

6 History of Public Food Interventions in Bangladesh

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Since the 1940s, the Ministry of Food and its predecessor agencies have been the single largest purchaser, importer, stockholder, and distributor of foodgrains in Bangladesh. During World War II the government in British India laid the foundation for large-scale public marketing by arrogating large powers for itself: monopolies on foodgrain imports and tight control of procurement, movement, stockholding, and distribution. At the same time it adopted legislation severely restricting foodgrain movement and stockholding by private traders. This chapter outlines the evolving administrative structure, scope, and objectives of this direct buying and selling by public agents.

Origin and Evolution of the Food Administration

Wartime Emergency, 1939–1947

In March 1942 Japanese forces occupied Rangoon, unleashing a stream of refugees across the border to British India. At a single stroke Bengal Province found itself on the front lines of World War II (Slim 1956). The rapidly advancing hostile forces put foodgrain markets in Bengal into double jeopardy. Not only did the forces threaten communications, transportation, and physical security, but they also cut off rice supplies from Burma, a major traditional exporter to Bengal. Then in October a great cyclone struck the West Bengal coast near Midnapore, laying waste to a strip of land seven miles wide and triggering widespread flooding and extensive damage to the aman crop, then in flower. In December Japanese air raids struck Calcutta, spreading terror and halting the city's rice trade (Knight 1954). In the general panic rural prices doubled between mid-November and early December. They quadrupled by May 1943, creating massive failure of purchasing power and culminating in the Great Bengal Famine of 1943, in which 1.5 million rural Bengalis perished (Knight 1954; Sen 1981).

Spurred by the unfolding tragedy in Bengal, British India redoubled its efforts to control wartime foodgrain distribution. It established a central Food

Department in 1942 and issued a foodgrains control order in May, instructing provinces to prohibit the export of foodgrains except under permit. Provincial authorities in Bengal cordoned off the historically surplus Rajshahi Division in November and December to facilitate government procurement for rice-poor Calcutta. They likewise requisitioned available foodgrain stocks in Calcutta and began a controlled distribution to all of its residents, large employers, and the army. The newly constituted Bengal Civil Supplies Department (Table 6.1) issued formal rationing orders in October 1943 and began large-scale urban ration distribution, known as statutory rationing (SR), in January 1944.

By July 1943 district officers in rural areas received authority to set up gruel kitchens for emergency feeding. But provincial authorities routed all incoming food supplies through Calcutta rather than dispatching them directly to the most affected outlying areas. In fact, they distributed little food to rural areas until the viceroy's visit to Bengal in October, when he ordered that the army immediately begin assisting with emergency food distribution (Knight 1954). By November military and civilian authorities had established 6,600 gruel kitchens throughout Bengal, but the supplies came too late to prevent widespread starvation.

Under these extraordinary circumstances food officials in Bengal focused on two principal objectives (Table 6.2). First, they denied rice to the advancing Japanese troops by purchasing and removing stocks from border districts and by removing boats from coastal areas. Not surprisingly, this move seriously impeded internal foodgrain movements within the province. Second, authorities ensured food supplies to those prosecuting the war: the army, large factories, and all of urban Calcutta, the center of war industries and government administration. By the time price controls were introduced in June 1942, rice had disappeared from the market. The government responded by prohibiting exports but was ultimately forced in May 1943 to remove all price controls in favor of controlling supply to key constituencies.

Favorable harvests in 1944 and 1945 did little to exorcise the trauma of wartime famine and the distressing memory of a government too feeble to stem the panicky withdrawal of private stocks from the market. Bengal emerged from its wartime experience badly scarred, with a visceral fear of private speculators and a firm conviction that strong government control would remain necessary to prevent such calamities in the future. After the hostilities ended, the government extended emergency legislation that enabled continuation of strict government food controls (see Chapter 7). These controls, as well as the new public food administration, continued in force until independence from British rule in August 1947.

Postwar Controls, 1947–1955

After partition from India, East Pakistan inherited a system of tight urban food controls and an abiding fear of the private market. Consequently, Pakistani and

TABLE 6.1 Administrative history of Bangladesh's government food operations

Time Period	Food Administration	Number of Staff	
		Secretariat	Operational
Bengal Province, India, 1788–1947			
1942–47	Food Department, Government of India	na	na
	Secretariat	na	na
	Directorate General of Food	na	na
	Regional food controllers	na	na
1943–47	Provincial government, Bengal	na	na
	Civil Supplies Department	na	494
East Pakistan, 1947–70			
1947–55	Provincial government, East Pakistan		
	Civil Supplies Department	20	500
	Provincial secretariat		
	Regional directors and inspectors		
1955–56	None: Civil Supplies Department abolished, staff released, stocks sold, rationing system abolished	0	0
1956–70	Provincial government, East Pakistan		
	Food and Agriculture (Food) Department	64	na
	Secretariat		
	Directorate General of Food	124	na
Bangladesh, 1971–present			
1971–74	Food and Civil Supplies Ministry		
1975–present	Ministry of Food	167	10,595
	Secretariat	186	12,685
	Directorate General of Food	142	11,598
1983	Enam Commission reorganization	171	11,680
1993	Directorate General of Food reorganization	171	8,500

SOURCES: Ahmed and Chowdhury (1994), Knight (1954).

NOTE: na indicates not available.

TABLE 6.2 Evolving objectives of the Bangladesh food administration

Objectives and Instruments	Wartime Emergency, 1942–47	Postwar Controls, 1947–55	Aborted Abolition, 1955–56	Ration System Buildup, 1956–76	Reorienting Large-Scale PFDS, 1976–92	Downsizing and Adjusting, 1993–present
Rice denial	Anti-Japanese Boat denial Cordoning Export prohibition Movement controls	Prevent smuggling to India Compulsory border-belt procurement Cordoning Export prohibition Movement controls				
Ensure urban and priority-group food supply	Public import Compulsory procurement Urban cordoning Ration distribution			Food aid Public import Ration distribution	Food aid Public import Voluntary procurement Reduced rations	
Disaster preparedness	Public controls			Small public stocks Relief ministry established	Large public stocks	Moderate public stocks Private import permitted
Production self-sufficiency					Large-scale voluntary procurement	
Expand distribution to the poor					FFW, VGD, RR, AC	FFE
Price stabilization					OMS Large public stocks	Moderate public stocks Private imports

SOURCES: Knight (1954), Ahmed and Chowdhury (1994), Atwood et al. (1994), Haggblade (1994).

NOTES: AC = *atta chakkis*; FFE = Food-for-Education; FFW = Food-for-Work; OMS = open market sales; PFDS = public food distribution system; RR = rural rationing; VGD = Vulnerable Group Development.

East Pakistani authorities extended all of wartime India's enabling legislation and control orders (Chapter 7) and maintained the administrative machinery of the Civil Supplies Department (CSD) virtually intact.

Denying rice exports remained a pillar of government food policy, and the fear of smuggling to India replaced fear of the Japanese (Table 6.2). To staunch traditional export flows from the former East Bengal, the newly constituted East Pakistani authorities cordoned off surplus districts such as Rajshahi Division that were contiguous with India and had long-standing trade links to Calcutta and West Bengal. To enforce its rice export ban, the government instituted cordons, movement controls, and compulsory border belt procurement.

As a key part of its food policy, the government continued to guarantee a supply of food to important consumers in urban areas (Table 6.2). To supply them, the CSD distributed primarily imported rice and wheat. Supplies of locally procured rice remained highly variable, and even in years of relatively high procurement they accounted for far less than one-third of total offtake. Forced sale at low prices led to largely ineffective procurement drives; only in years of tension along the border did procurement exceed 30,000 metric tons (Berlage 1972).¹

Government management of food stocks continued to grow, and urban-based SR remained the centerpiece of the public food distribution system. By statute SR's enabling legislation required a complete enumeration of the designated urban populations and mandated that the government supply allow ration quotas to every enumerated inhabitant. The CSD fulfilled this obligation through controlled ration dealers and the issuance of ration cards. In 1949 SR was extended from the 3 major towns of Dhaka, Narayanganj, and Chittagong to 11 smaller towns. In 1960 it receded back to the three big cities. In addition, the CSD continued to supply food rations to the army and police through what later became formalized as the essential priorities (EP) channel. Large employers also continued to receive government food rations intermittently during the 1940s and early 1950s but on a full-time basis from the late 1950s onward (Table 6.3).

In an attempt to direct some public food distribution to rural areas and the poor, East Pakistan introduced modified rationing (MR) in 1949. Through a need-based priority classification, embodied in the distribution priority (DP) list, MR aimed to distribute rations to the poorest elements of the rural population. But such rations were not guaranteed by statute, and allocations proved highly variable from year to year. In effect, MR served as the rationing system's safety valve, balancing inflows and offtake from one year to the next. As a result, coverage remained partial and variable throughout the 1950s and 1960s.

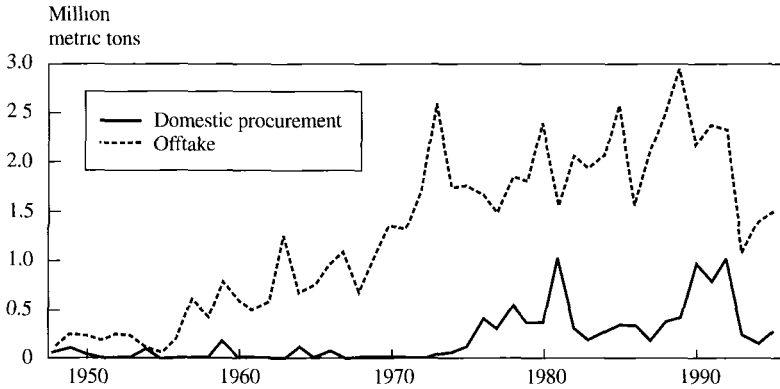
1. All further references to tons indicate metric tons.

TABLE 6.3 Overview of public food distribution channels

Duration	Intended Beneficiaries	Commodities Distributed	Peak	Size at Peak	
				Recipients (hundred thousand persons)	Offtake (thousand metric tons)
Ration channel sales					
Statutory rationing (SR), 1944–92	All residents of large urban cities	Rice, wheat, salt, sugar, oil	1975–79	3,200	420
Modified rationing, 1949–89	Low-income residents of rural areas and towns not covered by SR	Rice, wheat, salt, sugar, oil	1970–74	6,500	930
Large employers, 1958–present	Employees of firms with more than 50 workers	Rice, wheat	1975–79	2,400	90
Essential priorities, 1947–present	Armed forces, police	Rice, wheat, salt, sugar, oil	1995	1,400	180
Other priorities, 1958–present	Government employees in non-SR areas	Rice, wheat	1980–84	5,100	390
Flour mills, 1975–present	Flour mills	Wheat	1990–93	0.7	200
<i>Atta chakkis</i> , 1988–present	Small huller mills	Wheat	1990–92	10	100
Rural rationing, 1989–92	Low-income residents of rural areas and towns not covered by SR	Rice, salt	1990–92	6,600	350
Open market sales					
Open market sales, 1978–present	Untargeted price stabilization	Rice, wheat	1994–95	na	260
Free sale/auction	Stock disposal	Rice, wheat	1986	na	70
In-kind distribution					
Food-for-Work, 1974–present	Seasonal work for poor rural dwellers	Wheat	1985–89	2,300	530
Vulnerable Group Development, 1975–present	Poor mothers and children	Wheat	1985–89	750	280
Food-for-Education, 1993–present	Poor households for primary school enrollment of their children	Wheat	1995	400	150
Test relief, 1950–present	Temporary relief for needy households; food in exchange for work	Rice, wheat	1970–74	na	90
Gratuitous relief, 1950–present	Temporary relief for needy households	Rice, wheat	1970–74	na	90

SOURCES: Ahmed and Chowdhury (1994), Ahmed and Billah (1994), Chowdhury (1989), Berlage (1972), Knight (1954), WGTFI (1994).

NOTE: na indicates not available.

FIGURE 6.1 Public foodgrain procurement and distribution

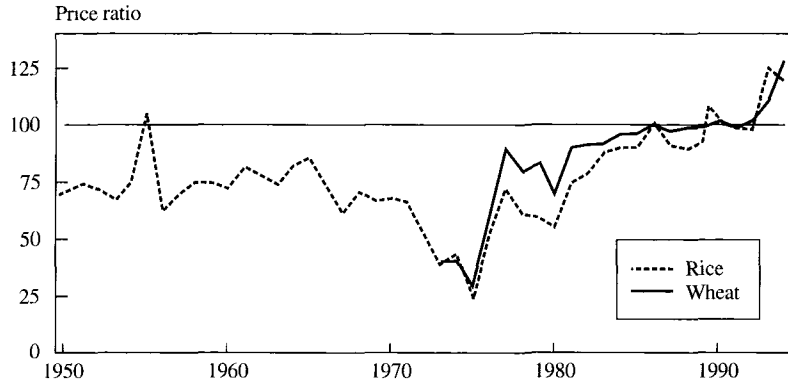
SOURCES: Ahmed and Chowdhury (1994), Berlage (1972), FPMU (1995), Hamid (1991).

Overall, public food distribution remained focused on tight government control in Dhaka, Narayanganj, and Chittagong, which the CSD carried out by cordoning and tightly monitoring private traders. In these early years urban controls extended well beyond foodgrains to include pulses, oil, salt, and sugar as well as many basic nonfood items. Yet outside these urban centers, the CSD's direct involvement in food markets remained marginal. Despite the strong language of written food regulations, the department's actual purchases and distribution of food remained limited in rural areas. Given its heavy concentration on only three urban centers, the rationing system remained small overall, averaging an offtake of slightly under 200,000 tons per year during the postwar period (Figure 6.1).

Aborted Abolition, 1955–1956

During the 1950s ongoing ration subsidies averaged about 25 percent of market price (Figure 6.2), and the provincial administration was generally perceived to be top-heavy. After the bumper rice harvest of 1953/54, the government of East Pakistan set up the Civil Supplies Reorganization Committee in August 1954 to review options for reducing food subsidies and the CSD budget. At the same time, as so often happens in Bangladesh, political expediency intersected with changing conditions in food markets. Following the Bengali language movement of 1952 and an opposition party victory in the 1954 provincial elections, the government decided to abolish the CSD in the province, effective March 31, 1955. It discontinued the rationing system in August 1955, sold off all public food stocks, and fired all employees.

Immediately thereafter, however, the aman harvest of 1955/56 proved to be one of the worst of the decade. As rice prices began rising rapidly in the

FIGURE 6.2 Ration prices as share of market prices for rice and wheat

SOURCES: Ahmed (1979), Berlage (1972), Khalil (1991), WFP (1995).

early months of 1956 (Berlage 1972), the resentment of Bengali nationalists combined with the ferocious lobbying of disenfranchised departmental employees to create a general furor that quickly led the government to reverse its decision. East Pakistan reinstated rationing in January 31, 1956, reconstituted the Civil Supplies Department, and rehired all former employees by April 1.

Ration System Buildup, 1956–1976

Restoration of the ration system in 1956 launched two decades of steady expansion of the public food system. Public foodgrain distribution soared from about 300,000 tons per year during the 1950s to more than 1.7 million tons annually during the 1970s (Figure 6.1). Wheat, mostly imported as food aid, fueled this steady rise in public distribution. U.S. food-aid shipments of wheat to Pakistan propelled growth, which began in 1953 and rose steadily thereafter, particularly during the early 1960s. As other donors joined in the early 1970s, food-aid shipments grew to account for about 75 percent of total public foodgrain supplies, dwarfing domestic procurement (at about 10 percent) and government commercial imports (the remaining 15 percent) (Table 6.4). Given large volumes and highly concessional terms—subsidies of 30 to 50 percent compared to commercial cash imports (Ahmed 1979)—food aid in its early years became a profitable source of revenue for both the Pakistan and the East Pakistan governments.

Even with expanding ration quotas (Figure 6.3), food-aid availability rapidly outpaced the needs of SR's urban constituents. As a result, the growing inflows of food aid permitted rapid expansion of the number of official public distribution channels. Government employees and primary school teachers

TABLE 6.4 Trends in direct public purchase and distribution of foodgrains

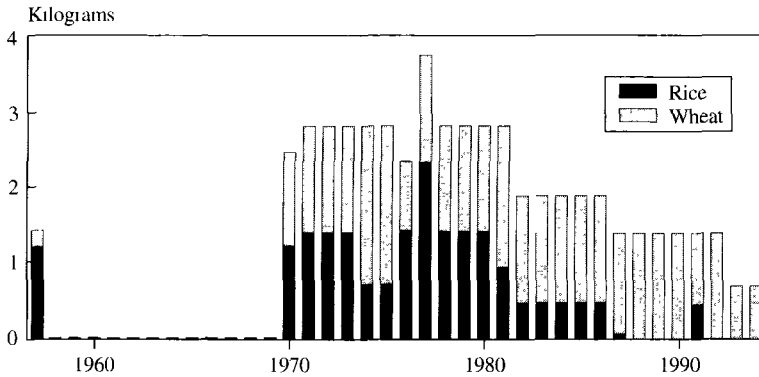
Trend	1950s	1960s	1970s	1980s	1990-92	1993-98
Public foodgrain distribution (thousand tons per year)						
Wheat	53	450	1,262	1,628	1,492	958
Rice	262	354	467	541	802	501
Total	315	804	1,729	2,169	2,294	1,460
Public distribution as a percent of total availability						
Wheat	51	90	87	64	64	40
Rice	4	4	4	4	5	3
Total (weighted)	4	8	14	14	13	8
Distribution outlets (percent of total offtake)						
Ration channels	na	92	87	59	57	20
Open market sales	na	1	1	8	6	12
In-kind distribution	na	7	12	33	37	68
Total	na	100	100	100	100	100
Sources of public foodgrains (percent)						
Domestic procurement	17	5	11	17	37	28
Government commercial imports	na	na	15	27	10	19
Food aid	83	95	74	56	53	54
Total	100	100	100	100	100	100
Domestic procurement (thousand tons per year)						
Wheat	0	0	7	99	58	73
Rice	51	33	183	281	862	311
Percent voluntary	na	42	88	100	100	100
Total	51	33	190	381	920	384
Procurement as a percent of domestic production						
Wheat	0	0	2	9	6	5
Rice	1	0	1	2	5	2

SOURCES: Ahmed and Chowdhury (1994), Berlage (1972), FPMU (1998), Hamid (1991).

NOTE: na indicates not available.

living outside the SR areas were added to the MR rolls in 1957, while offtake to large employers became a permanent feature of the ration system in 1958. Flour mills began receiving regular allotments from the CSD in 1971/72, and large employers (LE) and flour mills (FM) became separate offtake channels.

After independence in 1971, following a nine-month war of liberation, food aid inflows began to greatly expand after a short period, just as the new, democratic, pro-socialist government was inclined to enlarge the scope of the ration system. Thus, SR grew with the addition of two new cities, Khulna in 1972 and Rajshahi in 1975. MR likewise expanded significantly with the addition of parastatal employees, a population significantly swollen in the early independence years (Chowdhury 1989). Teachers and staff of secondary

FIGURE 6.3 Weekly statutory ration quotas for adults

SOURCES: Ahmed (1979), Berlage (1972), Ahmed and Chowdhury (1994).

schools, colleges, and religious schools; retired primary school teachers; and residents of orphanages were added as well, leading to the creation of an additional channel known as other priorities (OP). The FM channel also saw offtake formally institutionalized during this period. By the mid-1970s the rapidly proliferating ration system was approaching its zenith (Table 6.4).

Reorienting Large-Scale Public Involvement, 1976–1992

Beginning in 1976, a second influx of food resources—15 years of large-scale domestic rice procurement—fueled an even larger build-up of public distribution. The cumulative effect of this flow, combined with continued high levels of food aid, produced an all-time high public offtake of 2.2 million tons during the 1980s and early 1990s (Table 6.4).

At the same time, to support growing calls for food self-sufficiency, the Ministry of Food stopped compulsory rice procurement in 1975 and began a 15-year campaign of voluntary procurement in an effort to stimulate local production by offering market prices at harvest season. For the first time, in the early 1990s, domestic procurement accounted for more than one-third of public food resources (Table 6.4).

Simultaneously, the stiff price inflation accompanying independence led to a ballooning of ration costs and placed a heavy drain on the public budget (Table 6.5). Coupled with the growing discomfort of food aid donors over the urban middle-class bias in the ration system, this led to a series of measures to reduce the heavy ration subsidy cost (see Chapter 9). Slowly but steadily, over the next 15 years, the government reduced ration quotas (Figure 6.3) as well as the price subsidy. By 1992 they had wrung the last price subsidy from the ration system (Figure 6.2).

TABLE 6.5 Food subsidies in the government budget

Fiscal Year	Net Food Account Subsidy ^a		
	(million taka)	(million dollars)	(percent of public development expenditure)
1973	783	101	20
1974	763	94	32
1975	916	76	17
1976	1,006	66	12
1977	na	na	na
1978	1,819	121	13
1979	1,839	118	17
1980	2,240	145	14
1981	3,810	212	24
1982	-520	-24	-3
1983	990	40	5
1984	580	23	3
1985	230	8	1
1986	1,970	65	10
1987	1,480	48	7
1988	2,540	80	13
1989	6,020	187	31
1990	11,430	328	62
1991	4,249	119	20
1996	11,803	262	10
1997	11,466	249	9

SOURCES: 1972/73 to 1975/76 from Ahmed (1979), 1977/78 to 1978/79 from Montgomery (1985), 1979/80 to 1990/91 from World Bank (1992).

NOTES: 1980–91 figures refer to revised budget totals. na indicates not available. Data from 1992–95 are not available.

^aCash costs of domestic procurement, government commercial imports, and government contribution to food aid imports (mainly freight) minus cash revenues from domestic food sales.

During the 1970s, food-aid donors pushed for a major reorientation of policy, reducing their contributions to the ration channels and introducing a new generation of poverty-oriented, in-kind distribution programs. In 1975 they began by introducing Food-for-Work (FFW) and Vulnerable Group Feeding (later Vulnerable Group Development, or VGD). In a parallel effort to reorient food subsidies to the rural poor, the Bangladesh government abolished the increasingly leaky MR system in 1989 and replaced it with a new channel called *pally* (rural) rationing.² They also likewise split off a new *atta chakkis* channel (for small processors of wheat) from the former MR system in an

2. A series of studies during the 1980s documented heavy pilferage from the MR system (in particular, Beacon Associates 1986, Eureka Ltd. 1986, and Chowdhury 1988b).

attempt to channel wheat price relief to rural areas where poor consumers would benefit (see Chowdhury 1989).

A final shift during the late 1970s and 1980s involved the introduction of price stabilization as an explicit policy objective in contrast with the largely quantitative targets that dominated earlier thinking. The Ministry of Food introduced an open market sales (OMS) channel in 1978 in an effort to stabilize the seasonal and interannual price fluctuations that had characterized the volatile 1970s (see Chapter 10).

Downsizing and Adjusting, 1993 to the Present

Both motors of the build-up—food aid and domestic procurement—stalled simultaneously beginning in 1993. As a result, total public foodgrain offtake fell precipitously by about 1 million tons per year—half of this due to a sudden falloff in food-aid inflows, the other half to an abrupt halt in large-scale domestic rice procurement (Figure 6.1). These changes in the public distribution system are discussed more fully in Chapter 9. Meanwhile, to link the past with the present, this chapter summarizes the major directions of change.

Adjusting to a world of shrinking resources, the Ministry of Food has begun to target its smaller resources more tightly toward the poor. Since 1993, the ministry has brought virtually all ration channel distribution to a standstill; only EP remains unscathed. Instead, it has focused on in-kind distribution to the poor through FFW and VGD allocations. The Government of Bangladesh has launched a new Food-for-Education (FFE) program in an effort to link food subsidies to the poor with expanded primary school enrollment of their children.

Meanwhile, the government's role in price stabilization, a key objective since the mid-1970s, has become less clear. Through the early 1990s diminished seasonal price swings due to the advent of the large boro rice crop began to allay concerns about wide seasonal swings. The liberalization of private foodgrain imports (in July 1992 for wheat and July 1993 for rice) has afforded an additional buffer against year-to-year swings in availability and prices. The price slump of 1992 followed by the big spikes of 1995, however, has forced politicians, consumers, and policymakers to reevaluate the government's public role in foodgrain price stabilization.

Disaster preparedness, a long-standing tenet of Bangladesh food policy, remains a concern. Clearly, the advent of large-scale private imports has reduced pressure on public stock requirements. In response to the 1994/95 aman and boro harvest shortfalls, private importers brought in 990,000 tons of foodgrains compared with 310,000 the year before (FPMU 1995). The production downturn of 1997/98 elicited a similar surge in private inflows as traders imported 930,000 tons of rice and a further 120,000 tons of wheat to cushion the reduction in aman production. Even so, 50 years after the Great Bengal Famine and 20 years after the famine of 1974/75, policymakers still suspect

that some level of public foodgrain stocks (or options on forward foodgrain import deliveries) remains necessary. The level of such stocks remains a question for Chapter 10.

Evolving Instruments and Objectives

Distribution

Public food distribution has long been a key instrument of public food policy (Table 6.2). Through public distribution and tight marketing controls, the Ministry of Food and its predecessor agencies have ensured food supplies (primarily of foodgrains) to urban areas. Through public distribution, the government has delivered subsidies to key constituencies—the politically influential urban middle class and more recently the rural poor. Through open market sales of public grains, the ministry has attempted to influence prices at peak seasons.

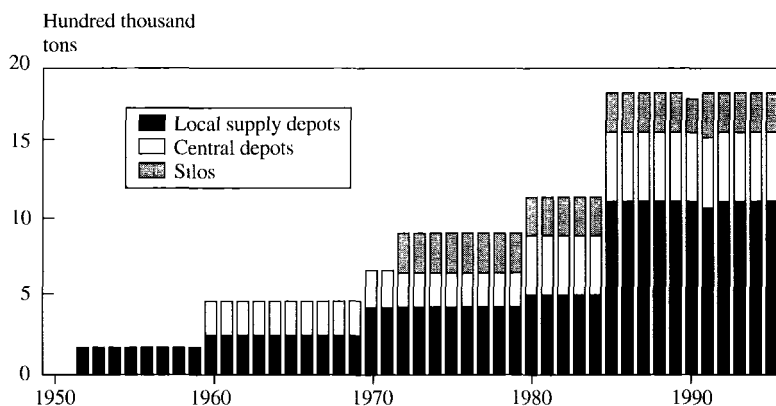
Stockholding

During the 1940s and 1950s the government relied primarily on closely monitoring privately owned food stocks rather than on direct public ownership. But in the 1960s the public holding of foodstocks emerged as an important instrument of public food policy. Initially, public stocks aimed to provide physical insurance for disaster relief. For this purpose, procurement manuals in the 1960s suggested an emergency reserve of 600,000 tons of foodgrains. Then after following the emergencies of the early independence years, the newly constituted Government of Bangladesh made increased public warehousing and stock acquisition a high priority (Figure 6.4). In recent years, as price stabilization has become a more prominent objective of food policy, public food stocks have been used as a thinly veiled threat to private traders not to send prices too high.

Procurement

Food imports have long dominated as supply source for the public food distribution system (PFDS). Local procurement, almost exclusively of rice, has varied over time in scale and form in response to evolving policy objectives. For over three decades, from the mid-1940s to the mid-1970s, compulsory procurement, in conjunction with cordoning and movement controls, became an instrument in the battle to stanch smuggling. Given low procurement prices, these public drives amounted to little more than attempted confiscation. They met with widespread evasion and procured feeble quantities.

But from the mid-1970s through the early 1990s, procurement became an instrument of price support for farmers, the Ministry of Food's contribution to promoting food production and self-sufficiency. During the first big voluntary

FIGURE 6.4 Government foodgrain storage capacity

SOURCE: Ahmed and Chowdhury (1994).

procurement drive in the late 1970s, the Directorate General of Food (DGF) procured both directly through temporary purchase centers and indirectly through authorized grain dealers (AGDs). The AGDs were expected to buy at fixed procurement prices and deliver to government warehouses charging only a fixed commission markup. In reality, the AGDs belied the trust reposed in them and bought grain at market prices rather than at the higher procurement price, thus earning extra profits for themselves. In the second procurement surge, from the mid-1980s to the early 1990s, the DGF relied on millgate contractors to procure paddy and mill it into rice. In theory, like the AGDs, millers were to pay the government's preannounced procurement price to farmers and charge DGF only a fixed milling commission. Widespread suspicion that this resulted in price support for millers and food officials rather than for farmers (Chowdhury 1992; Rahman 1992c), coupled with the high cost of rice relative to wheat, led to suspension of large-scale rice procurement at millgate in 1992/93. Since then, the DGF has procured much smaller volumes through competitive tender (Rahman 1992a, 1992b, 1992c, 1993; IFPRI 1992). In 1996/97, however, the government began procurement at a price fixed close to the market price and to procure directly from traders and farmers.

Causes of Change, Past and Future

Recurrent emergencies in 1943, 1970, and 1974/75 have triggered direct public involvement in food distribution and sustained it over time. A fading but lingering distrust of private traders further sustains interest in ongoing public participation.

Once engaged in direct public marketing, the government's operational agencies have grown in scale and then shrunk again to match resource availability. In all but wartime, resource availability has governed the scale of government stockholding and food distribution. Because most resources in the form of food aid come from outside the country, external views have shaped the structure and focus of the PFDS. Domestic political philosophy has likewise played a strong role, particularly in the rapid ration build-up after independence in the early 1970s. In addition, strong lobbying by vested interest groups—the Food Department, ration recipients, dealers, and millers—has undoubtedly influenced the shape of public involvement, perhaps most clearly in the resurrection of the CSD in 1956. Recent large reductions in resource flows through the PFDS have greatly reduced the size and influence of key interest groups, particularly the ration recipients and the millers. Consequently, their interest and impact has waned markedly.

What can the past foretell of the future? Given a probable continued fall in food-aid inflows, it seems likely that domestic resource availability and the overall food situation will govern the size and shape of the PFDS in coming years.

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7 Legal Environment Affecting the Foodgrain Trade

SHAMSUR RAHMAN

Historical Background of Emergency Food Legislation

The Government of India issued a wartime Proclamation of Emergency on September 3, 1939, empowering the federal government to enact legislation on any subject it deemed proper—even areas normally within the sole purview of the provincial legislatures, such as the production, trade, and distribution of foodstuffs. This legislation encompassed all of British India, including the present-day countries of Bangladesh, India, and Pakistan.

During World War II the government continued to regulate the production, treatment, storage, movement, transport, distribution, disposal, acquisition, use, and consumption of many essential commodities, including foodgrains. Provincial governments also instituted measures establishing controls on foodgrain supply, including direct government procurement and distribution.

When the war ended, the British parliament enacted new legislation extending the authority of the Indian federal government to regulate production, storage, and commerce in foodgrains. Under this authority the governor-general of India enacted the Essential Supplies (Temporary Powers) Act (1946), the key postwar act controlling foodgrains. It empowered the federal government to

1. regulate the production and manufacture of any essential commodity;
2. control the prices at which essential commodities could be bought or sold;
3. regulate the storage, transport, distribution, disposal, acquisition, use, and consumption of any essential commodity;
4. prohibit the withholding from sale of any essential commodity;
5. require any person holding stock of an essential commodity to sell the stock at the price and to the persons specified by government order;

This chapter summarizes Rahman (1993).

6. regulate or prohibit any commercial or financial transactions relating to foodstuffs if authorities deemed these transactions detrimental to the public interest; and
7. collect any information or statistics with a view to regulating or prohibiting any of the aforesaid matters.

After Indian independence all laws made during the British period, including the Essential Supplies Act, were continued by virtue of the provisions of the 1947 Indian Independence Act. In this way the Governments of Bangladesh, India, and Pakistan inherited a common legislative framework for controlling the supply and distribution of foodgrains.

Entrenching the Temporary Measures

During the war the government enacted various legislative acts as temporary measures. Yet even after the war, large portions of this legislation continued. Although provisions of the Essential Supplies Act allowed it to expire six years after the revocation of the Proclamation of Emergency (1939), both the act and its subordinate legislation continued year after year through a series of enactments: the India (Proclamation of Emergency) Act (1946), the India (Central Government and Legislature) Act (1946), the Emergency Provisions (Continuation) Ordinance (1946), and the Essential Supplies (Continuation of Temporary Powers) Ordinance (1955).

After partition and the creation of Pakistan, the new constitutions of 1956 and 1962 made specific provisions to continue the existing laws, even those in force under British rule. During 1958 and 1969 martial law was proclaimed in Pakistan, and several martial law instruments were issued that allowed existing laws to continue.

Likewise, during Bangladesh's war of independence from Pakistan, the Government of Bangladesh in exile at Mujibnagar issued the Laws Continuance Enforcement Order under which all existing laws enacted before March 25, 1971, were continued, remaining in force until they are repealed. Thus, all Indian federal orders in force under the Essential Supplies Act and all provincial legislation issued by the legislatures of Bengal, East Bengal, and East Pakistan continued in newly independent Bangladesh.

Evolution of Legislation Affecting Foodgrains

Acts Relating to Foodgrains

THE EAST PAKISTAN CONTROL OF ESSENTIAL COMMODITIES ACT (1956). Even in the 1990s all orders regulating foodgrains in Bangladesh emanate from a single legal authority, the East Pakistan Control of Essential Commodities Act of 1956—the legal bridge between the emergency legisla-

tion issued during World War II and the controlling orders in effect today. East Pakistan's earlier source of authority to legislate control of foodgrains, the Essential Supplies (Continuance of Temporary Powers) Ordinance (1955), was issued by the central government of Pakistan and due to expire in April 1956. As the law was about to lapse, East Pakistan entered into a period of near-famine conditions. Anxious to continue their control of foodstuffs, the provincial legislature enacted the Control of Essential Commodities Act. According to the member in charge of the draft bill, "[because] these commodities are in short supply and their equitable distribution necessary, it is considered expedient in the public interest to have some control over these commodities for some time more." Since the act did not specify any time limit, it continues in force today.

The Control of Essential Commodities Act was designed to control the production, treatment, keeping, storage, movement, transport, supply, distribution, acquisition, trade, use, and consumption of essential commodities within East Pakistan. *Essential commodity* was defined to mean, among many other commodities, foodgrains, edible oilseeds, and oils. The most important provision of this act is Section 3, which allows the government to issue orders it feels necessary for ensuring supplies of any essential commodity or for securing its equitable distribution and availability at a fair price.

According to this enactment, orders made under this and prior legislation remain in effect until rescinded. Thus, the act continues wartime legislation on hoarding, cordoning, price control, rationing, and all forms of foodgrain control in independent Bangladesh. Furthermore, the orders made under this act were designated to prevail over the provisions of other acts. Today this act continues to sustain a wide array of subordinate orders issued under its auspices.

THE HOARDING AND BLACK MARKET ACT (1948). Enacted by the central legislature of Pakistan, this law aimed to prevent hoarding and black market dealings in essential commodities, including foodgrains. *Black market* was defined as selling, distributing, acquiring, or disposing of foodstuffs at a price greater than the maximum one fixed by law. *Hoarding* was defined as stocking or storing anything in excess of the maximum quantity allowed under any law. As recently as December 1989, for example, it was illegal for any ordinary private citizen in Bangladesh to hold more than 750 kilograms of rice. Although still in effect, this act is not generally enforced.

Orders Relating to Foodgrains

Under enabling emergency legislation the Government of India issued a spate of foodgrain control orders during World War II. As exigencies arose, the provincial governments also issued regulatory orders controlling foodgrains under authority delegated to them by the Defense of India Act (1939). At first many orders were issued pertaining to foodstuffs, but as time passed the

number of orders diminished. Many orders were made and later rescinded, while some were reissued and modified over time. Others remain in effect through a series of saving clauses in postwar legislation but are not enforced because the food supply in Bangladesh has improved (Table 7.1).

THE EAST BENGAL (COMPULSORY LEVY OF FOODGRAINS) ORDER (1948), THE EAST PAKISTAN (PROCUREMENT OF FOODGRAINS IN BORDER BELT) ORDER (1965), AND THE EAST PAKISTAN (PROCUREMENT OF FOODGRAINS) ORDER (1965). Of these three procurement orders only the Procurement of Foodgrains Order remains in force. It was issued by the provincial government of East Pakistan under the Control of Essential Commodities Act (1956). Like its predecessors, this order enables the government to procure excess aman rice and paddy from producers, specifying compulsory, fixed-price sale at a rate of 112 kilograms of paddy per acre (0.41 hectare) for cultivable area in excess of five acres (2.02 hectares) of land. This order, however, is no longer enforced; and the government procures rice and paddy voluntarily from the market as does any other trader during the aman and boro seasons.

THE BENGAL RICE MILLS CONTROL ORDER (1943). The provincial Government of Bengal issued the Bengal Rice Mills Control Order as one of its measures to combat the Bengal Famine. The government took stock of the number of rice mills in the province and the total capacity available for milling rice by introducing a licensing requirement for every operator of a mechanical rice mill. The licensee is required to submit a report on its stocks of rice and storage warehouses. Every mill manager is required to follow orders governing the purchase, sale, and distribution of rice or paddy. Further, the manager must give priority to supplying government requirements before filling other contracts. The order also requires that a rice mill receive paddy only from persons specifically listed in its license application. Moreover, the millers are restricted to purchasing paddy only from the area mentioned in their license. A miller may only deliver rice to a person holding a government permit and may not move the rice from the mill premises to any other place without a government permit.

This order remains on the statute books, but it is only partially enforced. Some provisions, particularly those requiring the abrogation of contracts with private parties in favor of government, may violate provisions of the other existing contract acts. This complex web of legal provisions has inhibited the development of competitive markets. Although the provisions are not fully enforced, their presence in the statute books is a powerful obstacle to long-term investments, bank loans, and business contracts.

THE EAST BENGAL FOODSTUFFS PRICE CONTROL AND ANTI-HOARDING ORDER (1953). Under the Essential Supplies Act (1946) the provincial government issued this order and gave itself the power to fix maximum prices at which any foodstuff may be sold by a retailer, a wholesaler, or any other

TABLE 7.1 Current status of acts and orders relating to foodgrains in Bangladesh

Regulation	Purpose	Status	
		Legally in Force?	Enforced?
1. East Pakistan Control of Essential Commodities Act, 1956	Regulates production Controls prices Regulates storage, transport disposal, acquisition Prohibit hoarding	Yes	Yes
2. Hoarding and Black Market Act, 1948	Prevents black market sales Prevents hoarding	Yes	No
3. Food (Special Courts) Act, 1956	Provides enforcement of foodgrain contraventions	Yes	No
4. East Pakistan (Procurement of Foodgrains) Order, 1965	Requires compulsory sale of paddy to government	Yes	No
5. Bengal Rice Mills Control Order, 1943	Licenses mills Requires report of stocks Gives priority to government requirement	Yes	Partly
6. East Bengal Flour and <i>Dal</i> Mills and <i>Chakkis</i> Control Order, 1948	Restricts sale without a permit	Yes	Partly
7. East Bengal Foodstuffs Price Control and Anti-Hoarding Order, 1953	Specifies maximum allowable private stocks Restricts duration for holding stocks	Yes	No
8. Further notification on East Bengal Foodstuffs Price Control and Anti-Hoarding Order, 1953	Restricts quantities held Restricts movement Fixes maximum sale price	Yes	No
9. East Bengal Essential Foodstuffs Anti-Hoarding Order, 1956	Prohibits holding large stocks Restricts movement	Yes	No
10. East Bengal Foodgrains (Disposal and Acquisition) Order, 1948	Requires sale of excess stock Requires delivery of foodgrains at specified place	Yes	No
11. East Bengal Foodgrains (Movement and Control) Order, 1949	Prohibits export without permit	Yes	Yes
12. Guest Control Order, 1984	Limits extravagant consumption on social occasions	Yes	No
13. Bengal Rationing Order, 1943	Introduces government rationing system	Yes	No
14. East Bengal Urban Area Rationing Regulations, 1956	Extends rationing to some urban areas	Yes	No
15. East Bengal Rationing (Establishment) Enquiry Order, 1949	Ascertain ration requirements for institutions	Yes	No
16. East Bengal Rationing Preparatory Enquiry Order, 1949	Ascertain ration requirements for individuals	Yes	No

SOURCE: Rahman (1993).

person. Here, the word *foodstuff* means rice, paddy, wheat, and wheat products. The order provides that no businessperson shall trade in foodstuffs except under a license granted by the government. Private holding of large foodgrain stocks is prohibited; and the government may direct that no family, retailer, or wholesaler keep or control any foodstuff above a specified quantity and time period. If it finds such excess stocks, the government may dispose of them as it sees fit.

Many notifications have been issued under this order. The most recent, on October 4, 1987, provided the following stipulations:

1. No trader may, without a license, keep in his or her control foodstuffs in excess of 750 kilograms.
2. No wholesaler or retailer may keep in his or her control more than 187 and 19 metric tons of rice or paddy, respectively.
3. Except for an importer, no trader of foodstuffs shall keep in his or her control any foodstuff for longer than 20 days from the date of purchase and shall not keep it in one place for more than 7 days.
4. No importer of rice may, from the date of import, keep in his or her control the imported rice for a period longer than
 - a. 30 days for 100 percent of the imported rice,
 - b. 50 days for 50 percent of the imported rice,
 - c. 65 days for 25 percent of the imported rice, or
 - d. 75 days for less than 25 percent of the imported rice.
5. Every importer of rice must report to the district controller of food about the stock and sale of the imported rice.

In December 1989 the government rescinded this notification. Accordingly, since 1990, there has been no impediment for traders or businesspeople to control any quantity of foodstuffs for any period. Nevertheless, the order enabling further notifications to be issued is still in force.

THE EAST BENGAL CORDONING ORDER (1947), THE EAST PAKISTAN CORDONING ORDER (1958), AND THE BANGLADESH CORDONING ORDER (1974). These orders, made under the Essential Supplies Act of 1946, restricted all persons from moving essential commodities, particularly rice and paddy, from one region to another. A government-issued permit was required to move foodgrains from the area specified in the order to any other. These orders were made during times of foodgrain shortages and famines. With the improvement in the food situation, however, all the orders have been rescinded; thus, there is no longer any control of internal foodgrain movement. Traders can now, without any hindrance, purchase any quantity of rice or paddy and move it to any place within the country.

THE EMERGENCY (REGULATION OF RATIONED ARTICLES AND INTERNAL PROCUREMENT OF RICE AND PADDY) ORDER (1975). In the face

of yet another famine, the president of Bangladesh issued a Proclamation of Emergency on December 28, 1974. Under ensuing emergency powers the government also issued the Regulation of Rationed Articles and Internal Procurement of Rice and Paddy Order, which prohibited the taking of any rationed article (rice, paddy, wheat, and so on) out of any rationed area by any person other than the government or an appointed wholesaler or retailer.

The Proclamation of Emergency was revoked on November 27, 1979, and both the emergency powers and the order died natural deaths.

THE EAST BENGAL FOODGRAINS (MOVEMENT CONTROL) ORDER (1949). Created by the provincial government under Section 3 of the Essential Supplies Act of 1946, this order restricts the export of foodgrains from the province of East Bengal. In 1949 the province had a large deficit in food production and had to import large quantities of foodgrains. Although the order does not absolutely bar the export of foodgrains, it requires exporters to obtain a permit from the director of food, who for many years routinely denied such requests. Only in the 1990s has the government allowed private businesspeople to export rice. This order is still in effect and enforced.

THE GUEST CONTROL ORDER (1984). The Government of Bangladesh issued this order under the East Pakistan Control of Essential Commodities Act of 1956. Similar orders had been issued in 1959, 1965, and 1978, although all were rescinded. The 1984 order, however, remains in force. Like its predecessors, it aims to restrain people from great extravagance on social and religious occasions.

THE BENGAL RATIONING ORDER (1943) AND THE EAST BENGAL URBAN AREA RATIONING REGULATIONS (1956) MADE THEREUNDER, THE MODIFIED RATIONING ORDER (1956), AND THE VILLAGE AND MUNICIPAL AREAS RATION ORDER (1988). One of the most important steps taken to combat the Great Bengal Famine of 1943 was the introduction of a rationing system through the Bengal Rationing Order. To fight starvation and ameliorate urban conditions, the provincial Government of Bengal issued this order in exercise of the powers delegated to it under the Defense of India Act (1939). Simultaneously, the government created a Civil Supplies Department to administer foodgrain orders in general and the rationing system in particular.

When first issued, the Bengal Rationing Order was enforced in Calcutta but not in any part of East Pakistan, now Bangladesh. Later, in 1956, when the food shortage in East Pakistan became acute, the order was extended to East Bengal. The Urban Area Rationing Regulations were created under the Bengal Rationing Order to introduce the rationing system to the cities of Dhaka, Chittagong, and Narayanganj and then later to Rajshahi, Khulna, and Rangamati. Once operational, the system supplied the six urban areas with a range of essential commodities, dominated by foodgrains, at subsidized prices (see Chapters 6 and 11 for details). Now that the food supply has improved, market traders sell grain at or below ration prices (see Chapter 6). With strong markets

the urban rationing system has fallen into disuse, making these regulations largely moribund.

The Modified Rationing Order was issued to expand the rationing system to rural villagers who had been deprived of the benefits of the urban rationing system. The government rescinded the order in 1988, abandoning the flawed system in favor of a successor program known as rural (*pally*) rationing. To establish the new system, the government issued the Village and Municipal Areas Ration Order. After a series of studies documenting leakages of more than 70 percent in rural rationing (BRAC 1991; Ahmed 1993), this order was rescinded in April 1992, terminating the system.

In general, the rationing system in Bangladesh has collapsed under the weight of corruption and competition. The one ration law remaining on the statute books—the Bengal Rationing Order and its accompanying Urban Area Rationing Regulations—is essentially inoperative. Today, private sector traders and businesspeople control the trade in foodgrains.

Impact on the Private Foodgrain Trade

The descriptions of acts and orders regulating foodgrain markets are bewildering. Every food crisis generated either a legal enactment or an order designed to control the foodgrain market. The impact of this web of legal strangulations on market development has not been evaluated, but it is not difficult to guess. Various marketing studies, of course, demonstrate that foodgrain markets are efficient and that marketing costs are not unduly high. But no study that uses traditional methods to assess costs would necessarily be able to gauge the hidden transaction costs involved in hedging against legal acts and orders enacted to control foodgrain markets. Of course, most acts and orders have been kept in the statute book but are not enforced. But non-enforcement does not guarantee that in remote villages a police officer will not use their existence as a pretext to collect undue charges from traders. How an order remaining in the statute book but not enforced can still adversely affect business is demonstrated by the case of trade credit and, to a lesser extent, of milling.

Credit for Foodgrains Trade

Historically, the government has banned the private stockholding of foodgrains above modest amounts. Given this long-standing restriction, the Bangladesh Bank issued a series of circulars severely curtailing bank credit to grain traders and millers because contraband activity in which collateral was susceptible to confiscation was a risky proposition for lending. But in December 1989, after more than 40 years of stringent anti-hoarding legislation, the government rescinded its last notification, and in February 1990 and October

1992 the bank subsequently withdrew its circulars limiting bank lending to foodgrain traders (IFPRI 1992; Slouver 1994).

Nevertheless, the weight of tradition hangs heavy. Two generations of bank managers have been schooled to avoid lending to the foodgrain trade. As a result, only large rice millers today enjoy appreciable access to formal bank credit (Chowdhury 1993; Slouver 1994), and given historically tight government control of the banking system, the quality of the mill-lending portfolio is low. As late as November 1993, delinquency rates stood in excess of 80 percent (Slouver 1994). Meanwhile, bank credit to paddy and rice traders also remains limited (Chowdhury 1993; Slouver 1994). It is desirable, of course, that foodgrain traders, like other sectors of the economy, have full access to the services of the formal banking system, and the legal prerequisites facilitating that access are now in place. In time the foodgrain sector will benefit.

Milling

The government has not lifted the legal impediments imposed under the Bengal Rice Mills Control Order of 1943. Although only the licensing provisions are enforced, the potential for forced purchase hangs over the millers. To liberalize and encourage private trade in foodgrains, the government probably should rescind this order because the millers fear that the government may ask them at any time to sell their stocks of rice at a fixed price. The Bengal Flour and *Dal* Mills and *Chakkis* Control Order (1948) still governs wheat milling, although it no longer applies to *dal* mills.¹ The government, however, does not rigorously enforce it. Many roller flour mills and *chakkis* have been established without being licensed. Because the government, through other actions, is encouraging private trade in wheat and wheat products, the order could create legal impediments to the open sale of wheat and wheat products and should be rescinded to allow private sector activity to thrive.

Summary

Many remnants of the World War II legislation controlling foodgrains have been rescinded, and many still remain in the statute books but are unenforced. Only a handful of acts and orders are both in effect and actively implemented (see Table 7.1). Thus, the remaining dozen or so legal instruments do not dramatically impede private trade in foodgrains, yet their continued existence hang over the heads of traders and bankers. As recently as December 1989, the government severely restricted traders' allowable stockholdings. The legal instruments in effect make reinstatement of controls simple: a routine cabinet decision would suffice to reintroduce stringent limits on procurement, stocks,

1. *Dal* is a lentil popular in Bangladesh. *Chakkis* are small milling enterprises that grind wheat without refining it first, producing a whole-grain flour called *atta*.

movement, and pricing. Although reintroduction appears unlikely in the present political environment, the potential remains.

As a consequence, foodgrain controls have left two principal legacies: (1) withered formal bank lending for foodgrain trade and (2) a buoyant but wary private sector, heavily controlled in the past and uncertain now about the government's commitment to free-trade principles for foodgrains. To address the first issue, the government has removed restrictions on foodgrain lending, and credit reform is under way. As for lingering doubts about the remaining legislation, further legal reform may be the best way to bury the uncertainties inherited from the famine of 1943.

Prospects for Further Legal Reform

To expunge the remaining remnants of the wartime emergency foodgrain controls, the government has two courses of action open. The first involves removal of the remaining, largely unenforced, orders that give form to foodgrain controls (items 4 through 16 in Table 7.1). Alternatively, the government could simply repeal the Control of Essential Commodities Act of 1956. Since all existing foodgrain control orders depend on this act for legislative authority, its removal would automatically sever all subordinate orders. The first option offers the path of least resistance since rescission of orders requires a cabinet decision, while the second option requires action by parliament. Sequential removal of the subordinate orders and then the act itself would best sever links with the wartime emergency legislation. Such reform would not in any way constrain government action in the event of a future disaster. Under provisions in the present constitution, the government enjoys complete latitude to make any law on any subject it deems proper, including control of essential commodities. The chosen path of legal reform will reveal how confident Bangladeshi policymakers are that conditions leading to the famines of 1943 and 1974 are now behind them. Either option would be a powerful symbol of Bangladesh's confidence in its rapidly growing private foodgrain markets.

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