



LUND UNIVERSITY
Faculty of Social Sciences

SIMT32: Master's (2 years) Thesis in Development
Studies
Major Sociology
Sociology Department
Spring Term 2011
Supervisor: Göran Djurfeldt

Graduate School

Operation Barga: An Exercise in Legal Empowerment?

***(A qualitative study of sharecroppers ('bargadar') and
landowners in a West Bengal village)***

By: Rupsha Dasgupta

Postal address Box 117, 221 00 Lund *Visiting address* Paradisgatan 5, Building H Eden *Telephone* +46 222 31 30, +46 46 222 00 00
Fax +46 222 44 11 *E-mail* Karin.Krifors@sam.lu.se *Website* www.sam.lu.se

Acknowledgements

To begin with, I express my deepest gratitude to my supervisor, Prof. Göran Djurfeldt for guiding me through this work with his comments, critiques and other valuable suggestions. I also thank him for supporting me in all my decisions, and putting me in touch with important contact persons. Similarly, I also thank my colleagues in the Master of Science in Development Studies programme whose critical comments and other constructive suggestions helped me improve my work.

I am specially indebted to Lund University Initiative on Legal Empowerment of the Poor for providing me with the financial support for my Masters thesis fieldwork. Special thanks to Anna-Karin Bergman for helping me go through all the necessary formalities and other academic advice.

Would like to further extend my thanks to all the people who have immensely helped me in organizing and conducting the fieldwork. The contributions of Mr. Bidyut Kuman Basu; Mr. Debasish Ganguly and Mr. Amal Roy, in identifying and accessing the field, selecting the interviewees and gaining their participation in the study, deserves a special mention. I also sincerely thank all the interviewees who participated in the study, candidly sharing their views and opinions.

I express my gratitude to Dr. Dan Banik and Kenneth Nielsen (University of Oslo) for helping me in accessing required literature and providing helpful suggestions in structuring the research topic. Additionally, Marie Andersson deserves special thanks for taking the time to carefully read through my work and correcting it.

Last but not the least; I thank my parents for constantly encouraging and supporting me through all my academic endeavours. I also thank my family, friends and most importantly Hilda Ljunghill and my little friend Monti for giving me a home in Sweden to help carry out this work.

Abstract

The central premise of this thesis is an analysis of one major land reform programme (*Operation Barga*) initiated in the Indian state of West Bengal, from the Legal Empowerment of the Poor (LEP) perspective. Specifically, the research question addressed is the role of *Operation Barga* as a tool in legally empowering the poor *bargadar* (sharecroppers) and its impact on the landowners, over a period of thirty years, in a West Bengal village. It places the perspectives of the *bargadar* and the landowners at the centre of analysis in executing the research objective. The analytical framework used in the study is the LEP conceptual framework as expounded in the Commission on the Legal Empowerment of the Poor (CLEP) Report, Vol. 1 (2008).

The study does not aim to generalize and hence the results only pertain to the study group. The study results reflect that *Operation Barga* did act as a tool of legal empowerment, securing the livelihood of the *bargadar* interviewed for this thesis. Furthermore, legal security of tenure that it entailed empowered the *bargadar* to negotiate land transactions, emerging as landowners themselves. It also played a role in facilitating better access to justice and protecting the rights bestowed on the *bargadar* by the Land Reforms Act of 1955 (amended). However, the impact on the landowners raises a question of parallel disempowerment. As *Operation Barga* helped secure the rights of the *bargadar*, the landowners were left unprotected, ending up in the throes of poverty in the long run. Thus, importantly, in order to make law work for the poor, a constant evaluation of legal reform should be in place that factors in the evolving socio-economic circumstances.

Keywords: *Operation Barga*, *bargadar*, Legal empowerment of the poor, Commission on the legal empowerment of the poor

Table of Contents

Acknowledgements.....	ii
Abstract.....	iii
List of Acronyms and Abbreviations.....	viii
Chapter I.....	1
1. Introduction.....	1
1.1 Research Question	2
1.2 Background/Research Context.....	2
1.3 Aims of the Study	3
1.4 Significance of the Study	4
1.5 Structure of the Thesis	5
Chapter II	6
2. Conceptual and Analytical Discussion	6
2.1 Why Legal Empowerment?	6
2.2 The Journey of LEP Concept.....	7
2.3 Conceptualizing Legal Empowerment of the Poor.....	8
2.4 LEP through the lenses of CLEP	11
2.5 Legal Empowerment and the Human Rights Approach	12
2.6 ‘Conditions’ and ‘Pillars’ of Legal Empowerment of Poor Approach.....	13
2.7 Pillars of LEP	13

2.7.1 Access to Justice and Rule of Law	14
2.7.2 Property Rights	14
2.7.3 Labour Rights.....	15
2.7.4 Business Rights	16
2.8 Goals	17
2.9 Criticisms	17
2.10 Sociological Underpinnings of ‘Legal Empowerment of Poor’ Concept.....	19
Chapter III.....	21
3. Literature Review.....	21
3.1 Introduction.....	21
3.2 LEP Literature Review	21
3.3 Land Reforms Literature Review.....	28
3.4 Literature Review and Genesis of Research Topic.....	29
Chapter IV.....	31
4. Land Reforms in West Bengal	31
4.1 Phases of Land Reforms in West Bengal.....	31
4.2 <i>Operation Barga</i> : The fulcrum in the Land Reforms movement	33
4.3 West Bengal Land Reforms and Impact on Rural Poverty.....	35
Chapter V	37
5. Methodological Discussion.....	37

5.1 Study Design.....	37
5.2 The Life-History Method.....	38
5.3 Field Work: The Various Phases	39
5.3.1 Selection of Field:	39
5.3.2 Gaining Access and Entry to the Field:	39
5.3.3 Introduction to the Setting:	40
5.3.4 Selection of Interviewees:.....	40
5.3.5 Sampling Method and Sample Size:.....	41
5.3.6 Data Collection:	41
5.3.7 Interpretation and Analysis of Data:.....	42
5.3.8 Some Challenges in the Field:	42
5.3.9 Ethical Consideration:.....	42
5.4 Limitations of the Study.....	43
Chapter VI.....	44
6. <i>Operation Barga</i> and the LEP Framework: Analysis and Discussion of Empirical Evidences	44
6.1 <i>Operation Barga</i> and ‘Identity’ as a condition for LEP.....	44
6.2 <i>Operation Barga</i> and ‘Voice’ as a condition for LEP	46
6.3 <i>Operation Barga</i> and the LEP Pillars	49
6.4 <i>Operation Barga</i> , Formalization of Property Rights and Empowerment.....	49
6.4.1 A Step towards Empowerment: Attaining a Secured Livelihood	49

6.4.2 A Step Further: From <i>Bargadar</i> to Landowners.....	53
6.4.3 A Step Backward: Disempowerment for the Landowners?.....	54
6.5 <i>Operation Barga</i> , Access to Justice and Empowerment	58
6.6 <i>Operation Barga</i> and the LEP Goals	63
Chapter VII	64
7. Conclusion	64
7.1 Introduction.....	64
7.2 Summary of Key Findings	64
7.3 Final Reflections	66
References:.....	68
Appendices.....	73
Appendix 1: Field work Plan	73
Appendix 2: Open-ended Questions used in interviewing <i>bargadar</i>	74
Appendix 3: Open-ended Questions used in interviewing landowners	75
Appendix 4: Open-ended Questions used in interviewing Block Land Revenue Officer	76

List of Acronyms and Abbreviations

BLRO-Block Land Revenue Officer

BL&LRO-Block Land and Land Revenue Office

CJM-Chief Judicial Magistrate

CLEP-Commission on the Legal Empowerment of the Poor

ILO-International Labour Organization

JLOS- Justice, Law and Order Sector

LEP-Legal Empowerment of the Poor

NGO-Non-governmental organization

UNDP-United Nations Development Programme

USAID-United States Agency for International Development

WBHRD-West Bengal Human Resource Development

Chapter I

1. Introduction

In the late 1970s, with the ascendancy of the Left Front¹ government to power, the state of West Bengal witnessed a flurry of state-directed development initiatives, in the form of land reforms, intended to tackle rural poverty. *Operation Barga*, a massive drive to register the names of *bargadar*² in the record of rights, was the crowning glory of this land reforms movement, widely reckoned as a unique reform initiative. Although, land reforms have been at the centre-stage of development initiatives since India's independence, discernable positive impact on rural poverty was evidenced only during Left Front rule. However, in understanding the fuller implications of land reforms for poverty alleviation, it is pertinent to move beyond income indicators of poverty³. It is with this purpose in mind that this thesis seeks to analyze *Operation Barga* from the paradigm of LEP⁴ that has unleashed a new understanding of poverty. Furthermore, the study places the perspective of the *bargadar* and the landowners at the centre of analysis. In other words, *Operation Barga* as an exercise in legal empowerment will be analyzed based on the perceptions of the *bargadar* and the landowners. Methodologically, the

¹ The leftist coalition led by the Communist Party of India (Marxist) that ascended to power in West Bengal in 1978 is referred to as Left Front.

² *Bargadar* (in Bengali) has been defined as a person who cultivates the land of another person on condition of delivering a share of the produce of such land to that person while retaining a portion for himself (Chakraborty, 1981: 6). More commonly, the term also refers to the sharecroppers.

³ Since the publication of World Development Report 2001 and Amartya Sen's arguments in *Development as Freedom* (1999), it has widely been recognized that in order to understand poverty and development holistically, it is important to move beyond income indicators, focusing on other factors. Consequently, a lot of research is being directed towards identifying newer approaches to poverty and development.

⁴ Legal Empowerment of the Poor.

study employs a life-history method and uses relevant secondary literature. The empirical data used in the paper are drawn from a field study conducted in one village in the district of Cooch Behar, West Bengal in March, 2011.

1.1 Research Question

The primary research question is:

*What has been the role of Operation Barga (registration of names of sharecroppers in the record of rights) in legally empowering the poor bargadar in Elajaner Kuthi village? What has been its impact on the landowners in the same village?*⁵

In other words, how has *Operation Barga* enabled the use of law and legal system in protecting and advancing the rights and interests of the poor *bargadar* and how has the class of landowners been affected in the process, are the questions the thesis seeks to respond to.

As a logical corollary of the primary research aim, taking *Operation Barga* as a point of reference, the dimensions of the LEP approach and some relevant strategies of reform would also be reflected upon in the context of its practice.

1.2 Background/Research Context

The issue of poverty has been at the core of development research. Traditionally, attempts to define and measure poverty have focused on money-based measures. However, in the face of inadequacies of the conventional approaches, a growing need for new perspectives, in theory and practice is strongly felt. Indeed, as the Human Development Report (2010: 94) claims, poverty is multidimensional and multifaceted. Legal Empowerment of the Poor (LEP) is such an approach that emerged to address the narrow understanding of poverty, based on the view that “poverty persists partly because the poor do not enjoy legal rights or the power to exercise those rights” (Banik, 2009:

⁵ The research question does not intend to generalize for the entire population of *bargadars* and landowners and is only addressed in the context of the study subjects.

118). This new agenda got a significant fillip with the establishment of the Commission of Legal Empowerment of the Poor (CLEP) in 2005 that inaugurated a novel understanding of legal empowerment. Moving beyond the realms of formal legal system, The CLEP Report, Vol. 1, (2008: 3) has defined the concept in terms of “identifying and providing the poor with legal and institutional tools”.

In developing nations like India, poverty has been a persistent problem that has plagued the nation since independence. Indeed, rural poverty and the condition of the impoverished peasantry have been a matter of much concern in the post-independence era. Owing to the colonial experience, a distinct semi-feudal agrarian structure existed in India at the time of independence. Due to monopolized control over land by small groups of landowners and other intermediaries the tenant farmers were hardly motivated to increase the volume of production (Sethi, 2006: 73). Faced with a distorted and deteriorating agrarian system, post-independence, land issues were placed at the centre stage of the process of nation building. As high productivity and equitable distribution became the two guiding principles of poverty abolition, land reforms were identified as the main vehicle in creating a prosperous country (ibid). Similarly, in the state of West Bengal, great emphasis was laid on land reforms that eventually have come to be reckoned as a major success story.

However, in view of the fact that poverty is a multidimensional phenomenon, it is essential to move beyond an evaluation of land reforms in terms of high productivity and equitable distribution. It is against this background that this study has been proposed, to widen the scope of land reforms evaluation.

1.3 Aims of the Study

The study aims to examine the role of the benchmark land reform programme; *Operation Barga*, initiated by the Left Wing Government in the Indian state of West Bengal in 1978, towards the legal empowerment of the Bengal peasantry. The thesis will try to examine how the legal identity conferred by *Operation Barga* as a land entitlement programme and consequent enforcement of property rights helped the *bargadar* to

“advance their rights and interests as citizens and economic actors” (CLEP Report, Vol. 1, 2008: 3). Although, this land reform programme particularly aimed at uplifting the lot of a specific section of the peasantry; the *bargadar*, the paper seeks to understand the impact (over three decades) of *Operation Barga*, as a vehicle of legal empowerment on the *bargadar* as well as the landowners, through a study of tenancy relations. The category of ‘*bargadar*’ includes both present *bargadar*, former *bargadar* and unrecorded *bargadar*. The impact will be studied in terms of legal empowerment. Simultaneously, another objective of the study is to explore the dimensions of the LEP approach through and reflect on some of the merits of the reform strategies through an analysis of *Operation Barga*⁶. The conceptual and analytical framework used in the study has been borrowed from the CLEP Reports, *Making the Law Work for Everyone*, Vols. 1 & 2 (2008)⁷.

1.4 Significance of the Study

The key significance of the study lies in its attempt to understand the contributions of land reforms from a new perspective on poverty, i.e. the LEP approach. This will not only help in evaluating land reforms in a new light but would also facilitate reflections on the dimensions of LEP and some proposed reform strategies. In evaluating *Operation Barga* as a legal empowerment mechanism, it will also help to identify some of the impediments that hinder the process of making the law work for the poor. Furthermore, this study has a distinctive subjective dimension that seeks to place the voices of the beneficiaries and other parties involved at the centre of analysis. This is particularly significant in analyzing the efficacy of any development programme, such as land reforms. Again, the study tries to understand the impact of the social factors that facilitate or hinder the functioning of legal reforms in society.

⁶ Due to lack of relevant data and limited scope of the study, the impact of *Operation Barga*, on the empowerment of women has not been considered in the study. Also, it was not the aim of the study to consider to what extent *Operation Barga*, was successful in registering the *bargadar* in the study village.

⁷ In the rest of the text, this will be referred to as CLEP Reports, Vols. 1 or 2.

1.5 Structure of the Thesis

To set the contours of the thesis, chapter one is an introduction to the paper followed by chapter two that discusses the conceptual framework of the LEP approach. In chapter three a literature review is provided. A discussion on the land reforms in West Bengal is given in chapter four. Chapter five charts out the methodology employed for collecting the empirical data used in the study. This is followed by the analysis and discussion of the empirical data in chapter six. Finally, chapter seven sums up the study by discussing the conclusions reached.

Chapter II

2. Conceptual and Analytical Discussion

This chapter primarily presents a discussion on the concept of Legal Empowerment of the Poor. As has been stated at the very outset, the conceptual model used in the paper draws on the LEP approach as expounded in the CLEP Report, Vol. 1, (2008).

2.1 Why Legal Empowerment?

The rationale for the legal empowerment approach to development is perhaps most emphatically expressed in the opening statement of the CLEP Report, Vol. 1, (2008) which asserts: “In the 21st century, legal empowerment of the four billion excluded is the key to unlocking vital energies needed to end poverty and build a more stable and peaceful world.” This statement highlights a crucial dimension of poverty that lacks specific focus in the Millennium Development Goals. Poverty is an outcome of legal deprivations (both in terms of recognition and protection offered by law) particularly in the context of rights, as “a large majority of the world’s poor find themselves to be a part of the informal or ‘extralegal’ sector” (Banik, 2008: 11). The CLEP Report, Vol. 1, notes a staggering number of four billion people who remain under the throes of poverty because they are excluded from the rule of law. Importantly, it is not the lack of resources that produces poverty but rather the insecurity and lack of protection of assets and works that trap the poor in a vicious circle thus thwarting economic development (ibid). Moreover, in several countries, a large section of the society is denied the opportunity to participate on equal terms, by the existing institutions, prevalent laws and economic, social and political policies (CLEP Report, Vol. 1, 2008). In view of this, the CLEP thinks that inclusion of the poor within the purview of law would arm the poor with the necessary opportunities to significantly improve their socio-economic conditions and thus climb out of poverty. Thus, ‘legal empowerment’ might act as a critical developmental tool working towards the liberation of the poor from the shackles of poverty, by

addressing the legal needs of the poor vital in unleashing their potentials. It is pertinent to mention at this juncture that the attempt to link exclusion, poverty and law is a unique endeavour first taken on by the CLEP.

The recognition of the important role of law in society provides an additional ground for upholding the legal empowerment agenda. As Banik (2009: 120) notes quoting The CLEP Report, Vol. 1, (2008: 3, 4, 2):

Law and its foundations are crucial on two counts. First, law provides the ‘platform’ on which important socio-economic and political institutions exist, and ‘to be legitimate power itself must submit to the law.’ Second, law cannot be considered as legitimate or ‘revered as a foundation of justice’ if they create barriers for the well-being of the poor. Hence, rights are enjoyed and guaranteed only when law ‘works for everyone’ and ‘defines and enforces the rights and obligations of all.’ This in turn creates opportunities for the poor, cushioned in an atmosphere of certainty and predictability.

The above quote makes it clear that law is not only the crucial foundation on which institutions rest but also it is the guardian of rights. This imperative role of law justifies the call for a legal empowerment approach. As Palacio (2006: 14) contends, this novel approach acts as a framework that helps to deal with the complexities of development that arises out of a fusion of governance and poverty reduction.

2.2 The Journey of LEP Concept

LEP has been part of the development discourse since the turn of the century. The concept germinated as a new ideational initiative to address the inadequacies of the existing traditional approaches to development. Particularly, the approach seeks to answer the limitations of rule of law reform orthodoxy.

Initially, the concept emphasized on the formalizing of property rights as a mechanism for triggering the economic development of the poor in a globalized economy (Brøther, 2008: 47). Hernando de Soto, was the first to attempt to link poverty with formal property ties. De Soto’s point of reference, the West and the movement that unfolded there for the search of welfare, hinted at a possible link between poverty and exclusion from the

protection of formal structures; which he thought might be applicable to the developing nations as well. De Soto's work, nonetheless, has been critiqued on grounds such as being over simplistic, encompassing a generalized approach (ibid).

It is however, under the aegis of the CLEP, that the concept has proliferated to a much broader one. As the USAID Report (2007: 1) aptly states, the endorsement of the concept by United Nation's Development Program (UNDP)-based Commission on Legal Empowerment of the Poor in 2005, led to an enhancement in its public stature. Along with property rights, the concept now includes a bundle of other rights. Thus, development should entail the formulation and execution of policies that seek to provide the citizens with a bundle of rights enabling access to a legal system and protection of law (Brøther, 2008: 47). As Banik (2009: 119) further corroborates, the CLEP final report upholds a broader understanding of legal empowerment, viewing it as a 'global social contract' encompassing a collection of rights, departing from a narrow focus on formalizing property rights as the basis for promoting security and welfare of the poor.

2.3 Conceptualizing Legal Empowerment of the Poor

The concept of legal empowerment of the poor can be seen as a motley phrase of three specific concepts: legal, empowerment and the poor. The concept of empowerment garnered much attention in development literature, with the inauguration of Amartya Sen's perspective on development. Sen argues that in order to arrive at a holistic understanding of development, it is imperative to move beyond indicators such as gross national product or personal incomes and focus on human freedoms. Human poverty is essentially a situation of 'capability deprivation', which occurs when human beings are unable to realise the capabilities they are endowed with. Consequently, much importance is given to the potential of human agency. With adequate social opportunities and elimination of various sources of unfreedom that enable human beings to chose a life they value, they can alter their own fates (Sen, 1999). Inspired by this paradigm-altering view, empowerment has come to be regarded as a vital tool in understanding and combating poverty (Banik, 2008: 12). However, the concept is much complex, being interpreted in

various ways. As Banik (ibid) rightly contends, recent literature uses the term in various senses such as ‘self-efficacy’, ‘self-determination’, ‘self-worth’, ‘self-interest’ and ‘awareness’. In the perspective of Bush and Folger (1994: 12, cited in Banik, 2008: 12) empowerment is seen as the “restoration to individuals of a sense of their own value and strength and their own capacity to handle life’s problems”. Again, for Batliwala (1994, cited in Banik, 2008: 12) the concept of empowerment necessarily involves an understanding of power relations.

The ability to make choices is a key indicator of empowerment. Sengupta (2008: 32) defines empowerment as a “dynamic process, of the expansion of freedom of choice and action and the ability to influence the behaviour of other agents and social arrangements”. Naila Kabeer (2002: 19, cited in Banik, 2008: 12) defines empowerment as “the expansion in people’s ability to make strategic life choices in a context where this ability was previously denied to them”. As a logical extension of this definition, in a situation of poverty people would lack the necessary resources to make life choices. Thus, disempowerment becomes an important cause of poverty (Banik, 2008: 12). Ruth Alsop, Mette Bertelsen, and Jeremy Holland (2006, cited in USAID report, 2007: 2) in a World Bank study define empowerment as “the process of enhancing an individual’s or group’s capacity to make purposive choices and to transform those choices into desired actions and outcomes”. In this definition empowerment is not only conceptualized as an ability to make individual choices but at the same time it is clearly seen as an end or an ultimate goal as well as the path to reach that goal.

Moving beyond empowerment as a tool for development, the term legal has been juxtaposed to unleash a new approach in understanding poverty, being explored in development research now. Let us consider some of the definitions of legal empowerment as provided by some leading agencies. The Asian Development Bank defines legal empowerment as that which “involves the use of law to increase disadvantaged populations’ control over their lives through a combination of education and action.” (Golub & McQuay, 2001: 7, cited in USAID Report, 2007: 2). According to Carnegie Endowment, “legal empowerment of the poor is a rights-based strategy for

improving governance and alleviating poverty... [and involves] ... the use of legal services and related development activities to increase disadvantaged populations' control over their lives" (Golub, 2003: 3, cited in USAID Report, 2007: 2). For the World Bank, "legal empowerment promotes safety, security, and access to justice and helps people solve problems and overcome administrative barriers" (Palacio, 2006: 15, cited in USAID Report, 2007: 2). In the view of USAID, "legal empowerment of the poor refers to actions and processes, including but not limited to legal reforms, by which the poor are legally enabled to act more effectively to improve their economic situations and livelihoods, allowing them to alleviate or escape poverty" (Bruce et al, 2006: 9, cited in USAID Report, 2007: 2). At this juncture, it is perhaps imperative to explore the sense in which the term 'legal' is being used in these definitions. A closer look at the definitions clearly shows that in most of them, the emphasis is on making law and legal tools the cornerstone of empowerment. In other words, law is seen as the means to an end rather than an end in itself. The understanding of poverty that distils out from these definitions is a condition of legal deprivation that leads to a situation of exclusion from the rule of law and legal protection for the disadvantaged section of society. Thus, the poor in this sense would be those who are legally deprived and excluded from the protection of law. Furthermore, as pointed out by the USAID Report (2007: 3), the poor are also the designated beneficiaries of the LEP programmes.

Another important issue that needs to be addressed here is the analytical point of departure of the LEP approach from the other perspectives on law and development. Golub (2003, cited in Banik, 2009: 128) points out that the discussion on law and development has been necessarily dominated by the top-down rule of law reforms that narrowly focus on law, lawyers and state institutions instead of considering the legal needs of the poor. The LEP approach, in contrast, seeks to provide a corrective to this rule of law paradigm by aiming at a greater empowerment of the poor whereby they gain a better command over their life situations by using legal services (CLEP Report, Vol. 1, 2008: 3). Banik (2009: 128) concisely enumerates the differences between the two approaches as follows:

First, lawyers view the poor as partners instead of simply providing advice. Second, the poor are encouraged to directly influence public policy ad priorities in order to avoid a top-down process involving governments and donors. Third, there is an emphasis on using non-judicial strategies that are often far better at addressing the concerns of the poor. Finally, the use of law is integrated into a broader package of development-related activities.

The above excerpt shows that legal empowerment approach has a distinct bottom-up approach where the onus is largely on the poor, partnering in the process of development rather than being mere recipients. In this approach, non-judicial measures are given much priority and law is seen as a part of holistic development initiatives.

2.4 LEP through the lenses of CLEP

The CLEP began articulating the concept of LEP with a distinct focus on the issue of exclusion, particularly that from scarce resources. The CLEP concept paper (2005, cited in Brøther, 2008: 52) identified exclusion (understood as the lack of legal protection of the assets and transactions of the poor) as a factor producing and reproducing poverty in the developing countries and erstwhile communist societies. In its subsequent reports the CLEP moved away from its explicit emphasis on the formalization of property rights to emphasize more on ‘bundle of rights’ that led to substantial proliferation of the concept. The CLEP Report, Vol. 1, (2008: 3) defines the concept as “*the process of systematic change through which the poor and excluded become able to use law, the legal system and legal services, to protect and advance their rights and interests as citizens and economic actors*”. This definition clearly shows that the contours of the concept have been significantly broadened to imply exclusion is a wider sense, not just denial of property rights but also exclusion from the protection of law in general. Furthermore, LEP has been conceptualized as a process entailing change, in other words as a ‘reform process’ where states have a major role to play. The CLEP Report, Vol. 1, (2008: 4) asserts that in order to guarantee citizens’ rights, states need to change systems systematically. Thus, this new understanding not only seeks to provide the concept with a theoretical basis but also locates an operational dimension.

2.5 Legal Empowerment and the Human Rights Approach

A key aspect of this revised perspective is an attempt to tie the concept of legal empowerment to the principles of human rights as well as the ideals of democracy. Article 1 of the Universal Declaration of Human Rights (cited in CLEP Report, Vol. 1, 2008: 20) declares, “All human beings are born free and equal in dignity and rights” adding onto which the CLEP Report, Vol. 1, (2008: 20) Report claims, “[...] out of familiar and established principles, comes a radical agenda of legal empowerments [...]”. The CLEP Report, Vol. 1, (2008: 29) further emphasises that the legal empowerment process specifically the institutional and legal reforms and social policies that seek to restructure the state-citizen relationship at the national and local level, should be guided by the doctrines of human rights. Although, the CLEP in conceptualizing the legal empowerment process has attempted to formulate it within the human rights approach, Sengupta (2008: 32) rightly points out that it leaves a crucial question unanswered; whether to merely extend the protection of law to include the poor or change the laws such that they create new opportunities for the poor.

Taking the discussion further, Sengupta strongly proposes the latter arguing that a human rights approach to legal empowerment would motivate the uses of law in such a way that the outcome it produces is considered valuable by the society. Towards this goal, Sengupta (2008: 33) recommends that LEP should be defined in terms of rights that already exist and articulated in a manner binding on the society, state authorities and other powerful sections of the society.

In the context of democracy the CLEP (cited in Banik, 2009: 121) visualizes a symbiotic relationship between legal empowerment and democracy asserting that legal empowerment of the poor would entail legally protected rights such as voting rights and freedom of expression.

2.6 ‘Conditions’ and ‘Pillars’ of Legal Empowerment of Poor Approach

In addition to delineating a definition of LEP, the CLEP Report, Vol. 1, (2008) also identifies certain conditions and pillars finally leading to the goals of the LEP process. The trajectory of the process can be represented thus:

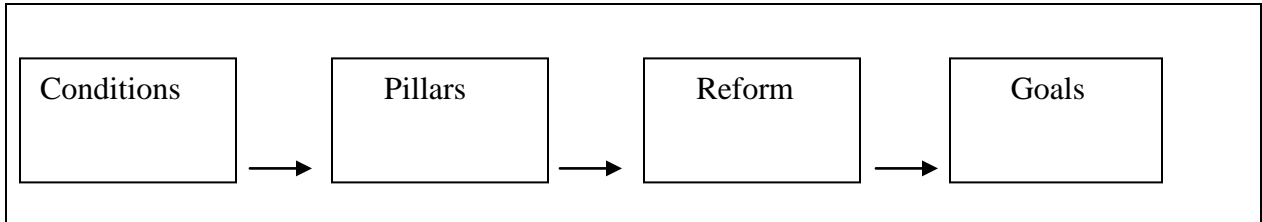


Figure 1: Trajectory of the LEP Process

The above figure represents the key dimensions of the LEP approach. The conditions lay the foundation for the pillars which in turn lead to the reforms, working towards the achievement of the goals.

‘Identity’ and ‘voice’ have been recognized as the key conditions for legal empowerment. According to CLEP Report, Vol. 1, (2008: 26) a recognized identity is essential for the poor that corroborates their economic and civic agency as citizens, asset owners, workers and business persons. This legal identity acts as a necessary tool that helps the poor in gaining access to justice and avail the legal services. Giving the poor ‘voice’ entails providing them with adequate information which in turn is contingent on the availability of education and representative organizations.

2.7 Pillars of LEP

The ‘pillars’ as identified by the CLEP Report, Vol. 1, (2008) are essentially the dimensions or ‘domains’ of the LEP process that work in conjunction towards the attainment of the final goals. According to the CLEP Report, Vol. 1, (2008: 31), “access to justice and the rule of law as the fundamental and enabling framework is the first pillar

of legal empowerment”. The three other pillars; property rights, labour rights, and business rights are the realms of empowerment drawn from the livelihoods of the poor.

2.7.1 Access to Justice and Rule of Law

Right to legal identity is the primary basis of the first pillar. Birth certificates or other registration certificates are examples of legal identities that the poor are often seen to lack. This acts as a major impediment for the poor being excluded from developmental initiatives such as anti-poverty programmes of the government. Another related issue is ‘access of justice’. According to UNDP (United Nations Development Programme, 2005, cited in Banik, 2008: 14) access to justice refers to the “ability of people to seek and obtain a remedy through formal and informal institutions of justice, and in conformity with human rights standards”. In most developing countries the existing legal system and state institutions are seen to serve the interests of the elites rather than the poor. Delay in justice, lengthy legal processes, incomprehensible legal language, inadequate information and lack of resources to seek legal representation are some of the other obstacles that the poor have to confront. Thus, being denied legal identity and legal protection the poor are confined to a vicious circle of poverty and exclusion. Consequently, as Banik (2008: 15) contends, there is an immediate identification need of the specific kind of obstacles that hinder the poor from claiming their rights and also understand the effect of these obstacles in the development process. In this context the CLEP Report, Vol. 1, (2008: 5-6) identifies substantial implementable reform measures such as obligatory birth registration, repealing or amending discriminatory laws, assisting in the formation of civil society organisations, encouraging paralegals, integrating customary legal processes into the land administrative system and formal judicial system to make them more accessible, making the courts sympathetic towards the interests of the poor, promote alternative dispute resolution systems, encourage access to legal services, emphasising legal empowerment of disadvantaged group such as women, refugees, minorities, internally displaced people and indigenous population.

2.7.2 Property Rights

It has been widely observed that most of the poor in the world do not possess effectual property rights; lack secured tenure, unaware of their legal rights or incapable of enjoying them (CLEP, 2008; 35). Banik (2008:17) points out that in the rural areas of the developing world for example this takes the form of inaccessibility to resources such as land. In the opinion of Hernando de Soto, as highlighted by Banik (ibid) this inaccessibility to assets or in other words ‘lack of legally enforceable transactions on property rights’ is a feature of most of the developing nations that distinguishes them from the developed ones. In terms of consequence, absence of enforceable property rights not only locks the economic potential of the assets but at the same time adds onto the vulnerability of the poor, particularly threatening their livelihoods. The CLEP Report, Vol. 1, (2008: 35) identifies arbitrary evictions without compensations as the typical exploitation experienced by the poor (as the poor are helpless in disputes over assets with influential actors). Thus, there is hardly any motivation for the poor to invest in their insecure lands or other assets. Furthermore, as the CLEP Report, Vol. 1, (2008: 36) aptly points out, poor belonging to the vulnerable sections are worse affected. For example, women own inconsequential proportions of world’s property despite constituting half of world’s population (ibid).

The CLEP Report, Vol. 1, (2008: 6) puts forth certain recommendations in the context of formalization of property rights such as better management of individual and collective property to foster the integration of the extralegal economy into the formal economy, ensure legal enforcement of recognized property, to form a market facilitating exchange of assets, formulate social and other public policies that promotes availability of property rights, protect the rights of the women by creating an inclusive property system that recognizes ownership rights of wives.

2.7.3 Labour Rights

The third LEP pillar as put forth in the CLEP Report, Vol. 1, (2008: 36) says, “Laws must protect vulnerable workers from exploitation without diminishing their opportunities for formal employment [...]”. This assertion is made against the

background that a large section of the world's poor work in the informal economy largely outside the purview of labour laws. The women and the members of indigenous communities are particularly vulnerable, most often pulled into the informal economy. Summing up, the CLEP Report, Vol. 1, (2008: 38) claims that the gap between the real work place situation and labour law is caused by factors such as rising global competition, ineffective, antiquated or ill designed labour regulations and increasing informality. Certain measures have been proposed towards this end by the CLEP (2008: 7-8); providing identity and voice to the working class by protecting and promoting their right to association, promoting the regulations and functioning of labour markets, enforcing basic labour rights for workers in the informal sector, creating better employment opportunities, protecting against shocks by enhancing social protection, implementing measures guaranteeing access to health care, medical insurance and pension, promoting gender equality to meet the ILO standards.

2.7.4 Business Rights

The fourth LEP pillar identifies the lack of business rights as one of the factors accentuating poverty world wide, as poor entrepreneurs are often confined to the parallel, informal economy. The poor are often denied access to common resources and face difficulties in accessing market and finance. The recommendations put forth by CLEP (2008: 8) in this context are: ensuring basic business rights such as right to trade, have a workspace, and access infrastructure, facilitating easy set up and running of business, encouraging careful risk taking, offering entrepreneurs in developing countries with savings, credit, insurance through inclusive financial services, accustom entrepreneurs with new markets through specialised programmes. Again, special measures should be taken to protect the interest of the women and other vulnerable groups.

The entire LEP model as proposed by the CLEP can be summed up thus:

With identity in their different roles, a voice in the processes of change, and improved rights in the three empowerment domains, the poor will effectively have increased access

to justice and rule of law, improved access to assets, more access to decent work, and better access to markets (CLEP, 2008: 27).

This statement upholds the conviction of the CLEP that legal empowerment can effectively deliver the poor from their miseries and improve their livelihoods.

2.8 Goals

In terms of goals, the CLEP Report, Vol. 1, (2008: 28) emphasises on expansion of protection and creation of opportunities for the poor. The poor need to be protected from atrocities such as eviction, exploitation, extortion and expropriation. Simultaneously, they should be provided with equal opportunity to access local, national and international markets.

2.9 Criticisms

Although the CLEP has made substantial contribution in inaugurating a new understanding of poverty through the concept of LEP, the approach and recommendations of the Commission has nonetheless come under much criticism. Some of them merit mention. When the CLEP was being set up with the Norwegian Ministry of Foreign Affairs taking the lead, there was a spate of criticism from the Norwegian NGOs. The primary allegations were against the irreconcilable difference between the Commission's top-down approach and bottom-up nature of development that is seen as an empowerment process of the poor. The emphasis on formalization of property was also an issue of contention as it was claimed that imposing property titles irrespective of the socio-cultural and political context might harm the interests of the indigenous communities and their property system. Besides being criticized for overemphasizing the economic advantages of land titling, the CLEP Report, Vol. 1, (2008) has also been alleged of underemphasizing the impediments faced in formalization of property rights in several developing countries (Palacio, 2006: 7, 16 cited in Banik, 2008: 18).

Furthermore, as Banik (2008:18) contends, de Soto's recognition of free markets based on formal private property rights as the prime driving force of capitalist development has

been seen as endorsing a neoliberal agenda. In this context, several critics have voiced their discontentment. For instance, Kaarhus et al. (2005) and Nyamu-Musembi (2006, cited in Banik, 2008: 18) have opined that formalization of land tenure through titling has entailed significant social and institutional complexities beyond being time consuming and costly in view of the scale of global poverty. Benda-Beckman (2003, cited in Banik, 2008: 18) argues that the informal land tenure system and market are more flexible and efficient and hence function as well as the formal system. Again, Gilbert (2002, cited in Banik, 2008: 18) contends that a narrow focus on the identification of property rights as the sole development dilemma relegates other critical issues that plague developing countries to a secondary position. Banik (2009: 119) similarly points out that in delineating legally unsecured property rights and other assets as the single most important cause of poverty, the CLEP Report, Vol. 1, (2008) portrays a naive picture that overlooks more crucial causes of the issue.

Banik (2009: 121) mentions some other areas in which the CLEP Report, Vol. 1, (2008) falls short. In his opinion, the conditions of the legal empowerment process are dealt with in such a casual manner that weakens the conceptual foundation of the approach. Again, although CLEP has claimed severally that the legal empowerment approach is rooted in the spirit of Universal Declaration of Human Rights, it does not clarify the ‘operational linkages’ that exist between the two approaches. Similarly, the linkage between legal empowerment approach and democracy remains unexplained. Moreover, research on democracy and poverty has illustrated that there is no constant relation between the two. Carothers (2003: 3) similarly, draws attention to the inconsistency that exists between “the twin rationales of rule-of-law promotion – that promoting the rule of law will contribute to economic development and democratization.” Thus, the CLEP should attempt to accommodate non-democratic conditions as well. Banik (2009) further points out that the grounds on which the ‘pillars’ have been identified remain unclear.

Golub (2009: 101) raises question about the operational potential of the legal empowerment approach, as he says that the CLEP Report, Vol. 1, (2008) falters in

addressing the implementation aspect of ambitious legal reforms, so that they have actual impact and do not merely exist on paper.

2.10 Sociological Underpinnings of ‘Legal Empowerment of Poor’ Concept

Sociology of Law as a sub-discipline within the academic discipline of Sociology, offers valuable insights in understanding the sociological relevance of the legal empowerment concept. Jary and Jary (1995: 635) define Sociology of Law as, “the sociological study of the social context, development and operation of law [...]”. This definition highlights that the social context has a role to play in the development and execution of law. Consequently, attempts have also been made to analyze social problems from the perspective of law, given the social importance and impact of law. As Andreassen (2010: 311) points out, “the relationship between legal position and social inequity has long been recognized by the sociology of law [...] where legal position has generally a social bias in disfavor of the poor”. Following this line of thought, legal empowerment of the poor can be seen as an agenda born out of an attempt to understand poverty, as a form of social inequity in terms of the impact of the legal position—“the property of having access to legal institutions, and human and financial resources to take advantage of this access”(ibid: 312). Thus, the legal empowerment agenda necessarily needs to address the social factors that have implications for its performance in poverty eradication. The USAID Report (2007: 9) identifies certain social domains of the concept as follows.

Law and Order: In the absence of an adequate law and order system that secures the assets and personal lives of the poor, deprivation of opportunities is also evident. Areas afflicted by violent conflict and crime, are often also poverty stricken where the poor live with unsecured resources and insufficient legal protection (Andreassen, 2010: 311). Under such circumstances, the poor are hardly in a position to assert their rights.

Inclusion: Andreassen (2010: 313) is of the opinion that social exclusion is closely related to (and often causes) legal disempowerment. Rules that exclude the poor from decision making are examples of a social exclusion process that thwarts them from

asserting their rights. In several countries, women and indigenous people are often denied participation in exercising rights. Furthermore, unavailability of adequate information on law, legal procedures and rules in a comprehensible language and minority statutes also act as impediments in accessing opportunities.

Education: Education particularly literacy is a crucial element in the process of legal empowerment process. If the poor are illiterate they cannot read and hence gain access to the necessary information about their rights and the legal protection they are entitled to. This also delimits their chances of advocating for their rights.

Health: If the poor are unhealthy lacking adequate nutrition, appropriate shelter and suffering from endemics, their capacity to assert and defend their rights will also be negatively affected.

Social Security: Sufficient social security measures help to mitigate livelihood risks thus providing the poor with an enabling environment to fight for their rights and legal protections they are entitled to. On the other hand, as the USAID (2007: 9) says livelihood security of the poor can be affected by the dearth of food and income safety nets, employment protection and pension schemes that's hinders fulfilment of their basic needs. As Andreassen (2010: 313) also adds, investment in land for better production is often affected by an inherent fear the poor often feel about losing basic means of production (for example secure access to land due to lack of legal entitlement). The poor can even suffer violations of rights if their livelihoods are threatened.

As a logical corollary of the above discussion, it is perhaps rational to agree with Andreassen (2010: 313) that in order to realistically address the issue, international efforts to reinforce the legal position of the poor via security of assets should recognize that the role of social conditions and context, along with the political, economic and legal, need to be adequately analyzed and addressed, for the “*production of legal empowerment*”.

Chapter III

3. Literature Review

3.1 Introduction

Literature review proved to be an indispensable part of the study as it not only provided a comprehensive picture of the research that exists in the field but at the same time helped in the identification of the research gap and hence formulation of research question. The reviewed literature can be divided into two subsets: literature on LEP and literature on land reforms in West Bengal.

3.2 LEP Literature Review

Being a new entrant in the development discourse, the concept of LEP has only recently being explored in conceptual and empirical terms. The CLEP Reports, *Making the Law work for Everyone*, Volume I and II (2008) are the two key works that have explored the issue in depth and have much informed the present work. Additionally, a book entitled *Rights and Legal Empowerment in Eradication Poverty* (Ed Dan Banik, 2008) is another valuable literature on the topic that not only explores the conceptual underpinnings but also discusses empirical evidences collected across developing countries in the context of access to justice and formalization of property rights. These three form the core literature used in the study.

a) **CLEP Report, *Making the Law Work for Everyone*, Volume I⁸ (2008)**

The following are the main arguments forwarded in this report:

⁸ This Report has been discussed in details in the previous chapter in delineating the conceptual framework used in the study.

- Exclusion from the rule of law and lack of legal protection has been identified as the key factor that contributes towards the poverty of four billion people around the world.
- LEP need to be recognized as a development strategy, as rule of law is an important source of progress.
- Legal empowerment is interwoven with ideals of democracy that necessitates that people enjoy legally protected rights, as well as ideals of democracy.
- LEP is a systematic process of change that requires comprehensive legal, political, social and economic reforms.
- Access to Justice and the Rule of Law, Property Rights, Labour Rights and Business Rights have been identified as the four core pillars (dimensions) of legal empowerment.
- Although, the government is the primary responsible actor, in the process of legal empowerment, United Nations and broader multilateral system has a role to play.
- Finally, it is time for a “renewed anti-poverty agenda” that includes the vast majority of the excluded within the system of rights.

b) CLEP Report, *Making the Law Work for Everyone*, Volume II (2008)

This report collates the findings and recommendations of the Working Groups each working with one of the pillars of LEP. Collecting empirical evidences across the globe, the Working Groups seek to identify the challenges in the process of LEP and consequently propose strategies for reform.

Working Group # 1: Access to Justice and Rule of Law

This Working Group focuses on the expansion of rule of law as a mechanism of legal empowerment and poverty reduction. The main findings and recommendations are as follows:

- Legal identity is essentially the cornerstone of access to justice agenda and hence granting individual identity is the first step to access to justice. Identifying

incapacity, exclusion and avoidance as the key factors causing legal identity crisis, it puts forth recommendations such as addressing the bureaucratic drawbacks in the state identity registration system; opposing politically supported legal exclusion; and providing incentives to motivate registration of legal identity with the state.

- Access to justice can be improved through strategies such as: better dissemination of legal knowledge and information and creation of peer groups leading to empowerment of the poor; widening the scope of legal services available to the poor, for instance combining with health care, banking, and insurance; curtailing the aggregate costs involved in legal transactions; facilitate evolution of the informal justice system by combining formal recognition of informal justice system with education and awareness campaigns.
- Methodologically, country specific case studies of reforms, programmes, projects and recent developments towards legal empowerment (for instance registration campaign of UNDP and the United Nations Mission in Congo, registration programme in public hospitals in South Africa, UNICEF-backed birth registration programme in Bangladesh, Thai government's initiative in registering Hill Tribes, Role of Egyptian Centre for Women's Rights in providing identity cards, agrarian reforms and land disputes in Philippines) have been used.

Working Group # 2: Property Rights

- This Working Group explores the impact of enforceable property rights on legal empowerment and poverty eradication. The following are the main contentions of the Working Group:
- Property rights must be acknowledged as a basic human right. The absence or insecurity of property rights is a key cause of poverty that plagues countries across the world.
- Growing slums, insecure access or right over land and other natural resources are some of the problem areas with women and indigenous population being easily affected by ineffective property rights.

- Opposition from powerful social actors and structural obstacles may prevent the adoption of generally effective property rights system.
- Key elements of a reform strategy would entail: a legitimate state for implementing future reforms; deliberations and inputs from the targeted beneficiaries; careful planning of parallel interventions by the governments that support a functioning and effective property rights system; encouragement of private sector involvement; promotion of property rights through individual and corporate ownership; creation of systems facilitating collateralizing movable and intangible property; co-organization of natural resources and utilization of modern technology.
- Methodologically, case studies of reforms and data on the existing situation from developing nations (for instance registration of customary rights in Uganda, Tanzania, Mozambique, Namibian land reforms, expansion of urban services in Pakistan, The Grameen Bank in Bangladesh, public housing in Singapore) have been used for analysis of problem and formulation of recommendations.

Working Group # 3: Labour Rights

- The focus of this Working Group is to understand the impact of the narrowing gap between the informal and formal economy on legal empowerment and poverty reduction. The following are its main contentions:
- In view of the fact that informal economies are growing worldwide, governments and international organizations must address the deficit of decent work conditions of those working in the informal sector.
- In the informal workforce, women constitute the majority of those working in the most-disadvantaged situations. The prevalence of child labour and bonded labour are also quite common in the informal sector.
- An emergent ‘global social contract’ marks a new departure in international development strategies in which governments, international organizations, trade unions, employers and non-governmental organizations are forming coalitions to

address the challenge of creating decent work environment and empowerment of the poor.

- A strategy for legal empowerment should attempt at: strengthening the identity, voice and representation of the poor, enhancing the quality of labour regulations, supporting incorporation of a minimum package of labour rights for the informal economy, promoting access to opportunities, supporting inclusive social protection, promoting gender equality through legal empowerment, supporting legal empowerment for the indigenous population, enhancing national development frameworks for decent work, mobilizing the regional levels to support the national efforts, mobilizing the World Bank and ILO for better cooperative activity, supporting voluntary efforts at legal empowerment through labour rights, mobilizing donor countries, improving understanding of advantages and disadvantages of legal empowerment through decent work.
- Methodologically, the Working Group reviewed working conditions in the informal economy across the developing countries. Additionally case studies (for instance, welfare fund in India, social security for all in the Philippines, labour protection for subcontracts in Chile, etc) have been used.

Working Group # 4: Business Rights

This Group focuses on the promotion of legal empowerment of the poor and poverty amelioration through providing easy access to legal organizational forms. The following are the key assertions:

- To promote right based economic development, legal empowerment of informal businesses is an effective method.
- Promotion of productivity and protection should be combined together.
- Legal empowerment of the poor in terms of linking entrepreneurship with greater economic opportunity necessitates not only legal reforms but also policies that address imbalance in information, and education, and access to business, technical and financial services.

- The process to use law to empower the poor requires an enabling environment, a functioning regulatory regime, effective economic governance that allows operation of businesses with equitable economic rights.
- The mutual interdependence of the formal and informal economy needs to be acknowledged within a policy and regulatory approach for legal empowerment measures to be executed.
- The reform agenda should have a policy stance where legally empowering informal businesses should be recognized as a defined objective of a fair society, informality recognized as a key feature of the global economy, comprehensive systematic changes in the legal framework encouraged, facilitating poor people's access to markets, and commercial rights for informal economy workers. Policy positions should pertain to basic commercial rights, intermediary commercial rights, and advanced commercial rights. Policy processes should seek to address 'decent work deficit' of informal business persons, include voices of the poor working in the informal economy, attempt to extend government benefits to the smallest informal businesses, develop better social protection nets for informal workers and create linkages between small and big enterprises.
- Methodologically, case studies such as private business development in Ukraine, VegCARE Kenya, business registration reform in Uganda, informal credit model in Peru etc, have been used in highlighting innovative practices.

Additionally, there is a Working Group # 5 that provides the road map for implementation of reform strategies.

c) *Rights and Legal Empowerment in Eradication Poverty (2008)*

This book is broadly divided into theoretical and empirical sections. In the theoretical section, Banik (2008) provides an elucidation on the definition, operation, evaluation and impact of the LEP approach. Sengupta (2008) next elaborates on the necessity of human rights-based approaches to LEP. The perspective of the donor governments has been

explored by Brøther (2008) who also discusses the gradual evolution of the LEP concept and the challenges in implementing the LEP agenda.

In the empirical section, several case studies across Latin America, Africa and Asia have been used to explore the access to justice agenda and formalization of property rights. The following are the key studies and their key findings:

- Using Bolivia as a case study, McNeish (2008) attempts to explore the importance of constitutional reforms (particularly, its implication for Bolivia's majority indigenous population), against the background of the country's sustained insurgencies. The author comes to the conclusion that the ongoing constitutional reforms do have key consequences for the legal empowerment of the indigenous, marginalized populations where protests and rebellion might actually be an expression of the desire to be part of the state rather than going against it.
- Brandtstädter (2008) explores the case of China characterized by incongruity between the proliferation of legal mechanisms patronized by the Chinese government and the growing marginalization of the population, focusing on the emergence of 'peasant lawyers'. It highlights the indispensable importance of considering the opinions of the rural people in planning law reforms, in view of the role the 'peasant lawyers' play in disseminating valuable legal knowledge.
- Rukare (2008) examines the challenges to access to justice in Uganda. The study locates high rates of illiteracy, acute poverty and a costly foreign justice and legal system as the main factors impeding the Ugandans from accessing justice.
- Cohen and Brown (2008) look at the role of adequate representation before judicial and quasi-judicial bodies in improving food security and hence well-being. Comparing United States, India, South America and Brazil, the study contends that the use of legal system to further right to food and other economic, social and cultural rights have produced substantial benefits for the poor, in different political environments and levels of development.

- In the context of formalization of property rights, poverty and property rights in Tanzania are studied in a work by de Soto (2008) where he identifies the several legal impediments that hinder the poor from creating wealth.
- In a study on Malawi, Chiweza (2008) discusses the challenges in promoting women's land ownership and inheritance rights and highlights that despite 1994 Malawi Constitution upholding the value of protecting women's property and inheritance rights, the position of women in this regard haven't changed much.
- Taking the case of peasant-resistance against state government directed land acquisition process for industrialization, in the Indian state of West Bengal, as the topic of his study, Nielsen (2008) contends that LEP is a distinctly political process and it is perhaps fruitful to distinguish between empowerment in an immediate sense and long-term sense.

3.3 Land Reforms Literature⁹ Review

Navigating through the vast body of literature that exists on West Bengal land reforms proved to be rather challenging. A review of selected literature highlights the following important points:

- Post-independence West Bengal inherited a complicated agrarian structure dominated by the absentee landlords at the top and exploited peasantry at the bottom (Ghosh & Nagaraj, 1987);
- The first phase of land reforms in the post-independence period under the Congress government could not achieve much in the context of protection of rights of the *bargadars* (Nielsen, 2008);
- During the second phase under the United Front government legal land reforms and popular participation were combined in the land reform programme with renewed emphasis on the protection of the rights of the *bargadars* (Bandyopadhyay, 2007; Hanstad & Brown, 2001);

⁹ The literature on West Bengal land reforms has been discussed in details in the chapter # 4.

- In 1977 with the Left Front government assuming power, massive land reform programmes were implemented with *Operation Barga* as the flagship initiative, embodying a unique bottom-up methodology, (Bandyopadhyay, 2007; De, 1994; Nielsen, 2008; Chattopadhyay 1979);
- In the context of evaluation, West Bengal land reforms have been acknowledged to have made a significant dent in rural poverty, leading to rise in agricultural productivity and improvement of rural livelihoods (Sengupta & Gazdar, 1996; Banerjee, Gertler & Ghatak, 2002; WBHRD, 2004; Bardhan & Mookherjee, 2005; Webster, 2005; Bandyopadhyay, 2007).

3.4 Literature Review and Genesis of Research Topic

The conception of the research topic occurred as a logical extension of a course paper I had written, titled, *State-led Institutional Reforms, Agricultural growth and Rural Poverty Alleviation: Evidences from West Bengal*. However, a review of concerned literature provided a definite direction and consequently aided in the formulation of the research question for this study. A review of literature on land reforms in West Bengal helped me to locate the existing research gap. Although, West Bengal land reforms have been evaluated severally, a lacuna exists in its evaluation in terms of empowerment as researches have tended to focus on enhancement of agricultural output and rural incomes. In view of the fact that empowerment, is now widely recognized as a key indicator of development and a mechanism to address poverty, it is perhaps imperative to analyze land reforms in the context of empowerment. Furthermore, as land reforms are state-led, legislative reforms, an evaluation in terms of legal empowerment seemed most appropriate. This idea was further strengthened through a review of LEP literature, which revealed that since insecurity of land rights is an important cause of rural poverty, securing property rights, helps in empowering the rural poor and hence in ameliorating poverty (CLEP Reports, Vol. 1 & 2, 2008). Additionally, the CLEP Reports, Vol. 1 & 2 (2008) strongly emphasize on reforms to address the LEP challenge. This view directed me towards selecting a particular land reform (*Operation Barga*) and examine its reform potentials towards the goal of LEP. This not only provided the opportunity to understand

the role of legal reforms in empowering the poor but also reflect on some of the relevant strategies of reform proposed in the CLEP Reports. Also, land reforms could be evaluated from a new perspective, i.e. legal empowerment, contributing towards its holistic understanding as vehicles of rural development. *Operation Barga* was selected as the study subject, as the plethora of existing literature recognizes it as a novel methodology incorporating elements of LEP approach (such as bottom-up). In formulating the exact research question, Nielsen's (2008) proposed distinction between short-term and long-term sense of LEP, in his study, '*Not on Our Land!*' *Peasants' Struggle against Forced Land Acquisition In India's West Bengal*, guided in deciding on analyzing *Operation Barga's* long term consequences i.e. to look at its legal empowerment impact over three decades on the *bargadar* and land owners. In addition to selection of research topic, the existing literature provided frames of references throughout the study.

Chapter IV

4. Land Reforms in West Bengal

The purpose of this chapter is to provide a background to the research problem discussed in the paper. It describes the West Bengal experience of land reforms and its impact on rural poverty with particular focus on the post 1977 era, with the Left Front government in power, highlighting the flagship land reform programme, *Operation Barga*. This discussion is based on the relevant secondary literature on the subject.

4.1 Phases of Land Reforms in West Bengal

At the time of independence, West Bengal inherited a very complicated agrarian structure, dominated by the landlords at the top, followed by several tiers of intermediaries, and a severely exploited peasantry at the lowest level (Ghosh & Nagaraj, 1978: 51). The *bargadar* belonged to the lowest level of the agrarian structure, cultivating a substantial portion of the land that belonged to the other intermediaries—primarily the landowners. In the throes of acute poverty, they were completely at the mercy of the landlords, without any sort of legal protection that secured their tenure or regulated the division of produce or terms of eviction (ibid: 52).

To improve the lot of the impoverished peasants, like other Indian states, West Bengal also followed a model of development that was based on land reforms. According to Hanstad and Brown (2001: 1), West Bengal's post-independence land reform progress, can be classified into three distinct phases. The first phase under Congress government from 1953-1966 was marked by the adoption of basic land reforms laws intended to

tackle rural poverty, such as the 1953 West Bengal Estates Acquisition Act and 1955 West Bengal Land Reforms Act, the key land reform legislation in West Bengal. However, during this period little progress was witnessed in terms of above-ceiling distribution of land and protection of the rights of the *bargadar* as land, labour, money and markets in West Bengal were dominated by a class of landlords-cum-moneylenders (Harriss-White, 2008: 5, cited in Nielsen, 2008: 224).

The second phase spanned over the period from 1967 to 1977. The hallmark of this period was the initiative taken by Hare Krishna Konar, who served as the land and land revenue minister for the United Front governments, to formulate a land reform programme that gave due prominence to legal details. The defining feature of this initiative was an attempt to combine legal land reform with popular participation. In terms of outcomes, although this period made a commendable progress in redistributing above-ceiling land, violent land-grabs were also rampant. One particularly significant feature of this period was the 1970 and 1971 amendments of the West Bengal Land Reforms Act, 1955 that sought to further safeguard the rights of the *bargadar*. Most importantly, the *bargadar* were granted fixed, heritable, and secured right to tenure and protection from arbitrary eviction. The share of produce between the *bargadar* and the landowners were also fixed with seventy five percent accruing to the former and twenty five percent to the latter. Moreover, a further legal requirement was exchange of receipts between the *bargadar* and the landowners on the distribution of the entitled share. In case the landowner refused to accept his share or tender his receipt, the share can be deposited to the prescribed authority or officer. However, in spite of these constructive legislative initiatives, the situation of the poor peasants was not greatly ameliorated, with sixty six percent of the rural poor living below the poverty line in 1973-1974 (Bandyopadhyay, 2007: 20, 59).

The ascendancy of the Left Front government to power in 1977 marked the beginning of the final phase, which evidenced the implementation of massive land reforms programmes. Bandyopadhyay (2007: 61) enumerates the following as the central measures adopted during the period:

- Quick recording of the names of the sharecroppers (*bargadar*) through *Operation Barga* and thereby securing to them the legal rights that they are entitled to.
- Distribution of already existing available ceiling surplus vested lands among the landless and the land-poor rural workers [...]
- Drive to detect and vest more ceiling surplus lands [...]
- Giving institutional credit cover to the sharecroppers and the assignees of vested land to irreversibly snap the ties of bondage they have with the landlords and money lenders.
- Assigning permanent title for homestead purpose to all the landless agricultural workers, artisans and fishermen [...] who are occupying land of others as permissive possessors.
- Providing tiny sources of irrigation to the assignees of vested lands [...] and bank financed dugwells with heavy subsidies [...]
- Giving financial assistance in the form of subsidies to the assignees of vested land for development of their lands.
- Abrogation of the old revenue system [...] and substituting it by a new measure [...]
- Restoration of land alienated by poor and marginal farmers through distress sale [...]
- Designing *Food for Work Programme* for developing rural infrastructure [...].

The uniqueness of these land reforms programme initiated by the Left Front government lay in its innovative methodology that combined political mobilization at the grassroots level and legal novelties (Nielson, 2008: 226).

4.2 *Operation Barga*: The fulcrum in the Land Reforms movement

Launched in the end of 1978, *Operation Barga* formed the cornerstone of the land reforms initiatives of the Left Front government, which entailed a massive drive to register the names of the *bargadar* in the record of rights. Most importantly, it *de facto* conferred “quasi property rights to the sharecropper”, although it was simply a tenancy

law (Raychaudhuri, 2004: 19, cited in Nielsen, 2008: 226). The point of departure for *Operation Barga* was not so much in the goals it identified but in the methodology it adopted, where an emphasis was given on collaborative, group initiative and creation of mutual support system. According to De (1994: 24), “The programme tries to counteract the authority of the big landowners by organizing a joint front consisting of beneficiaries, the peasant leaders, the *panchayat*¹⁰ and the government officials”. The new methodology in fact was developed in view of the suggestions by a tribal sharecropper activist, who rightly pointed out that sharecropping was a fact that had to be verified and did not involve much of law (Bandyopadhyay, 2007: 79). The traditional bureaucratic manner of recording required the sharecroppers to travel to the tribunal and present legal papers that most often they did not possess, as majority of the sharecropping leases were oral. Moreover, unlike the rich landlords they poor *bargadar* were unable to engage lawyers to fight for their rights. Thus, a proposal was made to reverse the process, where the revenue tribunal officers would visit the fields and verify the facts regarding sharecropping at the very situation (Bandyopadhyay, 2007: 99).

To do away with the inadequacies of the bureaucratic procedure and most importantly to instill confidence in the *bargadar* to voice the exploitation by the landowners, the Left Front government initiated the method of group meetings between share croppers and officials, where the legal rights and economic benefits of recording were explained to the *bargadar*. Simultaneously, the *bargadar* were also encouraged to narrate their experiences of exploitation and voice other grievances that they had against the landlords. The group of officials consisted of *kanungos*,¹¹ junior land reforms officers, *amins*¹² and clerical staff, under the leadership of a Special Revenue Officer, Grade II, or a Subdivisional Land Reforms Officer (Chattopadhyay 1979: 43). This seemed to be a

¹⁰ In India, the body of local self government that operates at the village level is referred to as the *panchayat*.

¹¹ Bengali term for revenue inspectors.

¹² Indigenous term for village surveyors.

viable method of addressing the grievances of the *bargadar* in the absence of legal documents. The landowners in the presence of general public could not get away with the injustices they had been hurling on the poor *bargadar*. This step was followed by preparing a list of claimants, after which a second round of verification was conducted at the field in the presence of the *bargadar* and the landowners. Finally, the names of the *bargadar* were recorded and certificates were distributed to them (Nielsen, 2008: 227).

Pursuing this methodology, within three years (1978-1977) 1.2 million share croppers were recorded (Bandyopadhyay, 2007: 79). However, gradually the pace of the programme began to decline since the mid-1980s with only 1.68 million *bargadar* recorded in 2000. It has been estimated, nonetheless that by the year 2003, eighty six percent of the *bargadar* in West Bengal had been recorded, indicating an impressive performance (West Bengal Human Development Report (WBHDR), 2004: 32). In its novel methodology, *Operation Barga* embodied a very critical attribute of the legal empowerment approach; it was essentially bottom-up and pro poor. It brought about major changes in property rights, although the impact was limited (Banerjee, Gertler and Ghatak, 2002 cited in Nielsen, 2008: 226). This in turn helped to remove some economic and institutional barriers that impeded the poor *bargadar* from improving their lot. Thus, the programmes through the methodology it followed had a liberating impact, yet another key element of the legal empowerment process.

4.3 West Bengal Land Reforms and Impact on Rural Poverty

The impact of West Bengal land reforms on rural poverty has been widely debated and discussed in several studies. Although, opinions have varied most scholars evaluate West Bengal chapter of land reforms as successful with significant reduction in rural poverty and improvement in the conditions of the rural poor¹³. Bandyopadhyay (2007: 81) claims that studies have corroborated the positive correlation between *Operation Barga* and

¹³ Sengupta & Gazdar 1996; Banerjee, Gertler & Ghatak 2002; Bardhan & Mookherjee, 2005; Webster 2005; Bandyopadhyay 2007, are some of the studies that consider that West Bengal land reforms have been successful in reducing rural poverty.

“production and productivity of land under cultivation by registered sharecroppers”, which in turn implies an improvement in rural poverty situation. Furthermore, another significant outcome of the land reforms was the creation of a conducive environment for private investment in agriculture (Hanstad and Brown, 2001: 10). According to the WBHRD (West Bengal Human Resource Development Report, 2004: 37-38), the spill over effect of the agricultural growth was discerned in an expansion in the market for mass consumption goods and proliferation of non-agricultural activities, significant growth of small-scale unorganized sector manufacturing and service activity in rural West Bengal, improvement in the basic conditions facilitating expansion of literacy, education and health, and maintaining a degree of communal harmony and most importantly, promoting the class position of the rural poor in general. Taken together, these positive impacts contributed in uplifting the lot of the rural poor.

Although, the patrons have championed the worth of the reform programmes in alleviating rural poverty in West Bengal, critics have questioned the efficacy of the land reforms. Osmani (1991: 348, cited by Lieten, 1996: 115) argues, “nothing substantial has been achieved”. Similarly, Mallick (1992) argues that contrary to popular belief, West Bengal agrarian reforms have failed to improve the lot of the lower classes as the local bureaucracies and ruling parties were overrepresented by the rural elites. Furthermore, some authors (for example Lieten, 1996) focusing on the issue of causalities have questioned whether it was the land reforms or other factors such as introduction of infrastructural facilities that set in motion the process of agricultural growth and other concomitant developments. Fast increase in landlessness among rural households, escalating land alienation and eviction of *bargadar* has been reported in the WBHDR (2004). All these factors suggest that the impact of land reforms in rural poverty reduction have been short-lived. Although, they have provided the much needed impetus for the development of the productive forces, they have not been able to completely restructure the prevalent agrarian relations.

Chapter V

5. Methodological Discussion

The purpose of this chapter is to provide an overview of the research methods and data collection tools used in the study. The chapter discusses the purposes of selecting the specific research methods used and their individual advantages and disadvantages. Furthermore, ethical considerations and limitations of the study are also addressed in the chapter.

5.1 Study Design

The study is designed in a qualitative style that uses both primary and secondary data. Particularly, the study has used life-history methodology, also referred to as biographical research, “that focus on the generation, analysis, and presentation of the data of a life history (the unfolding of an individual’s experiences over time), life story, personal experience narrative [...]” (Schwandt, 2007: 21). The rationale for selecting life-history method is closely related to the research objective. As the purpose of the study was to seek the subjective experience with *Operation Barga* as a tool for legal empowerment, this methodology appeared to be the most relevant. The specific data generation tool that was used in this method was life history, life story or a biographical interview, which according to Neuman (2003: 372) is a specific technique of field interviewing. For the purpose of conducting interviews that generated the primary data used in the study, a field work was carried out in one selected village in the Indian state of West Bengal. Additionally, published literature such as academic studies, journal articles and development reports constituted the main sources of secondary literature.

5.2 The Life-History Method

According to Atkinson (1998: 8) life story involves narration of one's life experiences as a whole, highlighting the most significant parts. Several distinctions have been made within this method. For instance, a contrast is made between "long" (collected over a long period of time) and "short" (much more focused usually gathered through open-ended, in-depth interviews) life stories. Again, Allport (1942, cited in Plummer, 2004: 565) distinguishes between three main types of life history writing. The *comprehensive life document*, attempts to capture the totality of the subject's life. The *topical life document*, in contrast focuses on one particular issue or topic instead of documenting the whole life story. The *edited life document* does not narrate the story completely in the voice of the subject; rather the researcher edits it according to the purpose. A further categorization distinguishes between *naturalistic* (take place as part of everyday life of the subjects), *researched* (gathered with a particular social science objective in mind) and *reflexive* (ones in which the story is constructed in particular social contexts by the producer and the teller together) life stories (Plummer, 2004: 564-565). In view of the above discussed categories of life stories, it can be claimed that this study has used short, researched life stories involving topical life documents, as the focus of the research was on documenting the life story of the subjects in relation to their experience with *Operation Barga*, in particular.

The life history method although an integral part of qualitative research, has been criticized for being "overly subjective, too idiographic and non-generalizable [...]" (Plummer, 2004: 564-565). Again, doubts have been raised regarding the validity of the data, as memories of earlier life experiences may be influenced by the present context and hence re-constructed (Flick, 2006: 180). Qualifying this argument Neuman (2003: 372) says that the main purpose of such researches is to seek the subjective perspective of the interviewee rather than some kind of objective truth.

The life history method most often necessitates the use of life story interviews. Such interviews are particularly useful when the research aims to gain in-depth knowledge of

the subject's experience in context of a social reality. Typically, in such interviews open-ended questions are selected that facilitate generation of detailed responses (Atkinson, 2004: 568).

5.3 Field Work: The Various Phases

Fieldwork or field study is a qualitative style of research. In Schatzman and Strauss's (1973: 14 cited in Neuman, 2003: 351) view, field method incorporates a bundle of activities where any technique may be employed to generate the required knowledge and ways to interpreting the knowledge. Although, fieldwork enables the researcher to gain firsthand knowledge, it also has certain disadvantages. As Neuman (2003: 351) points out, direct involvement with the study subjects might have emotional impact that may even lead to a disruption of personal life and physical security.

Fieldwork is typically conducted in various stages. For the purpose of this thesis a fieldwork was conducted in a village in West Bengal, in March, 2011. The following are the main stages involved in the fieldwork.

5.3.1 Selection of Field: Selecting an appropriate site for the study is a crucial decision that hinges on the research question. As the research objective was to understand the perspective of the *bargadar* and also the landowners, a village was selected as the study site. The selection of the village was, however, a task that required much deliberation. This is because with the impending State Assembly Elections due in May, 2011, most of the districts were politically agitated, which made safety during fieldwork a matter of much concern. The district of Cooch Behar in Northern West Bengal was selected and in consultation with the gatekeepers, a village named *Elajaner Kuthi* was identified as the study village as it is politically less disturbed as compared to the other villages in West Bengal.

5.3.2 Gaining Access and Entry to the Field: As Burgess (1984: 38) contends, access to the field is an issue that has not been given much attention by many researchers and often been ignored or taken for granted. Gaining access to the field, however, is a

very crucial step as it initiates the process of fieldwork. The gatekeepers play an indispensable role in this process. In this fieldwork, a deliberate decision was made to gain access to the field through local NGO representatives. This facilitated the process of communicating with the target subjects more easily and eventually winning their confidence. Initially they displayed scepticism about the purpose of the study and also the researcher's urban background was a cause of doubt, but with the help of the gatekeepers it was possible to convince them gradually after which they participated without reservation in the interviews.

The fieldwork spanned over a period of two weeks, from March 4th to March 15th 2011. During this period, the village was visited several times to interview the study subjects. The last interview was conducted on 12th March.

5.3.3 Introduction to the Setting: The selected village, *Elajaner Kuthi* is located in the district of Cooch Behar, West Bengal, India. Within the district, the village is located in Cooch Behar 1 Block, within *Phalimari Gram Panchayat*¹⁴, at a distance of twenty kilometres from Cooch Behar town. The total village area is 213.9 hectares. The nearest bus stand to the village is Satmile, located at a distance of 1 km. The village has one high school and one pre-primary day care centre. Ninety nine percent of the villagers are farmers or involved in some kind of farming activity. There are two main roads along two sides of the village, connecting it to nearby towns. According to 2001 *Elajaner Kuthi* census data, there are 235 families in the village, with a population of 1,240. Among them, 617 are males and 623 are females. 732 inhabitants are literate, among which 426 are males and 306 females. 10 percent of the households have electricity. Most of the Hindu villagers belong to the Rajbangshi caste, which have been officially recognized as Scheduled Caste. The rest of the villagers are Muslims.

5.3.4 Selection of Interviewees: The selection of the *bargadar* was on the basis of two criteria: age and the current *bargadar* status. In view of the study objective, middle

¹⁴ *Gram Panchayat* is the lowest rung of the local self government in India that operates at the village level.

aged (45-60) and old (60 and above), former, present and unrecorded *bargadar* were selected, who have witnessed the implementation of *Operation Barga* and have benefited by it. In selecting the landlords the criterion of age was followed and hence middle aged and old landlords were selected for the purpose of interview. Additionally, the present Block Land Revenue Officer (BLRO) was also interviewed, to get a picture of the current situation.

5.3.5 Sampling Method and Sample Size: The method of purposive sampling was used as a specific category of *bargadar* and landlords were needed for the study. In Trochim's (2006) opinion, purposive sampling is particularly helpful when a specific sample is to be reached in a short span of time and the issue of sampling proportionality is not the main objective. Names *bargadar* and landowners were collected from the Block Development Office. A list of thirty four interviewees was made, among which nineteen were former, ten present and one unrecorded *bargadar*, and four landlords, currently residing at the village. Among the interviewed *bargadars*, all were married, majority (twenty) being literate. Twenty five were middle aged and five old. The only unrecorded *bargadar* was a widowed woman. Among the landlords, all were literate, married, two being middle-aged and two old.

5.3.6 Data Collection: As stated at the outset of this chapter, the data for this study was collected through life-history interviews. The only exception was the BLRO interview, which was conducted through semi-structured, open-ended, in-depth field interview as the purpose was to gather information regarding the present situation. Life-history interviews used in interviewing the *bargadar* and the landowners were essentially in-depth and unstructured and mainly took the form of informal conversations. Open-ended questions were asked in order to capture the interviewee's understanding of his/her past (Neuman, 2003: 372). As Neuman (ibid) further points out "exact accuracy is less critical than the story itself", so the emphasis was laid on documenting the account of their experience and how the interviewees recollect the past. During the interview, the data generated were recorded and later transcribed for the purpose of analysis.

5.3.7 Interpretation and Analysis of Data: As in typically interpreting life story interviews, the categories of analysis emerged from a review of the life story interview data after completion of the fieldwork. Qualitative analysis was mainly used, with particular emphasis on capturing the viewpoints of the interviewee. Apart from analysing the content of the qualitative data, selected interview excerpts in the form of direct quotes has also been used in the analysis.

5.3.8 Some Challenges in the Field: Commuting to the village was one of the main challenges encountered in conducting the field work. A part of the journey was along the banks of river Torsha, which was an undulating mud road, barely motorable. Within the village also there were no proper roads accessible by car, requiring the researcher to travel by foot to conduct the interviews. Another challenge faced while conducting the interviews was the initial reticence of the interviewees. At the beginning of the conversation, although they were willing to participate, they were sceptical about the purpose of the interviews. Most of them were under the impression that there was some underlying party agenda. This was quite natural, with the impending State Assembly Elections and the politically volatile environment. However, gradually it was possible to convince them of the real purpose of the study following which they candidly shared their stories, opinions and views.

5.3.9 Ethical Consideration: As any other field of research, qualitative research is guided by its own code of ethics. The research should not entail any form of harm to the subjects and should be based on informed consent. The participants' privacy should be particularly safeguarded (Flick, 2006: 51). In this study, to maintain the privacy of the participants, all the names have been changed in the discussions. Furthermore, in addition to assuring confidentiality, the purpose of the study was clearly communicated to the participants emphasizing on the academic nature of the study. Participation in the study was completely voluntary and they could withdraw according to their will.

5.4 Limitations of the Study

The foremost limitation of the study pertains to its lack of generalizability. Owing to the small sample size, it cannot be considered representative of the wider category of *bargadar* and landlords. The study results are applicable only to the study subjects. It does not indicate any comparable outcomes for any similar subjects in the same or other villages in West Bengal.

Another limitation of the study is the absence of a definite gender perspective. Due to lack of relevant data and limited scope of the study, the legal empowerment implications of *Operation Barga* on the women could not be studied. Barring one specific case of unrecorded *bargadar*, all the other *bargadar* and landowners in the village are male.

Lastly, another pitfall was that the opinion of both the *bargadar* and their respective landowners could not be obtained on the same issue. The information provided by a landowner could not always be crosschecked by that provided by the *bargadar* cultivating his land.

Chapter VI

6. *Operation Barga* and the LEP Framework: Analysis and Discussion of Empirical Evidences

In this chapter an attempt will be made to look at the empirical data collected during fieldwork from the perspective of the LEP framework. The dimensions of analysis would be borrowed from the conceptual framework delineated in the CLEP Report, Vol. 1, (2008) and as discussed in the preceding chapter of the thesis¹⁵. In tune with the definition of LEP outlined by the CLEP Report, Vol. 1, (2008), law will be seen as a means towards the end of empowerment in the ensuing discussion, which is supplemented by select interview excerpts and life stories. The influence of social factors on the legal empowerment process will also be addressed. The empirical data collected by fieldwork led to the emergence of key findings that *Operation Barga*, created the two main preconditions (identity and voice) of LEP and contributed towards empowerment in two main domains: Rule of Law and Access to Justice and Formalization of Property Rights.

6.1 *Operation Barga* and ‘Identity’ as a condition for LEP

The CLEP 2008 Report claims (as mentioned previously) that in the absence of a legal identity the poor are in a disadvantageous position in taking recourse to the protection offered by law. Moreover, the right to be recognized before the law is a fundamental human right. *Operation Barga* played a key role in extending this fundamental right to the poor, deprived sharecroppers in the villages of West Bengal, by recording their names

¹⁵ The first two pillars i.e. Rule of Law and Access to Justice and Property Rights have been delineated for the purpose of analysis as *Operation Barga* had direct consequences for these two pillars. It extended quasi property rights to the *bargadars* and also by protecting these rights better enabled access to justice.

in the record of rights. *Elajaner Kuthi* is no exception in this regard. The interviewed *bargadar* confirmed that registration as official sharecroppers bestowed on them a legal identity as asset holders (in this case land) that they never enjoyed before. This in turn brought them under the aegis of The *Barga* law¹⁶ contained in Chapter III of West Bengal Land Reforms Act of 1955 (amended). In this context, *Meher Ali*, an interviewee, quite emphatically states:

Before Barga recording, we were hardly given any kind of recognition as sharecroppers. I remember as a teenager, the threat of arbitrary eviction always loomed large. We could not lodge any complaint against the landowners in case of any conflict arising out of share of produce. Arbitrary eviction was very common. The Barga law meant for guaranteeing legal rights and other benefits to the bargadar existed only on paper. We were beyond the purview of the law, failing to prove that we were bargadar tilling land of the landowner for several years. With registration of our names in the record of rights, for the first time we could assert our position as sharecroppers and thus could avail of the rights given to the bargadar by law (Interview, 5 March 2011, Elajaner Kuthi).

The above interview excerpt shows the transformation in the condition of the *bargadar* from a threatened existence to rightful living. This statement also corroborates the CLEP Report, Vol. 1, claim (2008: 28) that in the absence of formal identity proof, the poor are denied the protection of the state legal system and public goods and services. Lack of legal identity not only led to a situation of legal exclusion but also social exclusion, as the *bargadar* were denied access to any kind of social privileges. Again, belonging to the lowest rung of the agrarian structure, the social exclusion they suffered further contributed towards their legal exclusion, thus creating a vicious circle. *Operation Barga* made a significant dent on the situation by legally recognizing the status of *bargadar* and thus creating a crucial step for legal and social inclusion. As illustrated in the above interview excerpt, *Operation Barga*, in doing so laid the foundation for an empowerment process that presupposes legal identity as a necessary precondition.

¹⁶ *Barga* law is used to denote Chapter III of West Bengal Land Reforms Act, 1955, which contains all the legal provisions regarding the rights of a *bargadar*.

6.2 Operation Barga and ‘Voice’ as a condition for LEP

‘Voice’ acts as the second precondition in the empowerment process which underlines the importance of ‘information’ in the decision-making process. As Nielsen (2008: 219) observes, “[...] the poor find themselves at an informational disadvantage”. As the situation at the study village showed ‘informational disadvantage’ often leads to lack of awareness among the poor about the legal rights they are entitled to. Education, in this case illiteracy is an important social factor that either hinders or facilitates awareness creation, as illustrated by the case of several interviewees. Following examples will highlight the matter further.

Sachindra Barman, is a seventy years old *bargadar* tilling the land of his landowner for over four decades. Although he is a recorded *bargadar*, he is yet uninformed about the legal rights that *Barga* law guarantees to them. He gives a share of fifty percent to the landowner, unaware of the fact that a *bargadar* is legally required to give only twenty five percent share of the produce to the landowner. Being illiterate, *Sachindra* cannot read about the legal rights he is entitled to as a *bargadar* which accentuates his ignorance.

Nenda Barman, another middle aged *bargadar* was once evicted by his landowner. However, unaware of the legal protection that he is entitled to being a recorded *bargadar* he did not seek any legal remedy but instead chose to quit his cultivation rights on the land. As *Nenda* says, “*I cannot read and write. I have no clue about what is written in the law books*” (Interview, 8 March 2011, *Elajaner Kuthi*). This clearly points out that being illiterate *Nenda* feels helpless and ignorant. Similarly, *Baneshwar Barman*, *Bindubala Barman* and *Gajen Barman* (also interviewees) further testify that lack of adequate information about the *Barga* law, has significantly impeded assertion of their legal land rights. They have all shared fifty percent of the produce with the landowner, never demanding any receipts that they are entitled to. Again, interviewee *Upen Barman* highlights that informational disadvantage can even extend to misinformation. As *Upen* says, “*I have been hearing from the neighbours for some time that the hereditary rights of the bargadar do not exist anymore*” (Interview, 8 March 2011, *Elajaner Kuthi*). This

information is quite contrary to the actual law which grants hereditary rights on the recorded *bargadar*. Being illiterate, he cannot refer to the law to verify the information he has come to know. The statement illustrates that misinformation is also a factor impeding fuller realization of rights of the *bargadar*.

Informational disadvantage and the consequent lack of awareness were also acknowledged by the BLRO Mr. *Mohammad Boduruddoja*. In his words, “*Some of the bargadar indeed lack basic knowledge about the law. They are not even aware of the fact that legally recorded bargadar are only supposed to give twenty five percent share of the produce to the landowners*” (Interview, 7 March 2011, *Elajaner Kuthi*). This excerpt shows that some *bargadar* are not conscious about the proportion of share they are supposed to give to the landlords.

The above discussion underlines that the social factor of exclusion plays a key role in causing legal disempowerment. Excluded from adequate information on law, and legal procedures, the poor are unable to exert their rights and hence caught up in a vicious circle of poverty, a factor impeding legal empowerment, also identified by CLEP Report, Vol. 2 (2008). Lack of education as a major obstacle in the path to legal empowerment is further illustrated above. The discussion also indicates that legal education (informing people more extensively about legal norms and interventions) is perhaps a vital reform strategy in overcoming this challenge, as put forth in CLEP Report, Vol. 2 (2008).

On one hand as the above mentioned interviewees illustrate the weakening impact of informational gap on the empowerment process, the experience of interviewee *Noor Islam* on the other hand, demonstrates the enabling impact of adequate information on the empowerment process. *Noor Islam* has been a recorded *bargadar* for several years. Few years ago he was in a conflict with his landowner who refused to accept twenty five percent of the produce and give him receipt for the share of the produce. The landowner insisted on taking half of the produce when legally landowners are entitled to receive only twenty five percent of the total produce. Aware of the legal rules that govern the *bargadar*-landowner relationship, as he had read about them, *Noor Islam* took the matter

to the local self government (*panchayat*). The *panchayat* leaders intervened and summoned a meeting with the disputants. Subsequently the landowner was directed to accept and also issue a receipt specifying the amount of produce received. In *Noor Islam's* words,

When we do have a law protecting the interests of the poor farmers, then why not take advantage of it? I insisted on following the legal provisions that govern the transactions between a bargadar and a landowner so that in case of disputes I can seek legal protection (Interview, 5 March 2011, Elajaner Kuthi).

The above excerpt highlights Noor Islam's conscious decision to abide by law in formal transactions. His story shows that awareness of legal rights might be a key stepping stone in making the law work for the poor, in this case the *bargadar*.

Unawareness about the way to legal remedy is also an impediment in the path to rights assertion. It is not surprising therefore, that *bargadar* such as *Nenda Barman* (discussed above) did not seek legal help when evicted from his land. Lack of knowledge on law, rules and procedures thus further contributes to social exclusion preventing the poor from accessing opportunities and asserting their rights as citizens. This situation, when compared to the Chinese case studied by Brandtstädter (2008) brings to the fore the importance of 'rural activists' as crucial agents of legal knowledge. Perhaps, these *bargadar* could have been better able to advance and protect their rights, if there were 'peasant lawyers' as in the Chinese villages, championing the cause of peasant welfare and creating new forms of access to knowledge. *Operation Barga* evaluated in this light, could not create conducive knowledge environment or agents of knowledge that promotes empowerment of the poor.

The above discussion further highlights that 'identity' and 'voice' are indeed two necessary preconditions that pave the way towards the goal of making law work in empowering the excluded and the poor.

6.3 Operation Barga and the LEP Pillars

Although, Rule of Law and Access to Justice is the main overarching pillar of LEP, in this section of the discussion, *Operation Barga* will be first analyzed in the context of Property Right and its implication for empowerment.

6.4 Operation Barga, Formalization of Property Rights and Empowerment

In addition to bestowing legal identity, *Operation Barga* most importantly brought about significant changes in property rights by legally formalizing land titles. Although, it did not confer ownership rights on the *bargadar*, security of tenure in a way formalized land rights. The implications of land rights in any agrarian economy surpass the economic realm. As The CLEP Report, Vol. 1, (2008: 34) rightly asserts, “It [land] is an expression of a way of life, which they [the poor] should have the opportunity to improve by their own efforts”. At the same time as the CLEP Report, Vol. 2, (2008: 64 & 77)) identifies land rights as a key cause of rural poverty. Thus, the link between formalization of land rights and empowerment of the poor is quite evident. Security of and accessibility to land, rendered due to formalization of property rights in its turn unleashes the economic potential of land. As de Soto and his supporters point out, the benefits of titling are multifarious such as increasing land market efficiencies, promoting community investment, forming the basis for accessing credit and assisting erstwhile marginal groups (cited in Banik, 2008: 19).

6.4.1 A Step towards Empowerment: Attaining a Secured Livelihood

Most importantly, *Operation Barga* secured the livelihoods of the *bargadar* by securing land tenure. Affirmation of land rights enhanced the self esteem of the *bargaadar* and gave them a sense of belonging along with an identity that they were deprived of for generations. As *Bhadreshwar Barman*, a forty-three year old *bargadar* opines,

For the first time, we felt that we have right over this land that our forefathers have been cultivating for generations. Devoid of any land rights we were like non-existent citizens,

struggling for our bare existence. Barga rights bestowed on us status of citizens. It gave us the confidence to take independent decisions and control our own lives which thus far were at the mercy of the landlords (Interview, 10 March 2011, Elajaner Kuthi).

The above quotation shows that security of land tenure and legal identity liberated the *bargadar* from the shackles of the oppressive landowners. Furthermore, registration of the *bargadar* in the record of rights, secured the livelihoods of the poor peasants. As an interviewee, *Bhuben Barman* claims,

Land is our only source of sustenance. Our livelihoods were under constant threat and subject to the whims of the land lords. With recording arbitrary actions of the whimsical land lords were appropriately handled. They could not discontinue Barga cultivation at their will. This secured our livelihoods and we cultivated the land with greater vigour. Moreover, we could take decisions on our own regarding cultivation without being instructed by the landowner (Interview, 8 March 2011, Elajaner Kuthi).

This statement is certainly indicative of the catalyst role that *Operation Barga* played in empowering the poor *bargadar*. *Bhuben Barman* is now in a position to take decisions about cultivation, without the consent of the landowners. Unafraid of eviction threats, he feels confident about investing on his land. The increased productivity in turn has improved his livelihood further making a significant dent on his poverty.

The life story of *Ramjan Ali* can be insightful in understanding the extent of livelihood security brought about by *Operation Barga*. *Ramjan Ali* is a middle aged former *bargadar* who had inherited *barga* rights from his father. He vividly narrates the exploitation his family suffered in the hands of the landowner, the eviction experience of his father and the dire economic condition of his family when he was a teenager. His father was a *bargadar* on the land of *Habibur Rahman*, a local landlord for a long time. Landless and poor, he was a victim of exploitation in the hands of the landowner. Most often the landowner would make him toil on large pastures, converting non-arable land into arable land. However, when it was time to reap the benefits of the harvest, he would conveniently reallocate certain other plot of land to him. This kind of exploitation continued for years. In *Ali's* own words, “*My parents had a hard time fending for our day*

to day living. As a young boy I remember going to bed empty stomach several nights” (Interview, 10 March 2011, *Elajaner Kuthi*). The exploitation took a severe turn when the landowner tried to evict his father from the land he had cultivated for decades. He was forcefully stopped from entering the field, even threatened to be brutally assaulted if he attempted to resume cultivation. *Ali* says, “*One day even my mother was the target to assault by the henchmen of the landowner”* (ibid).

With the ascendancy of the Left Front Government and the execution of *Operation Barga*, a substantial change occurred in their lives. *Ali* comments,

My father was officially recognized as a bargadar and his name was recorded in the record of rights. This came as a big blow to the landowner. He could not threaten to evict my father anymore. Later on, by virtue of hereditary rights of Barga law, the land was passed onto me (Interview, 10 March 2011, *Elajaner Kuthi*).

This statement shows the changes in circumstances with the execution of *Operation Barga*. He further commented that this land right has been a key factor in improving his livelihood. The security of tenure that he had enjoyed since then made a remarkable change in his socio-economic status. “*My children go to school, a thing my parents could not even dream about when I was a young boy”* (ibid). Similarly, *Kupen Barman*, another middle-aged *bargadar* opined that the secured steady income from his land enabled him to electrify his house. Needless to say, livelihood security and the socio-economic status elevation it brought about had an obvious ameliorative impact on poverty. The *bargadar* could take a step out of legal, social and economic deprivation.

On one hand as the above discussion illustrates the potential of legal land rights in securing the livelihoods of poor peasants, the life story of *Bindubala Barman*, a widowed unrecorded *bargadar* shows that “vulnerable groups suffer most from lack of property rights” (CLEP Report, Vol. 1, 2008: 36). *Bindubala* is the only unrecorded woman *bargadar*, in the village deprived of her land rights on the demise of her husband. Her husband used to cultivate the land of a local landowner *Habibur Rahman*. Although, they had been cultivating the land for a long time, for almost thirty years they were never

recorded as *bargadar*. When asked the reason, *Bindubala* said her husband never took the initiative and was also unaware of the advantages that lawful recording could bestow. Ten years ago, her husband died, and she was in need of money for her daughter's wedding. Taking advantage of her situation, the landowner gave her an offer to hand over the land at a meagre amount of rupees ten thousand. At that time she had no other option but to surrender the land although some of the villagers gave her the advice to contact the Land Revenue Department and seek the assistance of the local *panchayat*, in getting recorded as *bargadar*. However, she neither had the confidence nor the courage to wage a legal battle. Moreover, she did not have the resources and man-power to go through the entire process. She also felt handicapped lacking education necessary to know the exact legal provisions and the process to take recourse to legal remedy. However, after all these years she feels that she should not have given away the land being reduced to a land less agricultural labourer. She laments, "*My husband and I had tilled the land for ages. It was almost a part of our existence. Now, I have nothing to call my own and live off my meagre earnings as a daily wage earner.*" (Interview, 3 March 2011, *Elajaner Kuthi*) This excerpt illustrates her poor economic condition. Several factors were responsible for *Bindubala's* vulnerable situation such as lack of awareness, resources and assistance. But, perhaps her status as a widowed, vulnerable woman contributed the most towards her situation of legal disempowerment and hence persisting poverty. This example further highlights that minority status as women leads to social exclusion which hinder participation in exercising legal rights.

The above discussion illuminates the criticality of social security and education in the LEP approach. *Operation Barga*, by mitigating livelihood risks contributed in legally empowering the poor. The security of income it brought in its wake, created the opportune conditions whereby the *bargadar* could enjoy their rights and also fight for their assertion. In this fight, education has a major role to play. Furthermore, the discussion in this section also supports the CLEP Report, Vol. 2 (2008) claim that land tenure security should be made the basis for a functioning property system in a legal empowerment reform strategy.

6.4.2 A Step Further: From *Bargadar* to Landowners

De Soto and his proponents, as mentioned above emphasizes on the land market efficiencies that results from formalization of property rights. The empirical evidence bears testament to the fact that *Operation Barga* indeed played a central role in facilitating eventual participation of the poor *bargadar* in the land market, and gradually empowered them to initiate land transactions. An interviewee, *Dinesh Barman*, a forty year old former *bargadar* echoes similar view. He comments:

If we were not recorded, the landowner would have eventually sold the land to some other customer who might have evicted us. Being a recorded bargadar certainly helped. Not only it gave us a status and recognition but at the same time the security of tenure and the consequent improvement in our economic situation finally paved the way for us to negotiate the land deal (Interview, 8 March 2011, *Elajaner Kuthi*).

The above excerpt shows that security of tenure and the financial stability it brought about helped him to eventually gain ownership rights on the land. When he inherited the *barga* rights from his father, he decided to purchase the land and proposed the same to the landowner. After some negotiations with the landowner, it was finally purchased at the prevalent market price.

In *Gajen Barman's* view (a fifty year old interviewed former *bargadar*) landownership was particularly helpful during time of a financial emergency the family faced. When his family needed money for his sister's wedding, the land proved to be a big asset that was partially sold to pay for the wedding expenses. He had bought the land from the landowner which he had cultivated for several years as a *bargadar*. The land settlement initiative was taken by him few years ago. He also acknowledges that *Operation Barga* was certainly instrumental in creating the necessary conditions of empowerment that eventually led him to gain ownership over the land. Interviewees, *Bhadreshwar Barman*, *Deveshwar Barman* and *Bhadreswar Barman* narrated stories of their life experiences that corroborated the claim that the land titling programme has been particularly beneficial, primarily in terms of attaining ownership rights on the land.

Evaluating the journey of the exploited *bargadar* from being land less to eventual landowners, hints at a remarkable step towards empowerment. *Operation Barga* did not only protect the legal rights of the *bargadar* but at the same time advanced their economic interests that accrued through land ownership. Participating in land transactions, negotiating deals with the landowners would have been practically impossible without legal recognition of land rights entitled to *bargadar*. At the same time, this section of the discussion also illustrates that formalization of property rights sanctioned by law, play a constructive part in the process of empowerment. It liberates the poor from the shackles of unsecured livelihood and further advances their interests in uplifting their socio-economic status. This discussion also reiterates that the strengthening of social security that *Operation Barga* brought about was the first step that led to further empowerment of the *bargadar*.

6.4.3 A Step Backward: Disempowerment for the Landowners?

The discussion thus far has focused on the perspective of the *bargadar* who were the main beneficiaries of *Operation Barga*. However, it is imperative to consider the perspective of the landowners as well and how it impacted their lives over three decades, from the viewpoint of empowerment. This might also be insightful in understanding some operational dimensions of the legal empowerment approach. The life stories of the following interviewed landowners might be relevant in exploring the task at hand.

Khitish Chandra Roy is a middle aged landowner of modest means. He has inherited land from his father who was a landowner with considerable land in possession. However, due to division of property among his brothers, he has inherited a meagre amount of land. For several years, since the time of his forefathers, *bargadar* have been tilling the family's land. In the context of *Operation Barga*, *Khitish* opines that most of the recording was done without prior intimation to the owner. In his opinion the *bargadar* should have informed them before recording the land in their names. This observation was quite in contrast to his *bargadar*, *Nenda Barman's* claim that the recording had been done in the presence of the landowner, the *panchayat* representatives and the Land Revenue officers.

A distinct sense of deprivation echoes in *Khitish's* voice. “*The law solely advanced the interests of the bargadar and was based on the premise that the all landowners are exploitative,*” he comments (Interview, 3 March 2011, *Elajaner Kuthi*). Here he feels that the *Operation Barga* and also *Barga* law has been one-sided as it sought to protect the rights of the *bargadar* but completely overlooked the interests of the owners. Recording of *bargadar* has indirectly led to loss of control over their own land as they cannot sell the land to a third party and the only option they have is to sell the land to the *bargadar*. Although, the interviewed *bargadar* claimed that land transactions have occurred according to the land market price rate, *Khitish* is of the opinion that he had to sell the land at a much lower rate because third party buyers are never interested in buying *barga* recorded land. Gradual loss of control over his lands has had a negative impact on his socio-economic status, and over the years he has ended up in the throes of poverty. Even in situations of financial crisis, he cannot sell his land, as he is prevented by law to sell lands designated to *bargadar*. There has also been deterioration in the landowner-*bargadar* relation, reflected in the statement, “*Even if we have vacant land which is lying idle, we do not give it out for cultivation*” (Interview, 8 March 2011, *Elajaner Kuthi*). A sense of fear is illustrated in this statement that he might lose his lands in case it is given to the sharecroppers for the purpose of tilling. Also, a sense of mistrust is evident. *Khitish* has three and a half *bigha*¹⁷ of land under *barga* cultivation now. Initially, at the time when the *bargadar* were not recorded he used to get fifteen to sixteen *maund*¹⁸ of grain. Now he receives just six-seven *maund*. The *bargadar* give various excuses for the declining productivity of the land. *Khitish* and his family accept whatever share of the produce they are offered by the *bargadar*.

From the perspective of legal empowerment, in the case of this landowner, a question can be raised as to whether a simultaneous process of disempowerment has been at work over

¹⁷ Unit of measurement of land. In Bengal, one bigha equals 1.333.33 metre square.

¹⁸ Traditional unit of mass used in British India, which after independence has been standardized to equate exactly 37.3242 kilograms.

the three decades. As law has guaranteed and safe guarded the rights of the *bargadar* on one hand, on the other it has led to a curtailment of rights for the owners on their lands.

Pitambar, is an aged landowner who was once a well-to do landowner with almost twenty *bigha* (26666.6 meter square) of land. Most of the land was cultivated by *bargadar* and their families for generations which they recorded during *Operation Barga*. Eventually *Pitambar* lost most of the land that was under *barga* cultivation as the *bargadar* with the help of the ruling political party and the government laws purchased most of the land much below the market rate. *Pitambar* recalls an incident that happened in 1992, when two *bargadar* taking advantage of the law recorded a large chunk of his land which they had not cultivated for long. The recording was done forcefully. He had appealed to the Block Level Revenue Office about the matter but nothing was done. “*The law was one-sided and necessarily backed the bargadar*” grieves the aged farmer (Interview, 8 March 2011, *Elajaner Kuthi*). He realized that it was futile to pursue the matter further and that law could not protect his rights. Later the *bargadar* purchased the land at a much lower rate than the prevalent market price. *Pitambar* was in dire need of money because of his wife’s prolonged illness and his daughter’s marriage. So, he had to sell the land for whatever money he got. Gradually, his socio-economic status deteriorated, now left with meagre land possessions. The *bargadar*, before becoming owners, never gave proper share of the produce. Neither did they accept receipts. However, when *Gajen Barman* (*bargadar* on *Pitambar*’s land) was asked about the issue, he denied having not given proper share of the produce to the owner. *Pitambar* further opines that the *bargadar* took advantage of the fact that the law favoured them and most often tried to take undue advantage of the law. His bitter experience has given birth to mistrust. He has some amount of land which lies uncultivated but the fear of losing it prevents him from hiring a *bargadar*. This is quite a common sentiment expressed by other interviewed landowners, as also evident in the case discussed above.

The depreciating socio-economic condition of the landowners was also corroborated by the Block Land and Land Revenue Officer, Cooch Behar Block I, Mr. *Mohammad Boduruddoja*. As observed by him, most of the present landowners are marginal farmers

with very little land, as most of lands have now been purchased by former *bargadar*. In many cases they had to sell the land to the *bargadar* at whatever price they offered as no other third party would be interested in purchasing. The landowners cannot take any loans on a land which are cultivated by recorded *bargadar* neither can the land be amenable to conversion. In this context Mr. *Boduruddoja* gave an example. The Government of West Bengal has initiated a new scheme whereby the government buys land and distributes among the landless farmers. Mr. *Boduruddoja* informed that many landowners have approached the government because they want to sell their lands. However, the government cannot buy land cultivated by recorded *bargadar*. In his opinion, the ownership pattern of land has changed over the years. Initially, when *Operation Barga* was conducted, there were several big landowners in the village. However, in the past three and a half decades, land has been fragmented and divided among the successors. Thus, most of the erstwhile landowners are marginal farmers now and often poor.

In view of the experiences of the landowners, it is perhaps pertinent to ask at this juncture whether *Operation Barga* over the years has resulted in a parallel process of disempowerment and social exclusion for the landowners. When *Operation Barga* and the law it enforced guaranteed and protected the rights of the *bargadar*, in the long run, it had negative consequences on the other party involved; the landowners, reduced to marginal farmers now. This probably highlights the importance of one essential feature of legal empowerment approach as delineated by Banik: ‘risk aware’. A credible LEP programme should involve monitoring of “unintentional harm that may occur to certain groups of the poor” (Banik, 2009: 120). Moreover, it is also crucial to define and redefine the category of ‘poor’ in order to accommodate interests of other sections of the society that might be affected in the process of implementation of reforms. The landowners who once belonged to the upper socio-economic rung of the society, have been relegated to the position of marginal farmers, in the throes of poverty over three and a half decades. Thus, it can be concluded with CLEP Report, Vol. 2 (2008) that pro-poor property rights should be supplemented with property rights systems that are conducive for middle and

upper classes with significant assets and political influence, as economic activities remain underdeveloped in the absence of equitable property rights system. Furthermore, it is essential to ensure a continuous process of monitoring that takes into consideration the evolving socio-economic structure of the society. This is essential in view of the fact that operation of law is contingent on social factors that governs its success or failure. Consequently, the law should be modified or reformulated to prevent its infringement on the rights of the other sections of the society. Thus, “what is needed is a serious and continuously monitored land reform process” (CLEP Report, Vol. 2, 2008: 86). In this context, *Operation Barga* as an exercise in legal empowerment is limited by its disempowering impact on the landowners.

6.5 Operation Barga, Access to Justice and Empowerment

As conceptualized by the CLEP Report, Vol. 1, (2008), ‘access to justice’ forms the foundation of the legal empowerment approach that hints at the need of better legal protection for the poor. It claims, “Difficulties in obtaining access to justice reinforce poverty and exclusion” (CLEP Report, Vol. 1, 2008: 33). Against this idea as proposed by the CLEP, it is pertinent to examine the role of *Operation Barga* in extending legal protection to the *bargadar*. Both informal and formal justice systems and their impacts will be discussed.

Informal justice system has been defined as, “dispute resolution mechanisms that operate outside the confines of the formal justice system and are, at the outset, more accessible to the poor, offering quick, cheap and locally-anchored solutions to disputes” (Banik, 2008: 14). This definition shows that the informal justice mechanism operates as a parallel system and supplements the formal judicial system. In the villages of Bengal, this takes the form of *salish* where the disputants are summoned by representatives of local self government and villagers, and an attempt is made to solve the issue.

The experience of *Dhiren Barman* portrays how the informal system of justice operates in the village. *Dhiren* is a middle aged farmer who owned one *bigha* (1333.33 metre square) of land that he had sold away twenty years ago. Later, the owner appointed him

as the *bargadar* on the same land. During the period of *Operation Barga* he was recorded as the *bargadar* but the dispute occurred when the landowner sold the land to a third party without his consent and an attempt was made to evict him from the land. Following this a case was lodged at the Block Land and Land Revenue Office (BL&LRO) by the landowner. In a year's time the verdict was passed that the landowner cannot evict *Dhiren Barman* as he is a lawfully recorded *bargadar*. Despite this decree the landowner forcefully tried to evict him and prevented his entry into the land. At this stage it was decided to involve the local self government to solve the issue. After a series of meeting conducted by the *Gram Panchayat* in the presence of other village members and the disputants, it was decided that *Dhiren* had to surrender a part of the land to the landowner and he would be granted the ownership of the rest of the land. *Dhiren's* case illustrates that sometimes more than formal systems of justice, informal mechanisms work better in protecting the rights of the poor; being cheaper, accessible and customized to meet local needs. "Therefore, [...] reformers should seek out opportunities for strategic interventions that improve the operation of informal or customary justice systems [...] (CLEP Report, Vol. 2, 2008).

The role of the formal system of justice in protecting land rights secured through *Operation Barga* also merits a discussion.¹⁹ *Kupen Barman's* (one of the interviewed *bargadar*) experience with the formal judicial system is an illustrative example. *Kupen Barman* is the biggest *bargadar* in the study village with 30666.59 metre square of land. The land under his cultivation was originally recorded in his father's name and later

¹⁹ Clause 18, Chapter III of West Bengal Land Reforms Act, 1955 (amended) says: **Jurisdiction to decide certain disputes** – (1) Every dispute between a *bargadar* and the person whose land he cultivates in respect of any of the following matters, namely:-

- (a) division or delivery of the produce
- (aa) recovery of produce under section 16A
- (b) termination of cultivation by the *bargadar*

shall be decided by such officer or authority as the State Government may appoint.

passed onto him according to the heritable *barga* rights. *Kupen Barman* has been in a conflictual relation with his landowner for a prolonged period of time during which he has taken recourse to both the formal and informal systems of justice in an attempt to mitigate the issue. Disagreement over the share of the produce triggered off the conflict between the parties. Following the amended *Barga* law, the landowners were entitled to receive twenty percent of the share with the rest seventy percent going to the sharecroppers. However, *Sadhan Das*, the landowner insisted on receiving fifty percent of the share. In this circumstance the issue was taken to the *Gram Panchayat* which instructed the concerned *bargadar* to file a petition at the BL&LRO, seeking a remedy to the problem. Following this, the owner, who still refused to accept his part of the share on the ground that the *bargadar* was not honest in reporting the exact amount produced, was summoned at the office. Thus, the landowner complained of being deceived by the *bargadar* and denied the actual share that he was entitled to. In view of this, the Revenue Officer instructed that the crop should be harvested under the supervision of the *Gram Panchayat* members and the twenty five percent of the landowner's share to be deposited at the BL&LRO.

In view of the difficulty in carrying out this instruction, an attempt was made to settle the dispute by resorting to *salish*. A meeting was arranged by the *Gram Panchayat* at the house of a villager where both the parties were summoned and in the presence of the other villagers and *panchayat* members it was suggested that the division of the produce be done at the time of the harvest, in the field in the presence of the landowner or a representative on his behalf. This suggestion was accepted by the landowner at that time. However, when the crop was being harvested and the landowner was summoned, he did not appear in person nor did he send any representative. At the same time the *Gram Panchayat* denied to accept the share of the landowner as it was difficult to preserve the crop. *Kupen Barman* was again in a dilemma and this time he decided to seek legal help. According to the advice of the lawyer he decided to deposit the monetary share entitled to the landowner at the post office. As *Kupen Barman* says, "*It was very important for me to settle the issue and also get the receipt from the landowner. So I decided to seek help of a*

law practitioner, although it proved to be a financial burden to me” (Interview, 10 March 2011, *Elajaner Kuthi*). This statement shows that inspite of the financial problems, *Kupen Barman* was determined to fight for his rights.

However, when the post office also denied accepting the share of the landowner, an appeal was again made to the BL&LRO, where it was decided in the presence of both the disputants that landowner’s share be deposited at the BL&LRO. The landowner, discontented by the amount of share he received, appealed at the BL&LRO particularly claiming that the *bargadar* was not disclosing the actual produce of the land and hence was cheating him. When the dispute escalated thus far, it indeed proved to be a matter of harassment for *Kupen Barman*. His meagre means did not permit him to seek any professional legal help in the face of which he decided to represent his own case himself. The dispute continued unabated and this time, the landowner lodged a case at the Chief Judicial Magistrate (CJM) Court. *Kupen Barman* nonetheless, did not relent. Even at the CJM court he decided to represent his own case as he did not have the means to hire a professional lawyer. To quote him,

As an officially recorded bargadar it is my right to fight for my case and the injustice of the landowner. If the law has been made to protect the interests of the poor farmers then why should I not take its refuge, why should I surrender to the pressures from the landowner? (Interview, 10 March 2011, *Elajaner Kuthi*)

This statement illustrates the confidence *Kupen Barma* has in the legal system and his conviction that law will protect his rights. His legal identity as a *bargadar*, instilled in him the confidence to fight for his rights and also seek the protection he is entitled to. He explained to the Magistrate that he is financially incapable to hire a lawyer as his whole family subsists on the insufficient income generated from his land. Thus, investing his meagre resources on seeking legal help would jeopardize the livelihood of his family. After series of hearing, finally the court passed a verdict that it was binding on the landowner to accept twenty five percent of the share of the produce and also issue a receipt for the same. Even this court verdict was not obeyed and to this day the conflict continues, with intermittent eviction threats from the landowner.

Kupen Barman's life story and the long drawn legal battle, highlights some very crucial facts about the role of the formal system of justice in the legal empowerment process. On one hand it shows that access to justice can be empowering and on the other, it portrays the typical impediments that the poor have to face in taking recourse to the formal legal system. *Kupen Barman* did not relent to the unfair demands of his landowner and sought the help of law in protecting his rights which can be seen as an instance of empowerment.

However, the prolonged legal battle that he waged corroborates a central observation of the CLEP Report, Vol. 1, (2008: 34) that although the poor people need the legal system, attempting to access it often proves to be costly, time consuming and requires expertise they lack. At the same time, this case and the former draw attention to one crucial conclusion reached by Banik (2009: 129) that actions and recommendations of the courts must be executed more sincerely, with harsher sanctions for non-compliance, if judicial interventions are to have considerable impact. The challenges faced by *Kupen Barman* can be addressed by one of the reform strategies put forth in the CLEP Report, Vol. 2 (200), i.e. widening the scope of legal services. Involving paralegals could have a significant impact on lowering the costs in legal service delivery. Similarly, empowerment mechanisms such as promoting community action to address justice problems, combining legal services with other services, reducing costs through holistic reforms and considering the prospect of insuring litigation costs might be effective mechanisms in dealing with some of the impediments in accessing formal justice.

The access to justice challenges reflected above has some parallels with the Ugandan case, analysed by Rukare (2008). As Rukare's study reveals, Ugandans most often do not have the money to pay to the lawyers to 'open' a file. Similarly, in *Kupen Barman's* case limited financial resources prevented him from seeking professional legal aid.

Another important point highlighted by the above discussed example is the importance of education in the legal empowerment process. Being literate *Kupen Barman* could read about the legal provisions and rights entitled to a *bargadar* and also understand the

essence of various official court verdicts and orders. This knowledge helped him in his legal battle.

6.6 Operation Barga and the LEP Goals

Operation Barga in securing land rights of the *bargadar* played a major role in preventing unlawful eviction. As claimed by *Bimal Barman*, a middle-aged *bargadar*;

When there was a conflict with my landowner, a few years ago, he tried his utmost to evict me from the land. However, as I was a registered bargadar he was unsuccessful in doing so. The law was in my favour and even the courts issued orders against eviction (Interview, 8 March 2011, Elajaner Kuthi).

This statement highlights that legal identity that brought the *bargadar* under the purview of law, most importantly protected the rights of the poor farmer. Even the legal system assisted in safeguarding their rights. In addition to this, as discussed earlier in the chapter, *Operation Barga* facilitated the participation of the discussed *bargadar* in the land transaction market by securing their right to land. Thus, in terms of goals, it can perhaps be claimed that *Operation Barga* produced discernable positive outcomes, as reflected in the opinions of the interviewed *bargadar* at the study village.

Chapter VII

7. Conclusion

7.1 Introduction

To briefly summarize, the study attempts to explore *Operation Barga* as an exercise in legal empowerment of the poor where the perspectives and experiences of the *bargadar* and the landowners are at the centre of analysis. The research question addressed in the study is: *What has been the role of Operation Barga (registration of names of sharecroppers in the record of rights) in legally empowering the poor bargadar in Elajaner Kuthi village? What has been its impact on the landowners in the same village?* Methodologically, the study follows a qualitative approach using the life-history method and pertinent secondary literature. The study essentially tried to capture the subjective dimension of the issue hence the life story narratives of the *bargadar* and the landowners formed the core empirical data that was analyzed using the legal empowerment of the poor framework, as expounded by the CLEP Report, Vol. 1, (2008).

7.2 Summary of Key Findings

The study reflects that in extending legal rights to the rural poor, *Operation Barga* as a land entitlement programme, did play a substantial role in empowering the *bargadar* interviewed for this study, despite shortcomings in certain spheres. *Operation Barga* is had a strong legal mooring. Through registering the names of the *bargadar* in the record of rights, it extended to the beneficiaries the rights and benefits contained in *Barga* law. Most importantly, by bestowing on the *bargadar* a legal identity it brought them under the aegis of law and its protective umbrella.

Evaluated in terms of giving the *bargadar* a ‘voice’, evidences from the study, point towards a lacuna in the process towards empowerment. According to the empirical data, informational inadequacies and even misinformation have prevented the *bargadar* from

fully asserting their legal rights and hence seek legal protection that they are entitled to. *Operation Barga* has not been completely successful in disseminating the necessary information that constitutes an important stepping stone towards the goal of legal empowerment.

The success of *Operation Barga* in the context of formalization of property in this case land is overwhelming, as corroborated by empirical evidence. By securing their land rights, land entitlement significantly improved the livelihood of the interviewed *bargadar*. Furthermore, legally recognized *barga* rights paved the way for the *bargadar* interviewed at the village to eventually participate in land transactions and emerge as landowners themselves. In this sense, *Operation Barga* indeed performed a commendable role in legally empowering the *bargadar* studied at the village, enabling them to enjoy the legal rights they are entitled to.

The empowerment process that occurred due to formalization of land rights, however, has another side to it that relates to the landowners; the other party in the process. The empirical data reflects a parallel process of disempowerment of the landowners, interviewed at the village. Since the implementation of land reforms in the late 1970s, the socio-economic structure of the rural society has undergone substantial change. With the elimination of the feudal landlord class the rural society now consists of subsistence peasants. The interviewed landowners, at the study village narrated a story of progressive decline of their socio-economic status, which in their view is to an extent, caused by one-sided law that protected the interests of the *bargadar*. Thus, a question can be raised whether a situation of legal deprivation is manifested in the case of the landowners. In order to make law work for the poor and avoid harmful consequences for other sections of the society, instituting equitable property system should be made the goal of legal reforms. Equally important is to put in place a system of monitoring and evaluation of the law and its impact on all stakeholders. Perhaps, it was imperative to launch *Operation Barga*, in the late 1970s with the sole intention of safeguarding the interests of the exploited *bargadar*. However, in view of the present social and economic conditions, it maybe essential to revisit *Barga* law enforced by *Operation Barga*.

Operation Barga also had a bearing on another pillar of the legal empowerment approach; access to justice. Legal entitlement to land created the opportunity for the *bargadar* to take recourse to formal and informal systems of justice. In the absence of a legal identity as official *bargadar*, they were beyond the protection of law. Thus, by initiating a process of legal inclusion, *Operation Barga* also brought the *bargadar* under the protective umbrella of law, as indicated in the interview data. However, the formal system of justice as claimed by several commentators and reflected in the study as well, suffers from several impediments that impede the process of justice delivery. Several factors play a role in this: such as the apathy of the bureaucrats, lengthy legal procedures, complicated legal language, lack of access to legal representation for the poor due to financial constraints. The complications associated with the formal justice system, has made the informal system of justice more popular among the poor. In the study village, as claimed by the interviewees, *salishi* has been vital in mitigating several conflicts. However, to make the law work for the poor, the formal system of justice has to be made more conducive and supportive of the cause of the poor. Particularly as Banik (2008) contends, the decisions of the judiciary have to be taken more seriously and binding on the parties involved. Some of the reform strategies suggested by the CLEP Report Vol. 2 (2008) might be helpful in overcoming the access to formal justice challenge.

7.3 Final Reflections

It can be claimed that the study made a fair attempt to achieve the objective it had set out with. Through a detailed discussion of the LEP conceptual framework and analysis of empirical data, it tried to understand the role played by *Operation Barga* in the process of legal empowerment of the *bargadar* and the impact on the landowners. However, in view of limited scope of the study and appropriate data constraint certain crucial themes could not be addressed in the study. The impact of *Operation Barga* on the empowerment of women, strongly stressed in the CLEP (2008) Reports certainly merits a detailed study. What is the reason that the study village did not have women *bargadar*? Is this a common situation in the villages of West Bengal? What are the main factors impeding women from enjoying property rights? How has land reforms benefitted the women? These are

some pertinent questions that need to be addressed in order to better understand the vulnerable position of women in the context of legal empowerment. Such analysis would further enable reflections and dialogues on appropriate reform strategies in addressing the issue.

Again, considering the gradual deterioration in the status of the landlords, some other crucial questions arise: Will the landlords stripped off their socio-economic status rise in revolt? Is a new social unrest long due? With a change in political environment as the *Trinamool Congress* ascends to power, will a new political ideology champion the cause of the erstwhile landlords? How will the newly empowered *bargadar* react to this? In answering these questions, the intersections of social, political and legal realms need to be closely studied, which in turn may have implications for future land reform laws or provoke amending the existing ones. Again, in understanding legal empowerment as a social movement, new dimensions and challenges may be discovered.

Furthermore, although CLEP vehemently claims that it is time for a renewed anti-poverty agenda, it is important to take care of the fact that LEP is not merely reduced to development rhetoric. No doubt the concept has potential, but it needs to be further researched to make its theoretical moorings stronger and its practical applications more feasible. Only then can LEP reforms, such as *Operation Barga* make a dent in poverty.

References:

- Andreassen, B. A. (2010). The Right to Development and Legal Empowerment of the Poor. *The Bangladesh Development Studies*, Vol. XXXIII, March-June 2010, Nos. 1& 2 [online]. Available at: [http://www.bids.org.bd/bds/33-1&2/Barda Andreassen.pdf](http://www.bids.org.bd/bds/33-1&2/Barda_Andreassen.pdf) [Accessed 10 May 2011]
- Atkinson, R. (1998). *The Life Story Interview* (Sage University Paper Series on Qualitative Research Series, Vol, 44). Thousand Oaks, CA: Sage.
- Atkinson, R. (2004). Life Story Interview. In: M. S. Lewis-Beck, A. Bryman and T. F. Liao, eds. (2004). *The Sage Encyclopaedia of Social Science Research Methods*, Vol, 2. Los Angeles, CA: Sage Publications Inc. pp. 566-569.
- Bandyopadhyay, D. (2007), *Land, Labour and Governance*. Calcutta: Worldwide.
- Banerjee, A.V., & Gertler, P. J., and Ghatak, M (2002), 'Empowerment and Efficiency: Tenancy Reforms in West Bengal', *Journal of Political Economy*. 110:2. pp 239-80.
- Banik, D. (2008). Rights, Legal Empowerment and Poverty: An Overview of the Issues. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 1.
- Banik, D. (2009). Legal Empowerment as a Conceptual and Operational Tool in Poverty Eradication. *The Hague Journal on the Rule of Law*, 1:117-131 [online]. Available at: <http://journals.cambridge.org/action/displayFulltext?type=1&pdfType=1&fid=4614200&jid=ROL&volumeId=1&issueId=&aid=4614196> [Accessed 12 December 2010]
- Bardhan, P. and Mookherjee, D. (2005). *Political Economy of Land Reform in West Bengal, 1978-9*. Berkeley CA: Institute of International Studies, University of California, Berkeley. Available at: <http://sanhati.com/wp-content/uploads/2007/04/wbpelref17.pdf> [Accessed 15 May 2011].
- Brandtstädter, S. (2008). Poverty, Legal Activism and Development in Rural China. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 5.

Brøther, M. E. (2008). Legal Empowerment as a New Concept in Development: Translating Good Ideas into Action. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 3.

Burgess, R. G. (1984). *In The Field: An Introduction to Field Research* (Contemporary Social Research Series, 8, Series Editor: Martin Blumer). London & New York: Routledge.

Carothers, T. (2003). *The Rule of Law Abroad: The Problem of Knowledge Promoting*, Working Paper Rule of Law Series. (Washington DC: Democracy and Rule of Law project, Carnegie Endowment for International Peace).

Chakraborty, H. K. (1981). The Land Reforms of West Bengal and the Bargadar. In: M. Bose, ed. (1981). *Land Reforms in Eastern India*. Kolkata: Planning Forum, Jadavpur University. Pp. 96-107.

Chattopadhyay, S. (1979). Operation Barga. *Social Scientist* [e-journal] Vol. 8, No 3, pp 41-48. Available through: JSTOR [Accessed 2nd February 2011]

Chiweza, A. L. (2008). The Challenges of Promoting Legal Empowerment in Developing Countries: Women's Land Ownership and Inheritance Rights in Malawi. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 10.

CLEP (2008). *Making the Law Work for Everyone*, Volume I (New York: Commission on Legal Empowerment of the Poor). Available at: http://www.undp.org/legalempowerment/docs/ReportVolumeI/making_the_law_work_I.pdf [Accessed 11 December 2010]

CLEP (2008). *Making the Law Work for Everyone*, Volume II (New York: Commission on Legal Empowerment of the Poor). Available at: http://www.undp.org/legalempowerment/docs/ReportVolumeII/making_the_law_work_II.pdf [Accessed 11 December 2010]

Cohen, M. J. & Brown, M. A., (2008). Legal Empowerment and the Right to Food. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 7.

De, P. K. (1994). *The Politics of Land Reforms: The Changing Scene in Rural Bengal*. Calcutta: Minerva Associates.

de Soto, F. (2008). Are Africans Culturally Unsited to Property Rights and the Rule of Law? Some Reflections Based on the Tanzanian Case. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 8.

District Census Handbook: Cooch Behar Village Directory, Cooch Behar Block I, Village: *Elajaner Kuthi* Census of India (2001), Village Directory.

Flick, U. (2006). *An Introduction to Qualitative Research*. London: SAGE Publications.

Ghosh, R. & Nagaraj, K. (1978). Land Reforms in West Bengal. *Social Scientist*, [e-journal] Vol. 6, No 6/7. Available through: JSTOR [Accessed 15 March 2010]

Golub, S. (2009). The Commission on Legal Empowerment of the Poor: One Big Step Forward and A Few Steps Back for Development Policy and Practice. *The Hague Journal on the Rule of Law*, 1:101-116 [online]. Available at: <http://journals.cambridge.org/action/displayFulltext?type=1&pdfType=1&fid=4614192&jid=ROL&volumeId=1&issueId=&aid=4614188> [Accessed 18 February 2011].

Hanstad, T. & Brown, J. (2001). Land Reform Law and Implementation in West Bengal: Lessons and Recommendations. *RDI Reports on Foreign Aid and Development # 112*. Available at: http://www.rdiland.org/images/publications/RDI_112.pdf [Accessed 11 December 2010].

HDR (2010). *The Real Wealth of Nations: Pathways to Human Development*, Chapter 5 (New York: The United Nations Development Programme). Available at: http://hdr.undp.org/en/media/HDR_2010_EN_Complete_reprint.pdf [Accessed 10 May 2011].

Jary, D. & Jary, J. (1995). *Collins Dictionary of Sociology*, Second Edition. Glasgow: Harper Collins Publishers.

Lieten, G. K. (1996). Land Reform at Centre Stage: The Evidence on West Bengal. *Development and Change*. Vol. 27. Institute of Social Studies 1996. Blackwell Publishers. Available at: <http://www3.interscience.wiley.com/journal/121474675/abstract> [Accessed 15 March 2010].

- Mallick, R. (1992). 'Agrarian Reform in West Bengal: The End of an Illusion'. *World Development*, 20:5, 735-50.
- McNeish, J. (2008). Constitutionalism in an Insurgent State: Rethinking Legal Empowerment of the Poor in a Divided Bolivia. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 4.
- Nielsen, K. (2008). 'Not on Our Land!' Peasants' Struggle against Forced Land Acquisition in India's West Bengal. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 11.
- Plummer, K. (2004). Life History Method. In: M. S. Lewis-Beck, A. Bryman and T. F. Liao, eds. (2004). *The Sage Encyclopedia of Social Science Research Methods*, Vol, 2. Los Angeles, CA: Sage Publications Inc.
- Rukare, D. (2008). The Access to Justice Challenge in Uganda. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 6.
- Schwandt, T. A. ed. (2007). *The Sage Dictionary of Qualitative Inquiry*. 3rd ed. Los Angeles, CA: Sage Publications Inc.
- Sengupta, A. (2008). The Political Economy of Legal Empowerment of the Poor. In: D. Banik, ed. (2008). *Rights and Legal Empowerment in Eradicating Poverty*. Surrey: Ashgate Publishing Limited. Ch. 2.
- Sengupta, S. and Gazdar, H. (1996). 'Agrarian Politics and Rural Development in West Bengal', in J. Dreze and A. Sen (eds), *Indian Development: Selected Regional Perspectives*. New Delhi: Oxford University Press.
- Sen, A. (1999). *Development as Freedom*. Oxford: Oxford University Press.
- Sethi, M. (2006). Land Reforms in India: Issues and Challenges. In: P. Rosset, R. Patel and M. Couville, eds. (2006). *Promised Land: Competing Visions of Agrarian Reforms*. Oakland, California: Food First Books. Ch. 4. Available at: <http://www.pdf4all.info/land-reform-in-india-issues-and-challenges-manpreet-sethi.html> [Accessed 5 May 2011].

Trochim, W. (2006). *The Research Methods Knowledge Base*, 2nd Edition. [Online] Available at: <http://www.socialresearchmethods.net/kb/index.php> [Accessed: 15 May 2011].

USAID (2007). *Legal Empowerment of the Poor: From Concepts to Assessment* (Washington DC: United States Agency for International Development. Available at: http://pdf.usaid.gov/pdf_docs/PNADM500.pdf [Accessed 18 February 2011].

West Bengal Land Reforms Act, 1955 (amended). (Chapter III). Kolkata: Government of West Bengal.

WBHDR (2004) *West Bengal Human Development Report*. Calcutta: Development & Planning Department, Government of West Bengal. Available at: http://www.undp.org.in/west_bengal [Accessed 13 March 2010].

Appendices

Appendix 1: Field work Plan

Day	Activity	Purpose
Feb 20 th – March 2 nd	Communicating with key contact persons, probable gatekeepers. Visiting Directorate of Land Records and Survey, Kolkata.	To identify the field (select the district) for the purpose of field work. Collection of secondary data from the Land Revenue Department Library
March 3 rd - March 14 th	Field work at the selected village. Contacting the gatekeepers. Preliminary visit to the selected village. Collecting relevant data from Block Land Revenue Office (list of the names of former and present <i>bargadar</i> and landowners) Conducting interviewees with the selected interviewees.	To collect empirical data for the study.
March 16 th – March 30 th	Visiting various relevant libraries. (State Central Library and Communist Party (India) Marxist Library)	To collect Secondary data, land revenue law book and other relevant literature on land reforms in West Bengal.

Appendix 2: Open-ended Questions used in interviewing *bargadar*

What is your name and how old are you? Are you a present or former *bargadar*? How much land do/did you cultivate as a *bargadar*?

Are you able to read and write? If yes, what is the level of your education?

How long have you been a *bargadar*? Have you witnessed *Operation Barga*? If yes, kindly narrate your experiences of the same.

How have your socio-economic conditions improved on being a recorded *bargadar*? Kindly narrate the changes that have occurred over these three decades.

How aware are you of the legal rights bestowed on a recorded *bargadar*?

How has been your relation with your landlord? Did you ever have any dispute with your landlord? If yes, kindly narrate the experience of the same and how was the dispute mitigated?

Appendix 3: Open-ended Questions used in interviewing landowners

What is your name and how old are you?

How much land do/did you own and how much of it is cultivated by *bargadar*?

How has been your relation with your *bargadar*? Has there been any conflict?

If you ever had a dispute with your *bargadar*, what were the main issues? And how were they solved?

What is your view on *Operation Barga*? What has been your experience with the same?

How do you think the implementation of *Operation Barga* and the *Barga* law has impacted your life and socio-economic conditions?

Appendix 4: Open-ended Questions used in interviewing Block Land Revenue Officer

What is your name and how long have you been posted in Cooch Behar Block I?

What is the current socio-economic situation of the *bargadar* and the landowners in the block?

What according to you is the level of awareness among the *bargadar* regarding the Barga law?

What according to you has been the effectiveness of the formal judicial system in handing disputes between the *bargadar* and landowners?