

LAND DISPUTES IN CHITTAGONG HILL DISTRICTS: DO WE HAVE AN EFFICIENT LAND MANAGEMENT SYSTEM?

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ABSTRACT

Land Administration System (LAS) in the Chittagong Hill Districts (CHDs) in Bangladesh is relatively complicated and different from that of the plain-land districts. In the case of transferring ownership of land in plain-land districts is connected to two offices, but the same work in the CHDs is related to five offices. Even though traditional owners of land in the CHDs were the indigenous people, they have had serious lack of documentation of their land. Any person could acquire and cultivate fresh land only by paying tax to the circle chief. Later, with the arrival of the Bengali settlers in the region, managing land records became more controversial. This phenomenon generated numerous land disputes in CHDs with the passing of time. The purpose of this study is to look for the factors that are affecting the efficiency of Land Management System in CHDs. The study has been basically followed by qualitative analysis supported by some quantitative data.

Keywords: Chittagong Hill Districts (CHDs), Land Administration System (LAS), Transfer of Land Ownership, the Chittagong Hill Tracts Accord, Land Survey.

1. INTRODUCTION

1.1 Background

Land Administration System (LAS) in Chittagong Hill Districts (CHDs) is unique and distinctive in nature. It is a combination of both traditional LAS and formal LAS. Moreover, the presence of Hill District Councils (HDCs) to the land administration system in CHDs has created more complicity and established a tripartite system. Whereas Land Management in plain-land districts connects only district administration; in CHDs it involves district administration, Hill District Council (HDC), Circle Chief and Headman. Here, Headman and Circle Chief originated from traditional land administration system and HDCs evolved after the Chittagong Hill Tracts (CHT) Peace Treaty. Like the rest of the districts of Bangladesh, the Deputy Commissioners (DCs) of the CHDs are vested with the powers of the collector. These powers include the authority to provide land settlement grants, to regulate the transfer of land titles, to issue license for extraction of forest and mineral resources (outside of the reserved forests), and to collect land revenue. All these powers, except for deciding revenue cases, are exercised by convention and administrative guidelines in consultation with the headmen of the mouzas. Revenue collection responsibility primarily lies on the headmen, whose functions are supervised concurrently by the circle chiefs and by the DC directly, and through the Upazila Nirbahi Officers/Assistant Commissioners (Land) in the case of revenue matters. Practically, the circle chiefs have far more influence and authority over the headmen than either the DCs or the UNOs/AC (L)s.

The Local Government Council (Amendment) Acts of 1998 propose to enhance the land-related powers of the HDCs. Firstly; the HDCs have authority over the headmen and lower-level revenue department officials. Secondly; no land in CHDs can be settled, leased out, transferred or compulsorily acquired, without the prior consent of the HDC. Thirdly; the HDCs will receive a portion of the land development tax and a portion of royalty from forest products and mineral extraction (Roy, 2000). This phenomenon has made the LAS in CHDs very complicated. It has caused the system to be very lengthy. Moreover, no land survey has been done yet and there is no land manual (which rest of the country has) for CHDs which has caused lots of land related disputes.

1.2 Significance of the Study

Land related services are very costly and time consuming even in the plain-land districts. Nevertheless, the scenario is much more complicated in CHDs because of the involvement of different kind of institutions and distinct legal implications by the state. Since ensuring service efficiency by the government organizations is a talk of the time and deserved by all citizens within the same country. The streamlining of a process is very important to serve the service recipients with optimum benefit.

As the LAS in CHDs involves more institutions than that of the plain-land districts, it seems to be less efficient and to create more scope of corruption. Besides these, in the absence of a land survey as yet due to sociopolitical reasons, the land records are incomplete. It generates communal discontent and mistrust, and eventually generates land disputes to hamper the usual efficiency of the system.

At the end, mass people are the sufferers they have to travel from the village to district or upazila headquarter time to time, wait longtime and spend larger amount of money for the completion of a land related service. Moreover, transportation in CHDs is inconvenient due to its topological nature. Also the

region is considered as one of the financially poorest areas in Bangladesh. In view of the existing scenario, question automatically arises in mind, which factors are affecting the efficiency of the LAS in CHDs. Apart from some books, articles or essays on the CHT Peace Accord, the ethnic origin of the indigenous inhabitants of the CHDs and their indigenous land rights; there is not much in-depth academic research conducted specifically on the efficiency of the existing LAS in CHDs. Thus a study aiming to explore the areas mentioned above, is important not only for the service providers but also for the policy makers to think objectively about the problems and develop appropriate land related policies in the CHDs by streamlining the system and incorporating a digital land survey. Once the efficiency of LAS in CHDs is enhanced through a process streamlining, there will be less scope for corruption as well as land disputes between individuals and communities.

1.3 Objectives

Efficiency is an essential element of a system to provide the utmost benefits to its users or service recipients. Land related services are complex not only in CHDs but also in plain-land districts. However, the LAS in CHDs is very complicated as well as lengthy and this nature of the system also creates greater scope for corruption. In addition to this, the absence of land survey has caused numerous land disputes in CHDs. Also most of the disputes are generated from the dissimilarities between the traditional and formal Land Administration System. The capacity building of the involved institutions as well as the legal implications by the state are very important to ensure the efficiency of the LAS in CHDs. Moreover, the topographical condition of the region makes the transportation of the inhabitant service recipients' laborious, time consuming and costly. It is the system which compels a villager to visit the offices situated in district or upazila headquarter frequently for the purpose of buying or selling a piece of land. The specific research objective is to:

- Look for the factors that are affecting the efficiency of the Land Administration System in CHDs.

1.4 Research Questions

In order to fulfill the above objectives, the following research questions have been developed in this study-

- What are the factors that are affecting the efficiency of Land Administration System in CHDs?

2. LITERATURE REVIEW

T. H. Lewin (1869) in his famous historical book *The Hill Tracts of Chittagong and the Dwellers Therein* depicts the nature of the region and lifestyle of its inhabitants. He mentioned that the traditional culture of the hill people and their style of cultivation was distinct from that of plain-lands. Till 1860, the administration of the hilly region was controlled by the indigenous authorities which was terminated by the British Administration when they appointed a superintendent to supervise the hill peoples. Eventually, the designation of Superintendent was changed to Deputy Commissioner and was vested with full controls all matters pertaining both to revenue and judicial affairs.

Willem Van Schendel (1992) identifies the "Jumma" identity, a single identity despite various ethnic identities of the indigenous people of Chittagong Hill Districts. He argues that the concept of "Jumma" nation, derived from the jum cultivation, a kind of swidden (a plot of land cleared for farming by burning away vegetation) farming has intensified the conflict and the cultural distinction between hill people and Bengalis which was later minimized by the Chittagong Hill Tracts Peace Accord in 1997. Amena Mohsin

(2003) examines the processes and peace building that resulted in the Peace Accord after the end of a two-decade-long armed insurgency. The accord was signed in 1997 between the government of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti (PCJSS), the political representative of the Hill people. She mentioned that due to some ambiguities within the accord and the failure in implementation, the situation in Chittagong Hill Districts (CHDs) is still away from the satisfaction of the PCJSS. Panday and Jamil (2009) argue that violations of human rights by law enforcement agencies and Bengali settlers against indigenous people in CHDs continue even after the signing of the 1997 peace accord. The “top-down” nature of the accord is responsible for this failure which resulted the non-participation of indigenous people. Siddiqui (2016) demonstrated that the main challenge of implementation of the accord is to earn the satisfaction of the people in CHDs by the implementing institutions and successive governments which basically depends on proper management of the existing crises and uprooting the underlying causes of future conflicts.

Rajkumari Chandra Kalindi Roy (2000) describes the struggle of the indigenous peoples of the Chittagong Hill Districts (CHDs) to regain control over their ancestral land and resource rights. She illustrates the legal basis of the land rights of the indigenous peoples of the region and how these rights were violated by the administrations in different regimes to exploit their ancestral lands. She further added that the negligence of indigenous land rights created the scope for migration by the non-hill people from the plain-lands and created a large number of land disputes.

Aynul Islam (2013) analyses the post-conflict dynamics of land tenure in the Chittagong Hill Districts. He argues that land tenure is still insecure in the post-conflict scenario because the ownership is contested between indigenous hill people and settler Bengalis and, large-scale acquisition as well as incremental land grabbing is occurring in absence of effective tenure governance. He points out the access, control and transfer of land rights as the core reason of the violence in CHDs. He adds that the competition between customary landowners and settlers seeking customary lands for developing economic projects make the land context more complex.

Roy (2000) focuses on some specific points regarding the land related issues in the CHT Peace Accord, 1997. These are: (i) to enhance the land administration powers of the hill district councils; (ii) to provide a portion of income from forest resources and the royalties from mineral extraction for the hill district councils; (iii) to form of a commission on land to settle the land disputes; (iv) to cancel the leases of unutilized (for more than ten years) lands in CHT, granted to non-resident individuals and corporate bodies; (v) conducting land survey in the CHT; (vi) the role of the Regional Council in land related policies.

Chowdhury (2012) states that the indigenous people (Jummas) in the Chittagong Hill Districts (CHDs), Bangladesh have survived their distinct Jumma identity despite alienation of land and resource over a century. This phenomenon makes the CHDs a field of legal pluralism, where the Jumma land title and community ownership has retained space competing with state imposed discriminatory laws. The ineffectiveness of the Land Dispute Resolution Commission for over a decade is also responsible to the non-recognition of legal pluralism which is delaying resolving the disputes.

Bhuiyan (2009) illustrates that lack of co-ordination and monitoring mechanism at the national and the local level affects the efficiency of different organizations under the two different ministry; the Ministry of Land and Ministry of Law Justice and Parliamentary Affairs. The establishment of an integrated Land

Management System comprising the preparation and maintenance of record of rights, collection of taxes, registration after transfer, correcting the map through settlement is essential for ensuring legal rights of all land owners as well as efficiency of land related services.

Hasan (2008) points out that scarcity of land and frequently increasing value of land has made the land management very important to get the maximum output of it. Lack of proper land record management is one of the main reasons for weak management of land. In contrast, land registration is essential to manage information for land administration. Nichols (1993) emphasizes on effective designing of land registration to meet the broader requirements of land management. The complex legal procedures of land tenure innovative simplification to reform the system which can be accomplished by proper information management function of land registration. Deininger & Feder (2009) illustrate that land registration enhances land tenure security which benefits investment with a large margin and increased productivity. It also increases activity in land rental market which leads to higher efficiency. Auzins (2004) emphasizes on institutional arrangements to achieve sustainable land use. He also discusses the importance of systematization of both the regulatory framework, i.e. institutions and the procedures in that regard.

3. BACKGROUND OF THE REGION

It is speculated that in a chain of human migration, the current population in the CHDs came over from the neighboring countries/regions over the last couple of centuries. Traditionally, the CHDs were self-governed though they used to pay an annual tax (in terms of cotton) to the Mughal Emperor. The British took control of the hilly region in 1860 and recognized it as an indigenous area distinct from the rest of the country. It should be mentioned that land related matters in CHDs have always been distinct from that of the plain-land districts of Bangladesh. As the British found indigenous system of land tenure in the CHDs is very different from their concepts of land administration, they reshaped the system for the convenience of the collection of land revenue. As a consequence, some administrative and legislative reforms were done through the CHT Regulation 1 of 1900. This Regulation is considered as the main instrument to manipulate the LAS in the CHDs.

The area of CHDs was demarcated into three separate "Circles" with the Regulation, and the three traditional leaders were designated as "Chiefs". Although these leaders had enjoyed the status of heads of state within their territories for centuries, after that regulation, they required the national authorities to recognize their right to rule.

The British also divided the CHDs into some territorial administrative units known as mouzas. They appointed headman for each mouza who had the authority to collect revenue and try local disputes. Each mouza was comprised of a number of villages and Karbari was the head of a village. The LAS in CHDs experienced another turning point after The Hill District Local Government Council Act, 1989 and The CHT Peace Accord, 1997. At present, the LAS is a combination of customary and national framework.

4. METHODOLOGY

This research is an exploratory research of qualitative method supported by some quantitative data. Both primary and secondary data sources are used in the analysis of the study. In line with the research objective, qualitative and quantitative data are collected through interviewing 39 respondents from two target groups: service providers and service recipients. Among them 24 respondents were service providers from six levels: AC (L), Surveyor/Kanungo, Headman, UNO, ADC (R)/RDC/LAO, CEO/EO and 15 respondents were service recipients from four different upazilas. Besides, four mutation cases from four upazilas were used as case studies, to form a comprehensive understanding of the steps of the process and disposal time. It enabled the researcher to present the actual scenario so as to increase the efficiency of the existing system. The sample size is 39, and purposive sampling technique was used to select the population, comprising service providers from different levels and service recipients from different upazilas. Three methods are used to collect primary data - questionnaire survey, interview and case study. Four case studies have been conducted here in this research in four upazilas: i) Langadu Upazila in Rangamati District, ii) Lakkhichhari Upazila in Khagrachhari District, iii) Lama Upazila in Bandarban District and iv) Bandarban Sadar Upazila in Bandarban District.

5. UNDERSTANDING LAND ADMINISTRATION SYSTEM

Ian Williamson, Stig Enemark, Jude Wallace and Abbas Rajabifard (2008) in an international seminar on "Land Administration Trends and Issues in Asia and The Pacific Region", presented a land administration framework (Figure 1). They tell about four key fundamental concepts to understand modern land administration systems. First one is the land management paradigm and its influence on the land administration framework. Second one is the role of cadastre in sustainable development. Third one is the changing nature of ownership and the role of land markets. Fourth one is a land management vision which promotes land administration in supporting sustainable development and spatial enablement of society.

The land management paradigm is theoretical and universal in application and can be used by national governments, to design, build and monitor their LAS. The core idea tends to consider land administration beyond its usual functions of surveying, and registering land. These familiar functions (land tenure, value, use, and development) need to be approached holistically and integrated strategically to achieve sustainable development. The paradigm provides adaptability and flexibility of land administration, both theoretically and practically.

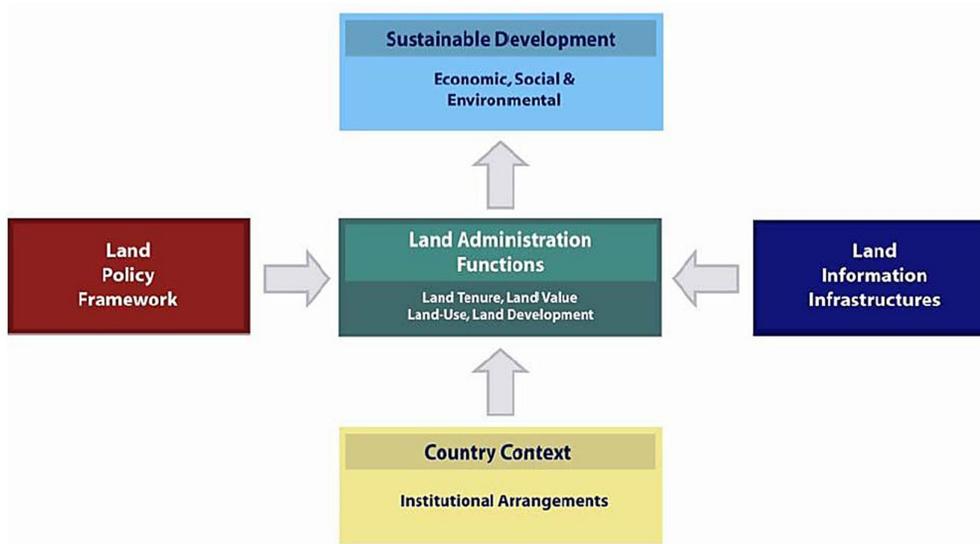


Figure 1: The Land Management Paradigm (Enemark and others 2005)

"The paradigm enables LAS designers to manage changes in institutional arrangements and processes to implement better land policies and good land governance by identifying a conceptual framework for understanding each system. In theoretical terms, the paradigm identifies the principles and processes that define land management as an endeavor. It recognizes that in practice, the organizational structures for land management differ widely among countries and regions throughout the world and reflect the local cultural and judicial settings of a country. Within the country context, land management activities may be described by three components: land policies, land information infrastructure, and land administration functions that support sustainable development" (Williamson, I., Enemark, S., Wallace, J. & Rajabifard, A. 2010: 116).

"The operational component of the land management paradigm is the range of land administration functions that ensure proper management of rights, restrictions, responsibilities, and risks in relation to property, land, and natural resources. These functions include the processes related to land tenure (securing and transferring rights in land and natural resources); land value (valuation and taxation of land and properties); land use (planning and control of the use of land and natural resources); and, increasingly important, land development (implementing utilities, infrastructure, and construction planning). These functions interact to deliver overall policy objectives and are facilitated by appropriate land information infrastructure that includes cadastral and topographic datasets" (ibid: 118).

Conducting a land survey is essential to develop a database on land information and without cadastral survey, an efficient Land Administration System is not possible. The cadastre also known as digital cadastral data base or DCDB, shows land allocation patterns, uses and location. This ensures user-friendly identification to have impact on government policies and regulations. The cadastre needs to promote sustainable development in the context of people to land relationships.

Land Administration Functions are dependent on land policy framework, land information infrastructure and institutional arrangements. Having proper policy on land, adequate information of land and right arrangements of the institutions is very important to build efficient land administration which promotes sustainable economic, social and environmental development.

6. ANALYTICAL FRAMEWORK

The analytical framework has been formed on the basis of the nature of LAS in CHDs and the factors behind the nature. The LAS in CHDs is very complicated and efficiency of the system seems to be very unsatisfactory. The mutation process is very lengthy and involves three more offices than that of the plain-land districts. Also the quality of the land records is not up to the mark because of absence of land survey in the region. The quality of governance by the institutions and the capacity of the institutions as well as the legal factors are important to enhance the efficiency of a system. Efficiency of LAS in CHD is the dependent variable and institutional factors, and legal factors are the independent variables in the current study. Based on the reviewed literatures and the Land Management Paradigm, the following analytical framework (Figure 2) is used to operationalize the variables.

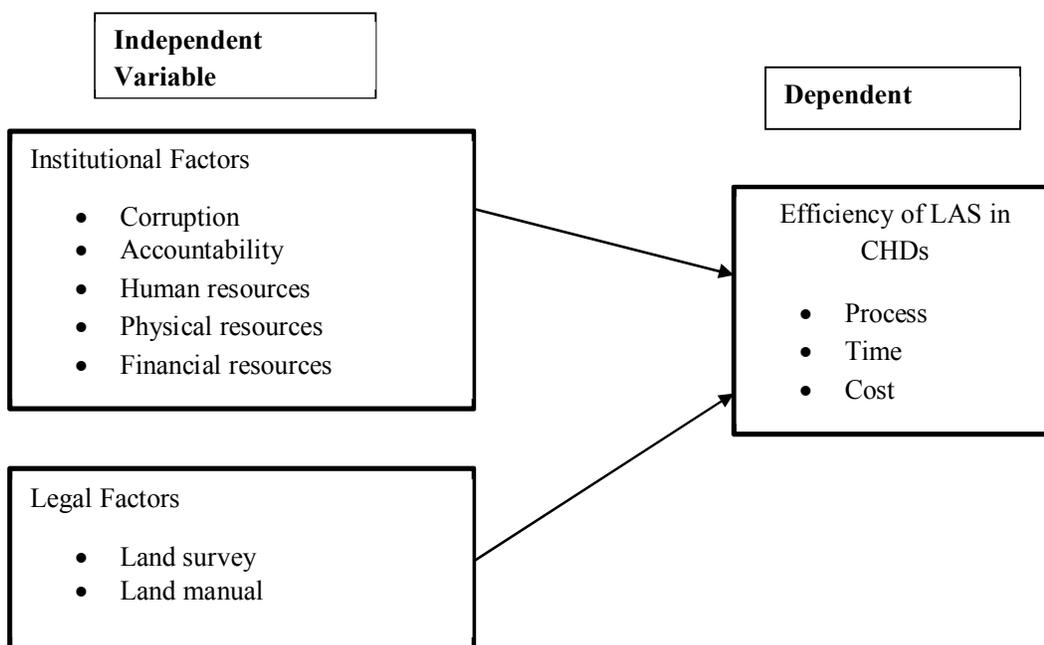


Figure 2: Analytical Framework of the Study

a. Indicators for dependent variable

Table 1 presents the indicators selected for the dependent variable and the assessing criteria.

Table 1: Indicators for the Dependent Variable

Dependent Variable	Indicators	Assessing Scale/Criteria
Efficiency of LAS in CHDs	➤ Nature of the process	➤ The number of institutions involved in the process
	➤ Time needed to get a record correction service	➤ The amount of time taken for the completion of the process
	➤ Cost to get a record correction service	➤ The amount of money spent by the service recipients to get the service

b. Indicators for independent variables

Table 2 presents the indicators selected for the independent variables and the assessing criteria.

Table 2: Indicators for the Independent Variables

Independent Variables	Indicators	Assessing Scale/Criteria
Institutional Factors	➤ Corruption of the institutions	➤ Amount of extra money taken other than government fee from the service recipients
	➤ Accountability of the institutions	➤ Whether there is any time limit set for the institutions to finish the process ➤ Whether there is any citizen charter regarding the service
	➤ Condition of human resources of the institutions	➤ The quality of the Headmen in terms of education, skill and training ➤ Number of AC (L) posts ➤ Number of Land Officers in HDCs
	➤ Condition of physical resources of the institutions	➤ Whether the Headmen get any office, furniture and stationeries
	➤ Quantity of financial resources of the institutions	➤ Salary/allowance of the Headmen ➤ Budget allocation for the Land Offices
Legal Factors	➤ Land survey	➤ Whether land survey has been performed or not ➤ The condition of the land records
	➤ Land manual	➤ Whether there is any land manual ➤ Uniformity of the process

c. Operational definition of dependent and independent variables and their indicators

Efficiency is a key criteria of a system to generate the output in such a way that the users get the optimum benefit. However, every system is not efficient and even there is variation in the efficiency level among different systems. The characteristics of the system itself and the characteristics as well as the arrangement of the inputs determine the efficiency. Efficiency of LAS in CHDs is the dependent variable in the study to examine its efficiency and institutional, and legal factors are the two independent variables to check whether these factors are affecting that efficiency.

Dependent Variable

The dependent variable of the study and its indicators are discussed below.

Efficiency of LAS in CHDs

Efficiency of LAS in CHDs means whether the land mutation process (land registration process is integrated within the land mutation process in CHDs) is streamline or not and whether the system is time and cost effective or not. The dependent variable, efficiency of LAS in CHD is measured by a set of indicators such as nature of the process, time and money cost by the service recipients.

a. Nature of the process

The nature of the process means whether it is simple or complicated. It is assessed by the number of institutions involved in the process, assuming that the more the number of institutions, the more the complicity.

b. Time needed by the system

The amount of time cost by the system for the completion of a mutation case is used to assess the efficiency.

c. Cost required by the system

Usually the service receivers have to spend a significant amount of money other than the government fee for the purpose of completing a mutation case. The total amount of money cost by a service recipients due to the system is also measured to assess the efficiency.

Independent Variables

The independent variables of the study and their indicators are elaborated as following.

1. Institutional factors

The role of institutions involved in the LAS in CHD is very important. The institutions should have the practice of good governance and enough capacity to perform their roles properly. This independent variable consists of indicators like corruption, accountability, human resources, physical resources, and financial resources of the institutions.

a. Corruption of the institutions

Here corruption of the institutions means whether corrupt practice of taking bribe and the involvement of middlemen is there in the institutions.

b. Accountability of the institutions

The accountability of the institutions in the study indicates whether the institutions are accountable to the service receivers to deliver the land related services within a certain amount of time. The presence of citizen charter regarding these services and following that charter by both the service providers and receivers is also very important to maintain the accountability which increase the efficiency of the system.

c. Human resources of the institutions

Having sufficient human resources at institutions at different level and ensuring quality in human resources is one of the pre-requisites for service efficiency. As the Headmen are not government employees but the lowest tier of the LAS in CHDs, it is very important to check their competencies. Besides, having sufficient numbers of officers at land related offices in various levels is also crucial to maintain the efficiency of service by them.

d. Physical resources of the institutions

Since the Headmen are not civil servants, it should also be checked that whether offices are allotted for them by the government with basic facilities like furniture, stationeries etc. Because without these facilities, they may become less motivated to serve their duties regarding land related services.

e. Financial resources of the institutions

Financial resources of the institutions are also very important not only to motivate its human resources but also for the undisturbed execution of their functions. Budget allocation for the land related offices must be sufficient and financial incentives to the human resources (especially the Headmen) of the institutions also should be reasonable to motivate them.

2. Legal factors

Legal factors determine the basic framework of a system. This independent variable consists of indicators like land survey land manual. Every standard LAS deserves to have a complete land database originating from a land survey. This database should be supported by a land manual to clarify the procedures and maintain the uniformity of the procedures.

a. Land survey

Without conducting a land survey, having complete land records is impossible. The incomplete land records generates lots of confusion and causes land disputes. The disputes consume greater time for the resolution and thus delays the transfer process of land title. However, no land survey has been conducted yet in CHDs.

b. Land manual

Land manual elaborates the procedures by defining the number of steps and ensuring the uniformity of the procedures. There is no land manual for the LAS in CHDs and the processes are practice based. Thus the same mutation process is different in different districts and upazilas and some unnecessary steps have been added in some cases to prolong the process.

The LAS in CHDs is complicated and distinct from that of the plain-land district with more institutions involved in the system. Some literatures related to the CHDs (also known as CHT) and LAS has been reviewed according to the purpose of the study. Literature review generates some key concepts regarding the analytical framework of the study. Those concepts assist to go to the deep in the further study. Since the existence of current LAS in CHD has some historical and political reasons behind it, it is important to know about the history and politics of the region. The analytical framework creates a roadmap for the research. The independent variables are measured through their respective indicators and the relation of the independent variables with the dependent variable establishes the concept.

7. FINDINGS AND DISCUSSION

To gather primary data related to the study area, 39 respondents were interviewed. Among them 24 were service providers of different levels from different institutions and 15 were service recipients. The dependent variable of the study is *the efficiency of land administration system in CHDs*. All respondents said that the mutation process is very lengthy. However, the mutation process in plain-land districts involves only two institutions and is simpler. The process varies in different districts and upazilas. According to both group of respondents, it takes 5-6 months time on an average for a mutation case to be disposed in CHDs whereas it takes only 2-3 months on an average for a mutation case to be disposed in plain-land districts.

Regarding the independent variable, *institutional factors*, the study reveals that due to corrupt practices, the recipients had to bribe or pay speed money in all institutions. The more the number of institutions, the more the scope of corruption. The amount varied from fifty taka to five thousand taka in Headman's office and AC (L) office but it is fixed in UNO office (2% of land's price, only in case of Lama upazila), DC office (2% of land's price in Rangamati DC office and 1% of land's price in Khagrachhari, and Bandarban DC office) and HDC (1% of land's price in all HDCs). Thus, in total it takes about thirty thousand taka or above for the disposal of a mutation case.

All institutions have lack of accountability because there is no time limit for the institutions to render their service. As there is no time limit, they have not prepared any citizen charter and none of the service recipients know about citizen charter. Consequently, this factor is also delaying the land related services, specially the mutation process.

Both lack of human resources and deficiency in human resources are affecting the efficiency. There is no AC(L) post in some upazilas, for example Lakkhichhari upazila. The UNO works as AC(L) but he is busy with his regular activities and cannot spend sufficient time for the land related matters. Similar to this problem, there is a post of Land Officer in all HDCs but that post is vacant in all HDCs. The Chief Executive Officer (CEO)/Executive Officer (EO) works as land officer but he remains very busy with his main activities and cannot give that much time as the Land Officer could. That is why these factors are also responsible to delay the process. Beside these problems, lack of quality in Headmen is also affecting the efficiency because most of the Headmen are less educated, less skilled and less trained. In most of the cases, their reports are needed to be verified by the surveyor going to the field.

Deficiency in financial resources for the Headman's office and AC(L) office and deficiency of physical resources for the Headman's office are also working as demotivating factors and affecting the efficiency. The Headmen get only one thousand taka per month allowance and one percent commission from the grove land taxes which is a very poor amount. The budget allocation in the transportation sector for the AC(L) office is not sufficient but the AC(L) and surveyor need to go the field frequently for inquiry. The deficiency in allocated budget makes them disinterested to complete their duty in due time. Though the Headman's office is the lowest and very important tier of LAS in CHDs, actually there is no office for the Headmen. They just use a room of their house as office. They do not get any furniture to store the land records and documents properly and they also do not get any stationary for their official activities.

Regarding the independent variable, *legal factors*, the study revealed that absence of land survey and absence of land manual are affecting the efficiency. No land survey by the government was performed in CHDs due to the local resistance, the mistrust between the settler Bengalis and the local Paharis. According to the CHT Peace Accord, a land dispute resolution commission was established to resolve the land disputes between the Bengalis and Paharis but the commission is yet to function effectively because of its debated formation. However, PCJSS demands that no land survey can be done prior to the resolution of land disputes by the commission. But the absence of land survey had caused and is causing incomplete land record containing insufficient information. As a result, there is no daag or plot number in most of the land records and the records are basically periphery dependent. However, the peripheries are not precisely specified. For this reason, it is very difficult to identify one's land properly and this phenomenon is creating more land disputes. This disputed lands take longer time to clarify the ownership and thus affect the efficiency of LAS in CHDs.

In addition to this, there is no land manual for the CHDs. For this reason, the same land related service follows different procedures in different districts and even in different upazilas of within the same district. For example, the mutation procedure is different in all four studied upazilas. In case of Langadu upazila, the service recipients need to go to Rangamati district headquarter twice for the registration purpose which is very time consuming for him/her. Langadu is connected to Rangamati only through waterway and it takes three and a half hours to Reach Rangamati from Langadu. A service recipients need to go to the district

headquarter a day before his hearing date and he needs to stay at boarding at night which makes him/her spend some extra money as well.

In case of Lakkhichhari upazila, if the land's price is equal to or below ten lac taka, the service recipient needs not to travel to Khagarachhari district headquarter because in that case UNO/AC(L) does the registration. However, if the land's price is above ten lac taka he/she needs to travel to district headquarter twice for the registration purpose which is also time consuming for him/her because Lakkhichhari is a very remote upazila and it takes two and a half hours to reach Khagachhari from Lakkhichhari.

Another interesting thing to be noted is that though Bandarban Sadar and Lama upazila belong to same district, the mutation procedure is different in those two upazilas. In case of Bandarban Sadar upazila, the registration is done by DC but in case of Lama upazila, it is done by UNO. Also to be noted that UNO office is involved in the mutation process in Lama upazila. Though there is AC(L) in Lama upazila, a mutation file does not move directly to DC office from AC(L) office, it is sent through UNO office. Thus, in Lama upazila, an extra tier (UNO office) is found within the mutation process.

8. CONCLUSION & RECOMMENDATIONS

The study indicates that the LAS in CHDs is distinct from the plain-land districts. It is a tripartite system combining traditional LA, formal LA and a local government institution whether only formal LA prevails in plain-land districts. Usually involvement of more institutions within a process makes the process lengthy and complicated. For example, for a disposing land mutation case only two institutions (AC(L) office and Union Land office) are involved in plain-land districts. On the other hand, for the same service in the CHDs, four to five institutions are involved. The current study has examined why the LAS in CHDs is different and how its current shape has been formed. The present study has aimed to search the factors behind this scenario and how these factors are affecting the efficiency of LAS in CHDs.

According to the research question and the analytical framework, the study focused on the factors affecting the efficiency the LAS in CHDs. The dependent variable is efficiency of the LAS in CHDs and the two dependent variables are institutional factors, and legal factors. The investigation revealed that the institutional factors like lacking in human resources and lack of human resources, lack of physical and financial resources, corruption and lack of accountability by the involved institutions are affecting the efficiency of LAS in CHDs. Beside these factors, the legal factors like absence of land survey and land manual are also affecting the efficiency of LAS in CHDs.

It has been found that institutional and legal factors are affecting the efficiency of LAS in CHDs that are originated from sociopolitical issues like the shifting the LAS in CHDs from traditionality to modernity and the impact of the Peace Treaty. Basically the LAS in CHDs was based on traditional norms, rules and customs. For any transfer of land ownership, verbal commitment was enough. The lands other than the homestead and farmed lands were considered as common land which belonged to the community. So, the necessity of document was never felt. However, the British took a step to transform the LAS in CHDs by introducing CHT Regulation, 1900 and appointing a DC with a provision of DC's mandatory permission for any sale or transfer of land. However, they did not abolish the customary system rather they wanted to safeguard those.

But the phenomenon experienced a turning point after the independence of Bangladesh when the government promoted settler Bengalis in 1979-1984 by neglecting the traditional LAS, though the government did not abolish the traditional system. The government provided land records for the settlers though these records are controversial. In 1997, Peace Accord was signed between GOB and PCJSS to recognize the rights of the ethnic minority people and end the insurgency between Shanti Bahini (armed group of PCJSS) and government forces. According to the provision of Peace Accord, the Hill District Council Act, 1989 was amended and a clause was included with a provision that no sale or transfer of land can be performed without the prior consent of the HDC. Thus, an extra tier was added to the land administration of CHDS and a tripartite system emerged. Besides, no land survey has been conducted yet in the region because the land disputes have to be resolved prior to conducting land survey according to one of the terms of the Peace Accord.

All respondents agreed that the LAS in CHDs is very complicated and needs to be streamlined to increase its efficiency. The following aspects of the system and institutions can be taken into account to increase the efficiency of the system. These include the recommendations based on the findings.

First, the process should be streamlined. The mutation process in plain-land districts concerns only two offices: AC(L) office and Union land office because AC(L)s in plain-land districts have the mutation power and they do it on behalf of DC. As it is simpler than that of the CHDs and it takes lesser time. If the AC(L)s in CHDs are given the authority of record update (mutation), and registration and the Headman post is recognized as Union Land Assistant Officer (ULAO) of the plain-land districts by the government and if AC(L) and Headman are supervised by HDC according to the Peace Accord, the process can be streamlined. The supervising officer might be a Deputy Secretary ranked officer from BCS (Administration) Cadre, posted as the Land Officer of the HDC. If it is done so, the mutation case file will only be concerned by AC(L) office and Headman office. AC(L) will update and register the record and the service recipients would not need to go to district headquarter for a land related service, especially the mutation. On the other hand, the Headmen will be highly motivated when they will be considered as government employee equivalent to the ULAOs. Beside this, the provision of the Peace Accord will not be breached because it will have the supervision power. Also there would be a time limit for both AC(L) office and Headman office to render their service and time limit for the whole process to ensure faster service delivery. Thus, involvement of less offices will reduce the scope of corruption, execution time and outrage by the middlemen.

Second, however, removing any tier from the LAS in CHDs is not a practical thought because of the sociopolitical reality. The involvement of the HDC came from the impact of the Peace Treaty and it cannot be deducted from the process. If it is attempted to do so, it will face political resistance from the ethnic minority groups because they think that HDC is their institution based on which they can practice autonomy. On the other hand, Headman's office is the representation of the customary LAS of the ethnic minority people and that is why the importance of this tier also cannot be ignored. So, if there is no scope of deducting any tier from the system what can be the solution to reduce the service delivery time. A solution can be setting time limit for all the institutions involved in the process so that the mutation can be completed within a certain time. Another solution might be the introduction of e-mutation or e-service in land related service so that it increases the efficiency by reducing the physical mobility of the service recipients and by reducing the scope of corruption.

Third, there should be AC(L) post in all upazilas of CHDs and appointed Land Officer in all HDCs so that quality and efficiency of the service delivery is enhanced. Because when a UNO is in charge of AC(L) in upazila and CEO/EO is in charge of Land office in HDC, he/she cannot manage sufficient time for the land related files or services. UNO has to coordinate all activities in a upazila and CEO/EO has to look after all activities of HDC. At present, there is no AC(L) post in some upazilas and the post of Land Officer is vacant in all HDCs.

Fourth, the Headman post should be converted to government post because they receive only one thousand taka allowance per month and one percent commission from the grove land tax which is a very poor amount but they are performing the role of ULAO for the CHDs. At present, there is no office for the Headmen, they use one room of their house as office. The Headmen are very less motivated due to their current status.

Fifth, a complete cadastral land survey of the whole region should be done because a rich land information database is not possible to prepare without it and the amount of land disputes cannot be reduced without the database. Efficiency of LAS in CHDs cannot be ensured without complete land record because the incomplete land records generate more disputes and disturb the usual efficiency. According to the provision of the Peace Accord, a land commission was established to resolve the land disputes in CHDs but the commission is yet to function because of some debated clause in the CHT Land Dispute Resolution Commission Act, 2001. All stakeholders should come forward to be agreed to the points regarding the resolution of land disputes by the commission so that the disputed cases can be disposed and the land survey can be started as soon as possible. During the survey process a team comprising of an officer, a surveyor, a Headman, a Karbari (village chief), representatives from various political parties, male and female representatives youth society can be appointed per union. The representatives in Pahari inhabited areas will be from Paharis, the representatives in Bengali inhabited areas will be from Bengalis and the representatives in mixed inhabited areas will be from both. The villagers will select the representatives.

Finally, there should be a land manual for the CHDs because the CHT Regulation or Manual, 1900 is for the overall administration of the region. That manual is not specifically for land administration. The plain-land districts have land manual for their land administration and the processes are unified because of the land manual. But the same mutation process is different in different districts and upazilas because of the absence of a manual. Practices by the local administration have determined the procedures and thus varies according to district and upazila. This variations have included unnecessary tier and practices to make the process more complex. If the procedures are defined by the manual, for example if AC(L) is authorized as registration officer on behalf of DC and the involvement of UNO office is excluded from the process, the mutation and registration process will become more efficient by reducing the inconvenience of the service recipients.

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ENDNOTES (Some Important Terminologies)

"Bengali" :

People living mainly in the plain-land districts whose mother tongue is Bengali.

Cadastre :

The cadastre is a land information system with two parts: a series of maps showing the size and location of all land plots along with text records describing the attributes of the land.

Circle :

The British divided the whole region of CHT into three demarcated areas naming as circle.

Circle Chief :

The leader of a circle is known as circle chief who was previously known as "Raja".

"Deserving person":

There is no explanation or other information provided in the amending legislation specifying the definitional criteria of a "deserving person".

Dewan/Talukdar :

Person appointed in charge of taluks (comprising a set of villages) with the power of revenue collection. Before the British period intervention in LAS in CHDs, the Dewan/Talukdars used to work under the Raja.

Headman :

Person appointed in charge of mouza with the power of revenue collection and local trial.

"Hillmen/Pahari/Jumma/Hill people" :

The indigenous inhabitants of the Chittagong Hill Districts who are ethnically different from the people living in plain-land districts.

Khatian/Record of Rights :

An statement containing the attributes and information of the land in plain-land districts.

Mouza :

An area comprised of a number of villages. The concept of mouza was initiated by the British to collect land revenue in the CHT.

Mutation:

The transfer process for updating the land record in the name of buyer after a land transaction is performed.

"Non-hillmen" :

Non-hillmen resident means a person who has a house in the district of Chittagong Hill Tracts for at least 15 years and no house outside that district, or has a house in the district of Chittagong Hill Tracts with agricultural land settled by the Deputy Commissioner of that district without any house or agricultural land outside that district.

Tszi/Jama Bandi :

A form used to illustrate the attributes and information of the land in CHDs.

ULAO/Tahshildar :

A government employee who works at union level under the supervision of AC (L) in plain-land districts to look after the land related matters.