Rights-Based Strategies:** Some of the insights gathered and elaborated in the following sections borrows from the work undertaken at the Institute of Development Studies (IDS) at the University of Sussex in the United Kingdom and such works/references are included in the Select Bibliography Section of this case study.16

**Positive Lessons Learned:**

- **Focusing on building people’s collectives capacities rather than on service delivery:** Nijera Kori can be seen as an organization that embodies the organizational manifestation of the rights-based approach to development by its commitment and focus on building people’s collective capacities to sustain rights outcomes (in this case, access to land rights and other related issues). It embodies a commitment to transforming the poor from clients to citizens who actively organize in pursuit of their rights and to hold accountable those who are responsible for upholding these rights. It does this by providing information about entitlements and rights (through its training programmes and by empowering them through the various social mobilization strategies), by promoting them in their struggles for justice and protecting them from some of the risks that this entails. It does this also through its own internal processes

15 Ibid. Refer to footnote No.3.
16 The two primary works from which some of the observations and conclusions have been made are Naila Kabeer’s papers on “Making Rights Work For The Poor: Nijera Kori and the Construction of Collective Capabilities in Rural Bangladesh” and “Citizenship and the Boundaries of Acknowledged Community: Identity, Affiliation and Exclusion”.
of participation and accountability (for instance, the use of social audits and the preparation of its own annual work plans according to the priorities of its members)\textsuperscript{17} and through life styles that do not remove its staff too far away from the world of those they work with.\textsuperscript{18} Within the limited area in which it is active, and taking note of the unevenness of the impacts generated by its activities (and which are dealt with in the Section dealing with “Challenges” below), it could be said that Nijera Kori has been part of the process of weakening the clientelist relations of domination that characterize Bangladesh society and of expanding the possibilities for political action by the poor (Westergaard and Hossain, 2002).

Such a view is also substantiated by the observation contained in some studies that suggest that the ability of NGOs to mobilize around rights to basic services and to build a culture of accountability for these services is often compromised by their own role in service delivery. A recent World Bank report on corruption in Bangladesh made this point, noting that while NGOs can play an important role in monitoring and checking Government corruption, they are likely to be most effective when they do not attempt to combine this watchdog role with participation in Government-funded development and service delivery programmes.\textsuperscript{19}

This is precisely the rationale behind Nijera Kori’s decision from the outset to eschew any form of direct delivery role and to focus on building collective capabilities of - those groups who are hitherto left out of the Governmental service delivery systems (both intentionally and unintentionally) and who have no access to any rights or entitlements - to ascertain rights-based outcomes.

- **A strong history of civil society-led rights-based NGO movements a key to achieving outcomes:** The thriving NGO sector in Bangladesh has often been at the forefront of efforts where it has successfully mobilized civil society and social capital to produce rights-based outcomes. As mentioned elsewhere in this paper, Nijera Kori belongs to that category of “social mobilization” NGOs that have always engaged with the most poor and vulnerable sections of society in order to build their capacity to participate in these new opportunity of spaces and the terms on which they participate. By providing alternative models of social relations that are often empowering and participatory and involves the most vulnerable in achieving outcomes, NGOs can be credited with helping to democratize the processes of social change.

- **Donors willing to invest in rights-based outcomes:** Nijera Kori has, in the past, relied on international solidarity organizations that were clearly committed to the principle of rights, for support for its various activities. With the shift to a rights-based approach within a number of bilateral donor agencies, the organization has been able to forge new relationships with donor agencies like DFID to support its rights-based activities/programmes. Such partnerships underline the basic premise in development


\textsuperscript{18} Ibid. Refer to footnote No. 3.

\textsuperscript{19} World Bank 2000 Report on “Corruption in Bangladesh: Costs and Cures”.
aid flows - that many donors are now veering away from aid delivery in pure service delivery initiatives and harnessing such aid delivery towards initiatives that are highly participatory, often involves the poorest of the poor and that aims at building capacities of such groups to produce outcomes that are often more sustainable and viable.

**Challenges in Implementing Rights-Based Programming Strategies: Lessons Learned**

- **Using confrontational means can invite resistance:** The landless groups often use advocacy methods rooted in confrontational means like blockades, *gherao* and protests to raise awareness on their plight and to highlight service failures on the part of the duty-bearers. While such means have highlighted their cause, they have also met with resistance and obstruction from duty-bearers and other groups (like the powerful shrimp-farm owners). Many groups have met with violence for indulging in such forms of advocacy and protests.

- **Using the legal system still not widely undertaken:** Under a rights-based approach to realizing rights, the legal system is used to a large extent to access justice, especially for the poor, vulnerable and marginalized groups. Nijera Kori appears to be somewhat constrained when it comes to using the legal system on behalf of such groups. Part of the reason of limited use of the courts to access justice lies in the inaccessible nature of the Bangladesh legal system itself. Additionally, part of the problem lies in the fact that the network of socially oriented lawyers faces constraints in reaching out to the remote rural areas of Bangladesh. Finally, such an approach would detract from the organization’s approach of not undertaking any service-delivery initiatives. Revamping the legal system and making it people-friendly is imperative, especially since the poor in Bangladesh face insurmountable odds in accessing and using the legal system to demand and claim rights.

- **Focusing on social mobilization without any attendant service delivery mechanisms poses a challenge:** While it is true that the focus on social mobilization and on collective capabilities have resulted in many visible gains for the poor and vulnerable groups, the low priority accorded to service delivery aspects of the organization’s strategy - especially in less-developed countries like Bangladesh - can have an impact on sustaining members’ interests. This can pose a challenge to sustaining the struggles on a long-term basis. To guard against such a risk, quite a few strategies that focus on rights-based approaches and that are used by NGOs do have service-delivery components to them.

The fact that Nijera Kori hardly has any service delivery components in its strategy, while at the same time, encourages poor and vulnerable groups to break with past

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20 This is not to understate the fact that Nijera Kori does not use the legal system; its groups are currently involved in filing 733 cases and in 2005, 75 new cases were filed by the groups. The groups themselves are financially supporting 499 cases and Nijera Kori are helping support 234 more. Nijera Kori and the groups have also initiated four writ petitions in the courts.

21 Please refer to the case study of Sankaalp in the India Education Case Study in this volume of case studies. Other Indian NGOs like the MV Foundation or Pratham in India, while also applying rights-based approach to delivering education for poor and vulnerable groups of children, do have service-delivery aspects in their strategy like the setting up of non-formal schools.
relationships of dependency on patrons and to stand up for themselves, (often at some personal and economic cost), can have contradictory implications for who joins its groups and who stays within them. On the one hand, it can lead to a process of self-selection into Nijera Kori membership, in that it is unlikely to have a great deal of appeal for the better off sections of society. On the other hand, the absence of immediate economic gains may discourage the longer term participation of the very poor, particularly if landless groups membership jeopardizes precarious day-to-day survival strategies which depend on maintaining the patronage of powerful sections of village societies. An evaluation of Nijera Kori conducted by Z.Khan and M.Khan in 2000 suggests that more attention could be paid by the organization to addressing some of the basic economic dimensions of poverty, for instance, adult literacy and numeracy skills, better utilization of savings and a strong emphasis on the rights of the poor to local Government services as a way of maintaining their sustained involvement. 22

- **Focusing on mobilizing at the cost of capacity development initiatives like training can be a constraint at the micro-level**: Nijera Kori relies more on social mobilization than on capacity development initiatives like sustained training as a continuous strategy to achieve rights-based outcomes. Training is often provided only at the outset, after the landless groups have been formed. Though the social mobilization techniques have proved quite successful, the low focus on training may mean that capacities to secure and sustain the gains made under social mobilization at the micro-level (at the level of individuals) may be lost. For instance, while social mobilization has resulted in many landless farmers gaining access to land, training to build capacities in making large groups of such farmers knowledgeable about sustainable land use polices may mean that such farmers are not being better able to use their land for optimal productive purposes. To address this gap, Nijera Kori is initiating trainings on Joint Production and Management and Leadership Development to its groups.

- **Sustaining rights-based outcomes a challenge due to other macro-level constraints**: Directly related to the building and sustaining of community capacities to achieve and sustain such outcomes is the challenge of sustaining gains made on the macro-level due to other macro-level operating constraints. Some of these constraints relate to sustaining these changes at the community levels - specially sustaining a group’s interest over time to undertake continuous struggles on a prolonged basis; the existence of lower power structures that undermine and even pose a threat to some of the groups’ activities; the presence of too many NGOs in one single operating area; and, other ground realities that are context specific like the heterogeneous character of groups and their related traits – and can seriously undermine the struggles of these groups in accessing and claiming rights.

For instance, the achievements and impacts discussed in Section 4 above have not occurred uniformly across the different landless groups and areas of work (while in some areas, the pace of change has accelerated as the number of groups have achieved “critical mass”, in others, high levels of activity and engagement in an earlier period have given way to apparent apathy and inactivity) (Christensen 1999).

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Local power structures can also pose a challenge to the resistance posed by the organized landless groups. The extent to which the local configuration of power is dominated by a few powerful landlords rather than many smaller ones, the degree of factionalism which characterizes it and the ease with which these landless groups can get justice from the higher courts in Dhaka rather than from the more corrupt district magistrates’ courts, are all factors which affect the capacity of the landless to mobilize on a sustained basis.

In addition, Rao and Hashemi (1999) suggest that Nijera Kori groups tend to be weaker in areas where there exist other NGOs in operation, particularly those distributing credit, since such activity undermines collective mobilization on the part of the poor. Other context-specific ground realities (like the difficulties of organizing in areas that are flooded for half of the year; areas where local employment opportunities are scarce; and, high out-migration prone areas; et all) can have an impact on sustaining these struggles at the macro-level. Impact may also vary with local context in that some issues generate far greater activism than others. Struggles over control of khas land are not merely a bread-and-butter issue for dispossessed groups, but also a matter of life-and-death. Resistance to local moneylenders, on the other hand, or exposure of corrupt Government officials has led to more incremental forms of change and less dramatic forms of group activity.

Unevenness of impact can also reflect some of the fall-outs from the organization’s social mobilization strategy. The very poverty of its members means that most are earning subsistence incomes where a single day’s loss of income translates into a day without food (Rao and Hashemi, 1999). In situations where landless groups have been struggling for many years without much success, where many have had to face arrest and even imprisonment, it is not surprising that individuals leave and groups become demoralized. Christensen (1999) cites the example of one of Nijera Kori’s most effective group leaders in his study area who dropped out of the organization after spending a year in jail and subsequently incorporated himself into the local patronage system.

Finally, the success of rights-based approaches in terms of sustainability depends, to a large extent, on the existing social capital in any community. Several studies have found that many of the individuals who join the Nijera Kori groups display self-interested forms of behavior like anyone else. Some members prove to be disruptive to group solidarity; some women continue to suffer abuse at the hands of their husbands; communal prejudices do not get eradicated overnight; leadership qualities are exercised in different ways by different group leaders - some more democratic, others less so (Rao and Hashemi). It is therefore worth noting in the same evaluation of Nijera Kori by Z. Khan and M Khan in 2000 that there is a danger of a “class within a class,”23 emerging within the Nijera Kori groups because of the more developed forms of leadership that have emerged among group members who work on union and thana committees.24

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23 It is to be noted that “class” in this context signifies groups based on social and political leadership and not groups based and divided on the basis of economic means.

24 Ibid. Refer to footnote above.
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