



Land administration in Bangladesh: Problems and analytical approach to solution

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Abstract

Rapid population growth combined with fast rate of land transfer and land conversion urges for an effective land administration and management in Bangladesh. But the land administration system in Bangladesh is corrupt, inefficient, and unreliable and inherently contains systematic weaknesses. It proliferates and perpetuates the endemic nature of land disputes. Nearly 80 percent of court cases in the rural areas are estimated to be related to land-conflicts. On this background, collective reform measures are inevitable in the existing system to ensure access to land and land related benefits for the citizens. The paper analyzes the present structure of land administration and land management. Then this study attempts to identify the problems and lacunas in this sector. Finally it tends to provide ameliorative recommendations to overcome the same.

Keywords: record of right, land survey, mutation, land transfer

1. Introduction

In a developing country like ours land distribution system is often alleged to foster inequality which goes against fundamental rights and fundamental principles of state policies as stated in the Constitution promising to establish economic and social justice. The basic land law in Bengal before the advent of British rule was that the ownership of land belonged to the person who cleared jungles on it and prepared it for cultivation. Historically land is closely connected with our livelihood, social norms and economic activities. In line with it, Article 42(1) of the Constitution of Bangladesh gave rights to every citizen to acquire, possess and transfer of properties. However, despite its importance in our daily lives and economic activities, land currently administered remains firmly rooted in practices established during the colonial era. The British, from the outset, gave high priority to the organisation of a centrally controlled management system that was designed to maintain political control and secure a steady source of state finance. Relatively little has changed in the post-independence era. The current disaggregated process of land administration creates various problems in land management including lack of coordination and efficiency in the system. The system is disintegrated which is often responsible for errors in ownership records. The ownership rights are recorded in three different offices, each of which is run completely by different executive process. The uncoordinated executive processes are the source of most of the problems of land administration in Bangladesh, which leads to everlasting land conflicts. Thus, the importance of an efficient land administration and management in a country like Bangladesh cannot be ignored. It is crucial to establish a compatible land administration and management system for establishing a systematic approach for planned land development.

2. Methodology

The study is based on both the secondary and primary sources. Secondary data has been collected from books, journal articles, reports, and from various official and unofficial sources. Relevant national legislations have been reviewed as primary

sources and interviews were conducted with officials of land administration and concerned stake holder. In completing the study, mainly qualitative approach has been adopted to make an analytical reasoning in identifying the drawbacks of land administration in Bangladesh and finding out feasible solutions.

3. An Overview of Present Land Administration

Land administration is the process of determining, recording, and disseminating information about ownership, value and use of land; when implementing land management policies ^[1]. As land administration is strongly related with land management (the rationale for land administration is to facilitate land management), in this paper both land administration and land management issues are addressed ^[2].

The core functions of land administration system in Bangladesh can be divided into three classes -

- 1) Land management,
- 2) Land survey and
- 3) Land transfer registration.

Each of these functions is handled by a different category of offices from Union Level to National level ^[3]. Which are pointed out below consecutively-

3.1 Land Management

The Present Land Management in Bangladesh can be discussed on two levels-National and divisional.

3.1.1 National level

At National level, Ministry of Land is the final authority in land management. The Ministry concentrates on policymaking, supervision, and monitoring of land administration. For the effective supervision of field offices, and quick disposal of quasi-judicial cases, two new bodies, the Land Appeal Board and the Land Reforms Board have been established ^[4].

i) Land Appeal Board

The Land Appeal Board is constituted by the government under section 4 of the Land Appeal Board Act 1989. It consists

of a chairman and two other members. The Land Board has been entrusted with the powers of disposal of appeals preferred against the orders of the divisional commissioners under different laws relating to land administration and land management. It is empowered to advise the government on any issue relating to land management and land administration referred to it by the government. The board is also empowered to inspect and evaluate the work of subordinate land courts. The orders of the board in the cases brought against the orders of the divisional commissioners and in the cases reviewed by it are final. No appeal can be made against the orders of the board ^[5].

ii) Land Reforms Board

The Land Reforms Board was set up at the national level under the Land Reforms Board Act 1989 consisting of a chairman and two other members. The board may perform such functions and discharge such duties in respect of land reforms and land management as the government may entrust to it. The board may also exercise such powers and perform such duties as may be entrusted to it by or under any law. The primary function of the board is to supervise the functioning of the field offices and the implementation of land reforms measures.

Moreover, Plans for matters relating to land management, their implementation and supervision, and matters relating to boards establishment, record room and library are some of the functions, entrusted by the Ministry of Land to the Land Reforms Board ^[6].

3.1.2 Divisional Level

At divisional, district, Upazilla and union levels, the key roles in land administration ^[7] appear as follows-

i) Divisional Commissioner

Divisional Commissioner is Co-ordinating officer of activities at Division and head of field level land administration. Besides, He hears appeals against District Commissioner's decisions regarding land revenue as Chief Revenue Officer. On behalf of Land Reform Board (LRB), He sets district Land Development Tax (LDT) collection targets; manages vested, abandoned properties; khas lands including fisheries etc. Additional Commissioner Assists the Divisional Commissioner in above functions ^[8].

ii) District Level

Deputy Commissioner (also called District Collector/DC) coordinates all government activities at district level with the help of ADC (General), ADC (Revenue), and ADM (Additional district magistrate). He generally executes the provisions of various acts, conducts government land acquisition, oversees thana and union land offices etc.

Additional DC (Revenue) assists Deputy Commissioner (DC) and hears appeals against the orders of AC Land; inspects offices/records of AC (Land)/tehsildars; Conducts revenue collection/monitoring amounts collected ^[9]. He works the cooperation of General Certificate Officer, Revenue Deputy Collector, Assistant Commissioner (Record Room), Land Acquisition Officer, Assistant Commissioner (Revenue Munshikana) and Assistant Engineer.

iii) At Upazilla Level

Assistant Commissioner of Land (also acts as Upozila Revenue

Officer, Upozila Settlement Officer etc.) conducts all the activities of Upozila land office with the help of kanungo, Surveyor, Head Assistant cum accountant, Nazir, Mutation Clerk, Assistant Certificate Clerk, Credit checking cum Sairat Assistant, Process Server and chainman. He generally keeps land records up to date (mutation); determines Land Development Tax to be demanded of each landowner; dispatches tehsildars to collect land development tax (LDT), supervises their work and inspects their records; administers khas land & vested or abandoned properties etc.

iv) Union level

At Union Land Office, there is a Local Revenue Collector (tehsildar) and one or more Assistant Tahsildars and process servers. The Tahsildar works under authority of AC (Land). He gathers taxes, files certificates for arrears, updates records of ownership (khatian), on instruction of AC (Land) conducts preliminary enquiries regarding petitions to update land records, maintains list of khas lands, inspects incidence of alluvium and diluvium, making related map corrections and rent adjustments etc. ^[10].

Land Administration Manual, 1990 along with related acts and other updated circulars prescribes the duties of the officers of land administration.

3.2 Land Survey

The land survey (jareef) process is referred to as land settlement and is administered by the Directorate of Land Records and Surveys (DLRS). Organizational hierarchy and functions of land survey administration in Bangladesh is given below-

3.2.1 The Directorate of Land Records and Surveys (DLRS)

The director general, Land Records and Surveys, with the assistance of a number of directors, deputy directors, assistant directors, settlement officers, assistant settlement officers and a large number of trained and technical staff, gets the maps and records prepared and revised under the provisions of the State acquisition and tenancy act, 1950, and hands them over to the collectors (deputy commissioners). The collectors maintain them and keep them corrected by incorporating the changes due to transfer, inheritance or otherwise ^[11]. The DLRS is entrusted with the responsibility of carrying out cadastral surveys and preparation of record of rights (ROR). ROR/Khatiyana consists of –

i) A revised mauza map (Sheet) showing location, area and characteristics and

ii) A khatian indicating ownership, area and character of land.

The DLRS undertakes periodic surveys to update records of land ownership and use. Zonal settlement offices and Upazila settlement offices work under this directorate. A survey team consisting of two Surveyors and one Chainman conduct the survey operation. The steps of hearing objections and appeal are done by Sub-Assistant Settlement Officer (SASO) and Assistant Settlement Officer (ASO) respectively.

It is noted that DLRS does not correct position/possession and documents but only does prepare new map and records accordingly ^[12].

3.2.2 Zonal Settlement Office

Zonal Settlement Offices in greater districts work under the Directorate General of Land Records and Surveys. This office

was established to finalize mapping of Mouzas and preparation of khatians/RoR. Zonal Settlement Offices is entrusted with overall responsibility for settlement operation^[13].

3.2.3 Upazila Settlement Office

There are Upazila Settlement Offices headed by Assistant Settlement Officer (ASO) in selected upazilas. This office was established to assist zonal settlement officer to run and supervise settlement operations to finalize mapping of Mouzas and preparation of khatians/ RoR^[14].

3.2.4 At Local level

Surveyor (Amin), at local level, conducts traverse survey (kistwar); makes/updates cadastral map, numbers plots, field checks to determine accuracy and makes corrections, calls interested parties to meeting (khanapuri) to discuss details; fills draft record (khatian).

After the finalization of land records in survey operation the DLRS sends khatians and mauza maps to the DC office that preserves them in the District Record Room. At present, a Record Room is also maintained in the AC (Land) Office.

3.3 Land Transfer Registration

Land registration is a process of maintenance of a public register, which is a record of an isolated transaction. Sub-Register (SR) registers transfer of any parcel of land through a deed with stamp on the property value. When any deed is registered in Registration office, Land Transfer (LT) notice is to be sent to the Office of Assistant Commissioner's (AC, Land) Office.

Organizational hierarchy of land transfer registration in Bangladesh is-

a) Inspector General of Registration

Inspector General of Registration in Bangladesh inspects and oversees all district and sub-registrar offices. Though this office is dedicated to land related activities however it works under the ministry of Law, Justice and parliamentary affairs.

b) District Registrar's Office

There is a District registrar in every district for supervising sub-registrar's offices and for preserving copies of registered deeds & registers.

c) Sub-Registrar's Office

There is a sub-registrar's office in every Upazila. This office is responsible for registering transfer of properties. Any land transaction must be registered in this office within one month of period of execution of the deed. Sub-registrar's office publishes an approximate value of land property of the concerned area.

It is noteworthy that Preparation of land record, upgrading of ROR and land transfer registration are the integral parts of land administration and these should be coordinated well enough. However, these offices work separately with little coordination among them.

Other agencies playing a more minor part in the administration of land include the Ministry of Forests, the Fisheries Department {whose role is about administration of water bodies (jalmahols) like Haor, Beel, Khals, Baor etc.}, the Directorate of Housing and Settlement, and the Department of Roads and Railways. Moreover, in updating of ROR (mutation)

Upazila Administration is concerned which is under the jurisdiction of Ministry of Establishment (MoE)^[15].

4. Problems of Land Administration

The land administration system in Bangladesh is not well-developed. It is beset with multiple defects and problems. The current system of land administration and management appears to be inadequate and inefficient for the following reasons:

- a) The land administration system in Bangladesh is grossly mismanaged as being based on age-old or traditional regulations. Most of the regulations were enacted during the British period. The outdated regulations rely mostly on land officers, revenue collectors and surveyors which paved the way for corruptions.
- b) Land administration and management are mostly run by institutional mechanisms of three ministries-Ministry of Land, Ministry of Public Administration, Ministry of Law, Justice and Parliamentary Affairs. In addition, six other ministries are also indirectly involved in land management. Because of this fragmentation different institutions and processes have been established for policy formulation and implementation. However, there have been many instances of coordination gaps among institutions^[16].
- c) Multiplicity of documents or records of rights is the major problem of land administration. The present structure of land administration is based on three core functions i.e. Record keeping, Registration and Settlement. Each of these functions is handled by different offices. Now, if one party brings a proof of ownership from Tahsil office, another from Registrar's office and yet another from the Settlement office, and if there happens to be a difference, which is obvious, then how a judge is to adjudicate the dispute? This multiplicity of documents or records of rights is the central flaw in the system of land administration.
- d) Record of Rights (ROR) or Khatian is not conclusive evidence of ownership, and these merely provide basis for possession at the recording time. Under the prevailing legal system, khatians along with deeds and mutation documents are relevant for ownership decisions by a civil court. The lengthy and complex process of ownership determination enhances conflicts.
- e) Record keeping and information management in entire land sector are done manually. All land surveys (CS, SA and RS) over more than 100 years were done manually. Upzilla and union land offices maintain more than dozens of manual registers for maintaining land records and office operations. Moreover, manual information management system unwittingly prevents proper monitoring of field operations and is a major hindrance to ensure accountability.
- f) Digitalization is considered inevitable to bring efficiency in land sector. Currently digital system is used for inputting the khatian records in the e-Service Center and DLRS, and printing the information. However, the system only allows taking a print out of the khatian, but cannot manage changes. For preserving land records digitally, the current system may be effective, however, for maintaining up-to-date record keeping in an integrated manner, a broader land information system (LIS) needs to be developed. Without having an integrated digital record system with a central server, lack of coordination and inefficiencies in managing and maintaining land record keeping will prevail^[17].

Besides, some officials and employees suffer from enthusiasm and are reluctant to provide digitalized services as they would reduce their scope to indulge in corruption and anomalies.

- g) Inadequate and improper land registrations increase difficulties in securing land tenure and land transfer in Bangladesh, as deed system does not provide the final proof of the proprietary right. Moreover, there has been notable corruption in Registration Offices during deed registration^[18] which increases the sufferings of the common people.
- h) Corruption and bribery happens widely in Tehsil offices at the time of mutation. The mutation of land transfer in Bangladesh requires at least eight steps. Although all survey records are available at AC Land and Tahsil Office, applicants are required to submit duplicate or certified copies all records. Submission of these documents requires mutation applicant additional time, visits and cost in going to different offices to collect them.
- i) The National Land Revenue Board has not been doing the proper mutation work in due time. As a result, dual ownership is often created. Besides, the Board never properly identified khas land, khas water bodies, khas ponds, enemy property, abandoned property as well as unused land under different government offices. Consequently, land grabbers have occupied these lands. The existing land ceiling has not been properly enforced.
- j) There is no appropriate process to identify an inheritor of land. Allegations are rampant that receiving large amounts of bribe the staffs of Land Record Directorate tamper with the documents in different ways in order to create false ownership.
- k) Land-grabbing of both rural and urban land by domestic actors is a problem in Bangladesh. Wealthy and influential people have encroached on public lands with false documents and obtained court decrees to confirm their ownership, often with help of officials in land administration and management departments^[19].
- l) The Restoration of Vested Properties Act, 2001 was mainly aimed at restoring the properties of Hindu minorities and Indian nationals that was vested in the government by virtue of Bangladesh (Vesting of Property Assets) Order, 1972. However, in the sphere of time, the restoration process resorted to many defects and problems. Questionable enlistment of vested property, corruption of government officials, undue interference of politicians, sufferings of mass-people and harassment of many legitimate owners have made the whole process of restoration of vested properties defective and contradictory.
- m) In *khas* land (government owned land) management and distribution, the main problem is that there is no accurate inventory of *khas* land available with the government. Many *khas* plots were grabbed by local elites and powerful quarters who have strong political nexus. Although the government has a *khas* land distribution policy, the poor people who received land under it are hardly able to retain the land. The influential and powerful land grabbers inevitably force them to leave the land.
- n) There is a lack of adequate training on land management and services and land surveys among officials and employees working at district, upazilla and union levels. As a result, there is a lack of skill and expertise among them on land management and service provisions and survey

conduction. Moreover, officials and employees need training to provide digital land services^[20].

- o) Justice delivery system in Bangladesh is embedded with many limitations that effect resolving land disputes lodged at courts. Resolutions of suits relating land take inordinate delays in most cases; consequently, number of pending cases in courts has increased overwhelmingly.
- p) Land survey process in Bangladesh is quite lengthy. It involves ten steps to finish involving multiple levels- field surveys, review processes, editing and final printing of records. According to the Survey Rule, land survey in a district is required to be completed five years. But experiences have shown that it took 15-20 years to finalize and print survey records.
- q) Finally, land services are found to be extremely corruption prone. There is hardly any service for which mass people do not experience corruption and irregularities. Because of high incidence of corruption in land services, it has got infamous reputation and lost public trust and confidence. People have become accustomed with corruption in land sector that they find corruption in land sector inevitable. A section of officials and employees of land and sub-registry offices in collusive manner are involved in corruption. As a result, ordinary people have endured enormous losses in terms of money, time and mental agony and land owners and state are losing their land to influential land grabbers. Corruption in land sector is believed to have increased land disputes in the country.

5. Recommended Solutions

There are various long-term and short-term solutions to make the land administration and management system effective and pro people as follow-

- a) An IT-based solution could be optimal to handle uncoordinated and disaggregated executive process of land administration. Land administration and management, land use control, provision of utility services and other services can be pursued by computerized land information system (LIS). This system would serve unified services related to land management by marginal labor, time and money. Use of LIS for recording and maintaining the original volume of land records could minimize the chances of tampering of records. If any change in the ownership is updated in real time through the computer-based system, agencies can manage the ownership ledgers in a unified fashion and allow anyone to check the current ownership information any time they want^[21].
- b) The Record-of-right can be preserved in computer database namely LIS (Land Information System) and the holders of Record-of-Rights can be given land ownership certificate, which can help detecting fabricated documents and preventing multiplicity of suits^[22].
- c) It is of key importance to engage properly trained, experienced and educated persons in survey and mapping works to make it flawless and less time-consuming. A magistrate should be appointed who would be present in the field during the survey and mapping period. A temporary magistrate's court must be established in the field during the survey works. The contract basis works of survey and mapping must be discontinued. A committee with members of civil society should be

- formed which would act as a watchdog during the survey works.
- d) A single parcel basis system of land registration must be established which needs modification of existing laws and introduction of new legislation. It is necessary to create an efficient surveying, documentation, recording and taxation system, which would provide transparent land administration of the government for the public. Redesigning existing register books, indexes and khatiyans and creating a stand-alone “Land Register” showing existing land ownership and new transaction is needed.
 - e) The functions of record keeping and registration have to be brought within a single executive process at the field level i.e. Tahsil office and Sub-Registrar’s office both should come within the jurisdiction of a single executive officer, say the Assistant Commissioner (AC) of Land.
 - f) Total amount of khas land of different types should be identified and published by the government in the media. Illegally occupied khas land should be released and brought under government control. Identification and management of khas land (state owned land) and water bodies, distribution of the same to the landless and poor people, retention of such land water-bodies by the landless and pertinent rules and practices within the prevailing social-political context of Bangladesh constitute prime issues of agrarian reform^[23]. Such reform will enable middle-sized peasant families to manage their food year-round from the allotted land. Moreover, it can solve the housing problem^[24].
 - g) Intensive and continuous monitoring system should be developed to ensure transparency and efficiency of the land officials.
 - h) A watch-dog mechanism comprising peasants’ representative, NGO, Social workers should be developed to check corruption, e.g. bribe, harassment etc. while processing documents.
 - i) Security of the land officials should be ensured during conduction of the survey and distribution of khas land.
 - j) Existing land laws are outdated and complex. Necessary amendments must be made according to need of present changed circumstances.
 - k) Government should take steps for such pro-poor administrative reforms as would reduce conflicts over land as well as bureaucratic corruption and increase small holder security. Enhancing poor people’s right to land is likely to require a range of interventions to strengthen their own voice.
 - l) Judicial process must be friendly towards the people. At present around 30 lakh of cases are pending with different courts of the country, among which around 80 percent appear to be land related. Immediate reform in judiciary is must to make the same effective, dynamic and pro-poor people.
 - m) Modernizing land survey system is inevitable. The satellite survey system can be introduced in the place of old-age time consuming and corruption leading cadastral survey^[25].
 - n) Specific recommendations for the effective land sector may be summed up as follows-
 - Guaranteed open access to all Land information should be available,
 - Special Land Tribunal is to be established to enhance efficiency of judiciary^[26],
 - Digitization of land record system and gradual development of Land Information System,
 - Preparation of khas land inventory,
 - Dispute resolution mechanism involving NGOs, CSOs etc.^[27]
 - Officials who have worked in land administration and management should be transferred and deputed within certain cluster where they can apply acquired skill and expertise on land,
 - One-stop services need to be ensured at upazilla level mainly the services of mutation, registration and documents withdrawals,
 - Land Survey Tribunals should be comprised of three members involving representation from judiciary, settlement department and land administration,
 - Participation of other stakeholders (NGOs, professional organizations, citizen’s groups) in policy formulation and implementation of land should be ensured. And public hearing on land services at upazilla level need to be organized in regular intervals,
 - Land Fair at district and upazilla levels need to be organized to educate ordinary people on land services, laws and rules, administrative processes and different fees^[28].
- Finally, a land management coordination board may be established at national level with representatives of the relevant ministries, agencies and users to examine the needs for information and to coordinate land information management activities and projects^[29].

6. Concluding Remarks

The challenge of land administration is to ensure access to land and property rights through planned and sustainable land management in Bangladesh. The existing land administration and management is complex. A large number of government ministries, directorates, divisions, agencies and municipalities are involved in the management of land. The basic functions of current LA are three folds: (1) record keeping, (2) registration, and (3) settlement. The key problem here is the multiplicity of documents or records of rights maintained in different offices under different un-coordinated ministries. This system is inefficient; non transparent; responsible for dual ownership; forms the basis for fictitious records, disputes and litigations; acts as a disincentive for production; and helps the land grabbers; also forms the basis for land-related corruption. No single agency is entirely responsible for the execution of any projects of land policy or administration^[30]. Although digitization of land record has been introduced only at very small scale the whole process is manual, laborious and time intensive. Conventional methods of land survey, preparation and upgradation of land records, maintenance of all related data for each parcel of land makes land administration and management incomplete and ineffective. Planned and effective initiative to digitalize the record of rights, mouza mapping and deeds registration may make the land administration step forward transparently and efficiently.

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