

Land Management and Services in Bangladesh: Governance Challenges and Way-forward

23 August 2015

Land Management and Services in Bangladesh: Governance Challenges and Way-forward

Research Advisers

Advocate Sultana Kamal

Chair, The Board of Trustees, Transparency International Bangladesh

Dr. Iftekharuzzaman

Executive Director, Transparency International Bangladesh

Dr. Sumaiya Khair

Deputy Executive Director, Transparency International Bangladesh

Mohammad Rafiqul Hasan

Director, Research and Policy Division, Transparency International Bangladesh

Research Team

Md. Waheed Alam,

Senior Program Manager, Research and Policy

Nihar Ranjan Roy

Deputy Program Manager, Research and Policy

Nazmul Huda Mina,

Assistant Program Manager, Research and Policy

Acknowledgements

The Ministry of Land, officials and employees of Department of Land Survey and Records, Registration Department, field level land offices, lawyers, experts and journalists extended all out support at different of stages of this research. Research team is grateful to Mahmud Hassan Talukder, Mohammad Golam Mostafa, Robiul Islam, Mohammad Ali Hossain for their support in collecting data for the study. Besides, the team is thankful to colleagues of Research and Policy Division, TIB for their valuable comments and feedback at different presentations. We are grateful to all of them.

Contact

Transparency International Bangladesh

MIDAS Centre (4th & 5th floors)

House # 05, Road # 16(New) 27(Old)

Dhanmondi, Dhaka 1209, Bangladesh

Phone: 88-02-9124788, 9124789 Fax: 88-029884811

Email: info@ti-bangladesh.org

Website: www.ti-bangladesh.org

Facebook: www.facebook.com/TIBangladesh

Table of Contents

Chapter One:	Introduction	1-3
1.1	Background and rationale	1
1.2	Research objectives	2
1.3	Research methodology and scope	2
1.4	Organization of the report	3
Chapter Two:	Legal Challenges	4-7
2.1	The Registration Act 1908	4
2.2	The Code of Civil Procedure 1908	5
2.3	State Acquisition and Tenancy Act 1950	5
2.4	Agriculture Khas Land Management and Distribution Policy 1997	6
Chapter Three:	Land Administration and Management Challenges	8-13
3.1	Less coordinated land administration and management	10
3.2	Fragmentations of land services and corruption and harassments endured by service recipients	10
3.3	Limited participation of other stakeholders in land policy formulation and implementation	12
3.4	Frequent transfer and deputation of Administrative Cadre officers	12
3.5	Disproportionate engagement of Additional Deputy Commissioner (Revenue) outside of land issues	12
3.6	Inadequate of professional experience and skills of AC land	13
3.7	Inadequate field visits and monitoring	13
3.8	Lack of verification of field reports	13
Chapter Four:	Institutional limitations and challenges	14-19
4.1	Inadequate budget allocation for the Ministry of Land	14
4.2	Huge shortage in manpower	15
4.3	Lack of skilled manpower	15
4.4	Lack of effective training	15
4.5	Deficits in infrastructure	16
4.6	Inadequate logistics, technical equipments and transport facilities	16
4.7	Manual record Keeping and Information Management	16
4.8	Fragmented and slow digitalization	17
4.9	Absence of Citizen's Charter in Large number of Sub-registry and Union Land Offices	18
4.10	Absence of assigned Information Officers in many Upazilla and Union Land and Sub-registry Offices	19
4.11	Court's limitations in resolving civil suits relating to land	19
Chapter Five:	Limitations in different land service systems and processes	20-25
5.1	Time-consuming land surveys	20
5.2	Multiple steps in mutation process and provision to submit of multiple documents as attachment	20
5.3	High mutation fees	22
5.4	High registration fees	22

5.5	Limited differentiation of registration fees	22
5.6	Provision to have mutation and payment of land development tax before registration	22
5.7	Submission of multiple documents as attachment for registration	23
5.8	True coping of registration deed on <i>balam</i> book	23
5.9	Low rates of land development tax	23
5.10	Determination of tax through landowners' reports	24
5.11	Withdrawal of Certified Copies of <i>Khatians (RoR)</i> from District Record Room	24
5.12	Dual Authority in Hat-bazar management	24
5.13	Yearly leasing system of adjacent khas Land	25
Chapter: Six	Corruption and irregularities in different land services	26-35
6.1	Land surveys	26
6.1.1	Taking bribe from landowners during surveys through threat of less measurement and distortion of records	26
6.1.2	Not handing over <i>mat-parcha</i> in the field	27
6.1.3	Making deal with influential people and produce records of government and disputed land on the behalf of individuals	27
6.1.4	Taking bribe for correcting records during review processes under Articles 30 and 31 of State Acquisition Rules 1956	27
6.1.5	Making records without proper investigation on the behalf of the government for absence of tenant	27
6.2	Mutation or <i>namjari</i>	28
6.2.1	Receiving of mutation application by Tahsil offices	28
6.2.2	Collusion with influential people and issue mutation of government and disputed land	28
6.2.3	Noncompliance of mutation deadline	28
6.3	Registration of land transfers	28
6.3.1	Sub-registers' collusive corruption with the help of deed-writers	29
6.3.2	Tax evasion with help of registry officials and deed-writers	29
6.3.3	Registrations without mutation and <i>dhakila</i>	30
6.4	Agricultural Khas Land Distribution	30
6.4.1	Selection of landless people through nepotism and part affiliation	30
6.4.2	Inadequate campaign to inform landless people	30
6.4.3	Receiving of bribe during handover of <i>kabuliat</i> of khas land	31
6.4.4	Non-eviction of illegal occupant from khas land by collusion and taking bribe	31
6.4.5	Inadequate efforts for identification of khas land	31
6.4.6	Leasing of khas land through collusion and maintain occupancy by taking court orders	32
6.5	Payment of Land Development Tax (LDT)	32
6.5.1	Tax collection in compliance with LDT Rule 1976	32
6.5.2	Receiving of Extra LDT	33
6.5.3	Infrequent field visits to identify potential tax payers	33

6.6	Hat Bazaar Management and Leasing	33
6.6.1	Syndication of local government, businessperson and powerful and politically influential people to lessen lease money	33
6.6.2	Lack of campaign of tender notices	34
6.6.3	Less wider campaign to favor preferred people	34
6.6.4	Illegal grabbing of hat-bazar land and making of permanent structures	34
6.6.5	Collection of toll beyond approved ones	34
6.7	Information collection and documents withdrawal	34
6.7.1	Documents withdrawal from AC land , Tahsil and Registry offices	35
6.7.2	Document withdrawal from Record Rooms	35
6.7.3	Document withdrawal from Settlement offices	35
6.8	Land Dispute Resolutions in Civil Courts	36
6.8.1	Political appointments of Judges and Government Pleaders (GP)	36
6.8.2	Low remuneration of Government Pleaders and survival crisis of maximum lawyers	
6.8.3	Wealthy and influential people's upper hand on litigations	37
6.8.4	Bribery by judicial officials and employees	37
Chapter Seven	Conclusion and Recommendations	39
Bibliography		43

Preface

Transparency International Bangladesh (TIB) envisions a Bangladesh where government, politics, businesses, civil society and ordinary people's lives will be free from the influence of corruption, and all government, private and non-governmental organisations engaged in public service will run their operations with transparency and accountability. With this vision TIB has been working to build a social movement in order to reduce corruption and ensure good governance in the country. TIB's research, civic engagement, outreach and communication initiatives are geared to promote policy and institutional reforms for preventing and controlling corruption and thereby reducing poverty and promoting sustainable development.

This diagnostic study on *Land Management and Services: Governance Challenges and Way-forward* is aimed at identifying governance challenges in land sector and assist the relevant authorities to improve governance and control corruption in the sector. The Government has recently undertaken a series of measures to promote better governance including piloting of digitalization of selected aspects of services, which may go a long way if properly implemented and enforced. However, there are a number of more areas that demand attention of the authorities if challenges of corruption and governance deficit in the sector are to be effectively addressed. These challenges are systematically documented in this report as well as recommendations considered necessary.

We are grateful to Mr. Mohammad Shafiul Alam, Senior Secretary, Ministry of Land and other senior officials of the Ministry who gave us the opportunity to share draft findings of the study and provided valuable feedback and suggestions. They also shared with us some of the initiatives that they have taken and are planning to take in the future.

We are also grateful to all those who helped us by providing information including relevant officials at different institutions and levels and researchers, experts and people at large who have experience of interaction with institutions involved in land management and services.

The study was jointly conducted by my colleagues in Research and Policy Division of TIB, Md. Waheed Alam, Senior Programme Manager, Nihar Ranjan Roy, Deputy Programme Manager and Nazmul Huda Mina, Assistant Programme Manager.

I am grateful to Advocate Sultana Kamal, Chair of the Board of Trustees who guided and inspired us on behalf of the Board. Dr. Sumiaya Khair, Deputy Executive Director, and Mohammad Rafiqul Hassan, Director (R&P) TIB supervised the overall research process and provided necessary guidance. Other colleagues of the Research and Policy Division helped in many different ways including participation in in-house consultations. Heartiest thanks to all of them.

We hope that concerned authorities as well as stakeholders, especially the Ministry of Land, the Ministry of Law, Justice and Parliamentary affairs, the Directorate of Land Record and Survey and the Registration Department, media and the civil society would find this study useful. Any suggestions and feedback are warmly welcome.

Iftekharuzzaman
Executive Director

Chapter One

Introduction

1.1 Background and rationale

Land is closely connected with our livelihood, social norms and economic activities. Article 42(1) of the Constitution of Bangladesh gave rights to every citizen to acquire, possess and transfer of properties¹. However, despite its importance in our daily lives and economic activities, land sector in Bangladesh has been replete with numerous anomalies and corruption. Newspapers and electronic media regularly release reports on anomalies and corruption that include bribery in different land services and usurpation of state and private properties through collusion of land officials, vested-interest groups and influential people alienated with power structure, deprivation of landless people in distribution of khas land and eviction from their land etc. According to National Household Survey on Corruption 2012 conducted by Transparency International Bangladesh (TIB) 59% households experienced corruption while receiving services and nationally estimated total amount of bribe given by Bangladeshi households was found to be Tk. 22610 million².

The history of land administration and management is quite old. Over the decades, the government has taken numerous policy measures to reform and streamline land administration and its services; so that land would be managed properly and services would be delivered in efficient manner. However, different studies (CARE 2003 and Monzur 2015) have shown that still there are loopholes and governance deficits in different areas of land administration and service provisions³.

Governance challenges in land sector have become major concerns for relevant stakeholders. Rapid urbanization, industrialization and climate change on land have aggravated those concerns. In this context, land was identified as one of the priority areas of intervention of the government in the next 7th Five Year Plan. Therefore, understanding governance challenges in land sector would help stakeholders to take further policy measures on land sector. Moreover, over recent years the government has taken some measure to digitalize land sector so that land services would be delivered in efficient manner and corruption and management deficit in this sector would be reduced. These measures are somewhat fragmented and fall short of expectations. Therefore, to what extent these digitalization measures have brought positive changes need to be explored.

¹ Article 42(1), The Constitution of the People's Republic of Bangladesh

² National Household Survey on Corruption 2012, Transparency International Bangladesh page16 and 18

Moreover, land is the source of almost 60% legal disputes in Bangladesh⁴. Total pending cases related to land as of December 2014 was 1.7 million⁵. For such huge pending cases, ordinary service recipients have to endure inordinate delay and corruption in settling their disputes and need to make unwarranted spending. Therefore, this legal challenge have created immense pressure on civil justice system in the country and a major concern for ordinary people and policy makers.

Given the paramount importance of land sector, TIB has decided to work on land sector and pursue advocacy campaign both at local and national levels to bring necessary policy changes to fight against corruption and improve governance in land sector. Therefore, this research might help to pursue intended advocacy campaigns.

1.2 Research objectives

The main objective of this study is to explore governance challenges in land management and service provisions in Bangladesh and provide a set of recommendations to overcome those challenges. The specific objectives are:

- To identify legal, structural, policy challenges of land administration and service provisions and their operational difficulties
- To identify nature and extent of corruption and irregularities in land services
- To provide recommendations to overcome governance challenges in land administration and service provisions

1.3 Research methodology and scope

This is a qualitative study in nature. However, in applicable cases some quantitative information was also used to complement and bolster qualitative information. Information was collected from both primary and secondary sources and analyzed them in line with study objectives. The methods applied to collect information include key informant interviews, in-depth interviews, group discussions, review of reports, laws, government circulars and physical observations. Primary sources include policy makers, senior government officials, Deputy Commissioners, Additional Deputy Commissioners (Revenue), Assistant commissioners, Settlement Officers, Surveyors, Tahsildars, District Registers, Sub-registers, deed writers, lawyers, local government representatives, experts, researchers, journalists and service recipients. Secondary sources include different laws and rules, official documents, websites, research reports and articles and news published in different newspapers. The study was conducted during October 2014 -July 2015.

⁴ According to the Chief Justice of Bangladesh total cases originated from land is 60%. The Prothom Alo, dated.....
⁵ Case backlog piling up, The Daily Star, March 22, 2015

Land management and services are quite broad involving 13 major services and areas. Among them, this study covered major land services and issues with which majority people interact most. They include land surveys, mutation, registration, land development tax, khas land distribution, management of *hat* and *bazar*, withdrawal of different documents and civil cases relating to land.

1.4 Organization of the report

The report has seven chapters. Chapter one presents background and rationale of the study along with its objectives and methodology. Chapter two presents legal and policy limitations of some laws and policies aligned with scope of the study. Chapter three describes structural limitations of current land administration and management framework and its consequences. Chapter four presents some institutional limitations of different institutions and offices under land administration and management. Chapter five gives ideas about limitation of some land service processes and their contributions in propagating corruption and anomalies in land administration and management. Chapter six presents types and processes of different corruption and irregularities in different land services. Chapter seven presents concluding remarks on study findings and gives some policy recommendations.

Chapter Two

Legal Challenges

Land management in Bangladesh is a very broad and diverse. Moreover, it is connected with other issues like equity, social norms and custom, urbanization, industrialization and other economic activities. Therefore, many laws and policies are closely connected with land management and services. This study discussed limitations and challenges of some important laws and policies that are closely connected with current study. They include The Registration Act 1908, Code of Civil Procedure 1908, State Acquisition and Tenancy Act 1950 and Agriculture Khas Land Distribution Policy 1987.

2.1 The Registration Act 1908

This Act governs land transfer in Bangladesh. It was an archaic Act enacted in British colonial rule. Although some important changes were done over the years, this law retains manual registration system in this digitalized world. In the law, it says a number has to be assigned to every registration manually and it has to be documented in a register. Then, it should be put in each page of registration deed. Moreover, the Sub-register needs to put signature in each page of the deed.

Registry services can be regarded as natural monopoly. The Act stipulates that service recipients need to do registration from Sub-registry Offices, if there is transfer of immovable properties.⁶ Moreover, Sub-registers are given different duties and power to register deeds and without their signature a deed is invalid; thus, they enjoy discretionary power in registering deeds⁷. According to Robert Klitggard⁸, these two powers are contributing factors for creating opportunities for registry officials to indulge in corruption.

Article 86 of the Act gave registry officials impunity for any misdeed found in the deeds afterwards⁹. This provision indirectly encouraged registry official over the years in indulging corruption and wrongdoing in deed preparation. There has been allegation that some registry officials are connive with Deed Writers and indulging in fake deeds and distortion and conceal of information regarding land ownership.

⁶ The Registration Act 1908, Part II, Article 17.1 (g)

⁷ The Registration Act 1908, Part XI, Articles 51-70

⁸ Robert Klitggard produced the equation Corruption= Monopoly + Discretionary Power – Accountability, Controlling Corruption,

⁹ The Registration Act 1908, Others, Article 86

2.2 The Codes of Civil Procedure 1908

The Codes of Civil Procedure 1908 is used to arbitrate land disputes in formal courts. As this is a procedural law, it involves 10 steps to finish an arbitration process. As case backlog in Bangladesh has been quite high and around 60% of them are relating to land disputes, ordinary people need to endure inordinate delay in settling disputes. Some lawyers have the opinion that number of steps should be lower. They feel that the steps for identification of issues and setting hearing date consume two separate days that delay arbitration process to some extent. Therefore, these two steps in the arbitration process need be examined further.

It is observed that sometimes plaintiff, accused and their lawyers do not appear before the court, for which court sometimes need to be adjourned. Thus, cases are prolonged and service recipients have to endure delay and additional expenses. Sometime such non-appearances are quite frequent. However, in the law there is no provision of any fine for such negligence by plaintiff and accused and their lawyers.

Land grabbing is a very common phenomenon in Bangladesh. Presence of khas land, court of ward land, alluvial land, vested and abandoned properties has made land grabbing quite frequent. Now a day influential property developers also indulge in grabbing land of small and poor farmers and marginalized people. Moreover, some influential people aligned with politics and local government bodies illegally keep possession on lands belong to marginalized people and the government and benefitted from those land. Sometimes, people resort to courts to evict those illegal occupants. After trial courts sometimes, give verdict against illegal occupants and accordingly order to remove illegal occupants and reinstate legitimate tenant or owners. However, in the law there is no provision to fine or compensation against the illegal occupant for depriving the land owner from income and benefits of land.

2.3 The State Acquisition and Tenancy Act 1950

This is a landmark law in the history of land management in Bangladesh. Through this law almost 1.5 hundred years old landlord system was abolished from this land and original tenants were given ownership rights to their land. Moreover, this law delineated institutional framework for land surveys, record maintenance and a mechanism to resolve land survey disputes¹⁰.

This law gave the government sole authority to run land administration and management. It gave a provision to create a department to conduct land surveys. After conduction of survey, revenue officers are made responsible to maintain records and resolve any disputes arising from them. Moreover, the law made a provision to create necessary number of land survey

¹⁰ Article 143 and 144, Chapter XVII, The State Acquisition and Tenancy Act 1950

tribunals to resolve disputes arising from land surveys¹¹. Although this is the fundamental law for land management in Bangladesh, no provision was made to allow stakeholders outside of the government to contribute in policy formulation and implementation. Because of legal limitation, there has been little urge to include other stakeholders in policy formation and implementation of land management. There are number of committees at different levels on national land use policy, khas land distribution, water bodies leasing and land survey conduction. However, the government, elected representatives and government officials at different levels mostly dominate these committees. There is only puny representation from other stakeholders in those committees especially representatives from businesses, civil society etc. As a result, collaborative governance that has been gaining ground in public management in different countries is still a distant issue in land administration and management in Bangladesh.

Land surveys, record maintenance and dispute resolution on land survey records can be termed as monopoly services as they are given only from administrative mechanisms enshrined in the law. As land surveys and record maintenance services sometimes are quasi-judicial, revenue officers working at different levels enjoy discretionary power in delivering services¹². Moreover, these service provisions are designed under colonial administrative framework and mentality; thus, discretionary power for revenue officers is quite prevalent.

The law gave provisions that the government would establish as many Land Survey Tribunals as necessary and abolish any Tribunal when it feels¹³. The tribunal is made up of one Judicial Judge. Moreover, there is no provision within what time span judgment to be delivered from the tribunal. It is observed that because of some legal, procedural, infrastructure limitations and shortage of Judges, trial continues for 5-6 years or more. Moreover, being one member bench, sometimes Judges cannot understand different land records and other management issues properly, so they take more time to make judgments. Therefore, ordinary service recipients have to endure inordinate delay and physical toil in getting judgment from courts and make additional expenses to run cases.

2.4 Agriculture Khas Land Management and Distribution Policy 1997

Agriculture khas land is distributed among landless people under this policy. Since 1997, thousands of acres of land have been distributed among landless people. However, there exist some limitations in the policy that are described below.

¹¹ Article 145, Chapter XVIII, The State Acquisition and Tenancy Act 1950

¹² Article 17 and 144 (1), Chapter IV and XVII, The State Acquisition and Tenancy Act 1950

¹³ Article 145 (A) , Chapter XVIII, The State Acquisition and Tenancy Act 1950

Table 1

Stakeholders' Participation in Different Committees

Committee Name	Political Leadership and Elected Representatives	Govt. Officials from Various Ministries and Departments	Non-government Representation
National Land Use Committee	Prime Minister & other Ministries (16)	Secretaries of concern ministries (19)	Representatives of FBCCI (1)
District Survey & Settlement Committee	All Upazilla Chairman, Municipality Mayor of concern District	District Officials under Different Ministries & Departments (5)	District Press Club President (1)
National Khas Land Management Committee	Ministers & MP (7)	Secretaries & Senior Officials of Different Ministries & Departments (15)	Representatives of Farmer's Associations (2)
District Khas Land Management Committee	-	District Officials under Different Ministries & Departments (8)	Representatives of Farmer's Association (2), Cooperative Society (1) & Freedom Fighter (1)
Upazila Khas Land Management Committee	All UP Chairmen	Upazilla Officials under Departments (7)	Representatives of Farmer's Association & Other stakeholders (7)

There are three committees for management and distribution of khas land among landless people at national, district and upazilla level. Political leadership and different level of government officials dominate committees at different levels. The national committee is comprised of 24 members, of which 7 are Land Minister and Parliament Members and 15 are secretaries and senior officials of different ministries¹⁴. There are only two members from agricultural organizations. On the other hand, the district committees is comprised of 12 members, of which 8 are government officials from different departments at district level and 4 are representatives from agriculture organizations (2), cooperative societies (1) and freedom fighter (1)¹⁵. Similarly, the Upazilla committee is comprised of 15 members that include Upazilla Chairman, 7 government officials at upazilla level, 2 representatives from agriculture organizations, 1 headmaster, 1 freedom fighter and 1 woman representative¹⁶. As political leadership and government officials mostly dominate these committees, there is a risk that ordinary people's interest would be reflected in policy formulation and implementation regarding agricultural khas land distribution.

¹⁴ Jomi Jamar Katha (Issues of on land), Association for Land Reform and Development (ALRD), Dhaka

¹⁵ ibid

¹⁶ Ibid

In the policy, concerned Parliament Members are made advisor to district and upazilla committees¹⁷. As Parliament Members are elected on political affiliation, there is a chance that they would influence district and upazilla committees under political consideration. There has been a popular allegation that khas land is distributed to those who have close affiliation with ruling party.

As per policy, khas land to be distributed to landless people. In the policy, five criteria are given to identify landless people. They include destitute freedom fighter family, people who became landless because of river erosion, widow and deserted female with adult son¹⁸, families without homestead and agriculture land and people who became landless because of land acquisition by the government. The criteria that widow and/or abandoned female with adult son would be eligible for khas land is contrary to gender sensitivity. Thus, widow and deserted females who are most vulnerable people in the society are deprived of khas land.

¹⁷ Agricultural Khas Land Distribution Policy 1997, Article 4. 10 and 5.13 Land Administration Manual Vol I, page 182

¹⁸ Agricultural Khas Land Distribution Policy 1997, Article 11(c), Land Administration Manual Vol I, page 184

Chapter Three

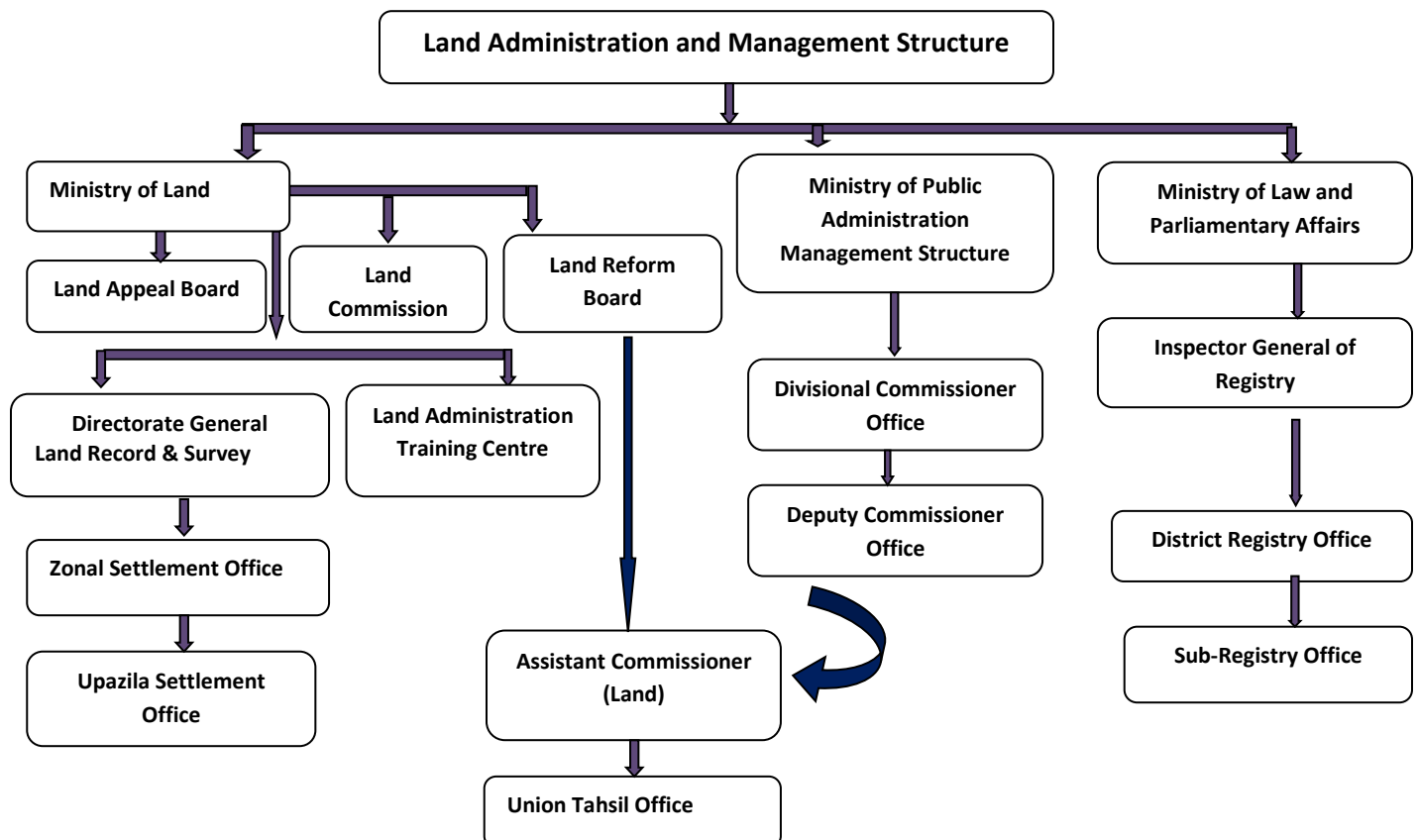
Land Administration and Management Challenges

The history of formal land administration and management has been quite old stretching from the colonial period. Though Permanent Settlement 1793, landlord system was introduced in Bengal where land load were given tenancy rights on land and collect revenues from farmers. Alongside, Deputy Collectors were given the authority to collect revenues from landlords. In 1985, farmers were given tenancy rights on their land alongside their landlord through Bangle Tenancy Act 1985.

In 1950, landlord system was abolished through State Acquisition and Tenancy Act 1950 and farmers were given sole tenancy rights on their land. This Act also gave some guideline for institutional framework for land management in Bangladesh. Based on this Act, the Department of Land Survey and Records was established and Deputy Commissions (DC) and their representatives were given the right to maintain changes of records between successive revisional surveys.

After independence in 1971, the government produced numerous polices and guidelines for improved land management and confront emerging challenges. In 1985, the government created the position of Upazilla Revenue Officers and detailed administrative set up for land management at Upazilla level. The positions of Upazilla Revenue Officers were immediately filled by Assistant Commissioners of Administration Cadre.

Figure 1



3.1 Less coordinated land administration and management

Land administration and management are mostly run by institutional mechanisms of three ministries – Ministry of Land, Ministry of Public Administration, Ministry of Justice and Parliamentary Affairs. Besides additional In addition, six other ministries like Ministry of Forest and Environment, Ministry Women and Children Affairs, Ministry of Fishery and Livestock, Ministry of Local Government and Rural Development, Ministry of Railway and Ministry of Industry are indirectly involved in land management.

The three core ministries are mostly responsible to conduct periodic land surveys, maintain Records of Rights (RoR), do registrations of land transfers, manage and lease khas land, water-bodies, *hat-bazar*, vested property (*arpartti sampatti*), abandoned properties etc. However, coordination gaps among these institutions become quite prevalent in running of these operations and formulating relevant policies. There are official instructions that Sub-registers would do registrations on land on which mutation was done. Sometimes Sub-registers do registration without mutation for which the AC land offices face difficulties in updating and maintaining RoR. Moreover, there is a provision to send Land Transfer (LT) Notice from sub-registry offices to AC land offices. But, this provision is not maintained regularly by some Sub-registry offices. There have been lots of instances where Deed Writers in connivance with concerned Sub-registers do different types of anomalies including forgeries of deeds using fake seals and stamps. But, AC Land office cannot make Sub-registers accountable for those wrongdoings. Another thing is that land surveys are done by Department of Land Survey and Records (DLSR). During land surveys they do not get updated RoR from concerned AC Land Office.

At ministry level, there has been covert wrangling between Ministry of Land and Ministry of Justice and Parliamentary Affairs on the matter of keeping rein on registration services. According to some KIs, there have been several attempts to integrate registry services from Justice Ministry to Land Ministry. But, Ministry of Justice has been adamant to retain their hold on registry services. Such a context has created a mental distance between two ministries for formulating and implementing policies on land in a coordinated manner. As some officials and employees of registry offices accumulate lots of money through bribery and other corrupt practices, AC land offices have some sort of repulsion to sub-registry offices.

3.2 Fragmentations of land services and corruption and harassments endured by service recipients

The fragmentation in land administration and management has resulted in multiple offices at field level. At union level, there are Tahsil Offices to manage land under their jurisdiction. The

functions of Tahsil Offices are to look after land records in their jurisdiction, identify and maintain records of khas land, assist AC land office in doing investigation for mutation and in distributing khas land to landless people and collect land development tax (LDT) from tenants.

At upazilla level, there are Upazilla Land Offices to manage land under their upazillas. These offices play very crucial roles in managing land issues through performing 28 distinct roles¹⁹. Their main responsibilities are to update changes of records due to transfer of land for purchase and selling and inheritance and other changes due to natural causes, maintain records of khas land, issue certificate cases to LDT defaulters, send proposals to DC office for distribution and lease of khas land, water bodies and *hat bazar*. These offices are led by Assistant Commissioners (AC) –Land who is directly accountable to respective Upazilla Nirbahi Officer (UNO).

AC-land Offices are responsible to Additional District Commissioners (ADC) – Revenue stationed at district level. However, District Commissioner (DC) in each district is solely responsible to manage land issues and implementation of government policies on land at district level. In each district, DC office also runs a Record room from where all certified copies of RoR are distributed to service recipients and tenants. Beyond this level, implementation of land policies is managed and coordinated by respective Divisional Commissioner's Office.

At upazilla level, there are Sub-registry offices under Directorate of Registration to perform all sorts of registries for land transfers due to purchase and selling, inheritance, gifts etc. These Sub-registry offices are supervised by District Register stationed at district level. Moreover, there are 245 Settlement Offices under Directorate of Land Survey and Records (DLSR) at upazilla level to conduct land surveys. These Settlement Offices are supervised by 16 Zonal Settlement Offices across the country.

At central level, there are different units of Ministry of Land, Directorate of Land Survey and Record and Directorate of Registration for performing overall oversight roles on field level offices and formulating accompanying policies and guidelines.

These offices under different institutional framework provide different land services to service recipients. Because of these fragmentations, ordinary service recipients have to go or interact with multiple agencies at different levels. For doing so service recipients have to travel long distance, spend time and endure physical toil and monetary loss.

¹⁹ Land Administration Manual Vol I, The Ministry of Land 2003

3.3 Limited participation of other stakeholders in land policy formulation and implementation

The existing structure of land administration and management is mostly run by hierarchical accountability mechanism under different administrative framework. On the other hand, different committees have been established over the years that might strengthen horizontal accountability. However, political leadership and government officials at different levels mostly dominate them (Appendix). Only few members from other stakeholders are there in those committees. For example, in District Survey Committee only a representative from District Press Club is there. There are three committees for Agricultural Khas Land Distribution from central level to upazilla level. In Central, District and Upazilla Committees there are 2, 4 and 9 members non-government stakeholders out of 24, 12 and 15 members respectively²⁰.

3.4 Frequent transfer and deputation of Administrative Cadre Officers under land administration and management

Administrative Cadre officers of Bangladesh Civil Service (BCS) are made responsible to manage land administration and implement land policies at district and upazilla levels. They have been holding this legacy from colonial period where collection of revenues from land was one of their core responsibilities. Over years, their hold on land administration had consolidated further. In 1982, position of AC land as head of Upazilla land office was created through an ordinance²¹. As Administrative Cadre people are given major management roles, their job nature entails frequent transfer and deputation from one place and department to other ones. Normally, they stay in a place or department for only three years. When these people are given responsibilities to manage land issues at field level, they stay in those positions for only few years. Therefore, because of their frequent transfers and deputations, their skill on land management and policies do not flourish adequately and some of them possess less ownership. Thus, land administration and management have failed to develop adequate skilled manpower. Eventually, there has been immense need to have skilled manpower at different levels who can manage land and contribute in formulating sound policies.

3.5 Disproportionate engagement of Additional Deputy Commissioner (Revenue) outside of land management issues

The ADC's (Revenue) are responsible to manage land issues in respective district. However, the Deputy Commissioner frequently assigns them to represent them in different meeting and attend public functions. Moreover, they are assigned in recruitment committees of schools and colleges, for providing protocol during visits of ministers and senior government officials and many tasks. Thus, according to some KIs a considerable chunk of their time is spent in those

²⁰ Land Administration Manual Vol I, The Ministry of Land 2003

²¹ Government Order, Ministry of Land Administration and Land Reform, dated December 24, 1984

activities for which they cannot spend adequate time for land management and fail to make adequate field visits to upazilla and tahsil offices. For similar reasons, DCs cannot pay adequate time and efforts to land management. As a result, monitoring and supervision of field become weaker.

3.6 Inadequate professional expertise and skills of AC land

Assistant Commissioners -land are given a major role in land management and administration at upazilla level. They have to perform 28 distinct functions on land. When they are deputed in that position, they normally have 2-3 years professional experience. However, being new recruits under Administration Cader, according to some informants in most cases they do not have adequate knowledge, skill to deal with numerous complex land laws and policies and power politics at upazilla level. As a results, they have to depend on junior officials and employees like Kanongo and Surveyors in their office to manage land issues and implement policies. As junior officials and employees of AC land office are entangled with corrupt practices and develop nexus with local power structure, they sometimes cannot control them properly.

3.7 Inadequate field visits and monitoring

There are distinct provisions to perform field visits by Land Reform Commissioners, ADCs (Revenue), ACs (land) to monitor upzilla and union land offices²². However, they do not perform field visits in most cases mostly because of their engagement in other activities and lack of transport facilities. As a result, accountability of subordinate offices becomes weaker and corruption risks in those offices increase.

3.8 Lack of verification of field reports

There are provisions to send complied reports on mutation, leasing of khas land and water-bodies etc from field level offices to the Land Ministry every months. Purpose of these reports is to monitor field activities and make field level offices accountable. These reports are complied by DC offices and sent to Land Reform Board at the Ministry. However, because of their manual nature and lack of adequate manpower they cannot be scrutinized properly. Thus, core purpose of these reports remains unattainable.

²² Land Administration Manual Vol I, The Ministry of Land 2003

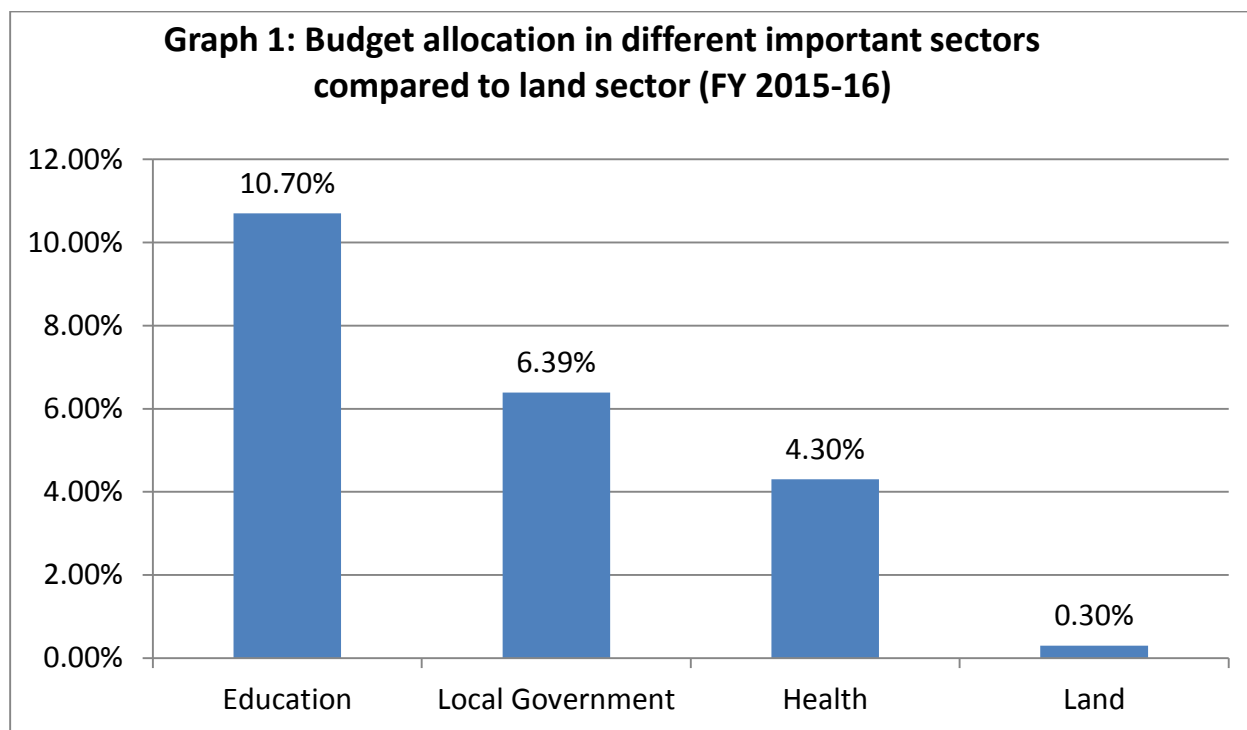
Chapter Four

Institutional limitations and challenges

Land administration and management is beset with some institutional limitations and challenges. Because of their presence, land offices cannot provide desirable services to service recipients. Moreover, these limitations can sometimes be blamed for inviting corruption and anomalies.

4.1 Inadequate budget allocation for the Ministry of Land

The budget for land administration and management has been perennially low over the years. In FY 2014-15, the allocated budget for the Land Ministry was BDT 8342.5 million out of which BDT 1633.9 (20%) million was development budget.²³ The allocated amount has been 0.3-0.35% of the National Budget for the last few years. Compared to other major sectors like education (10.7%), health (4.3%) and local government (6.39%), this allocation has been quite low.



Due to low allocation of budget major reform initiatives, infrastructure development, logistic supports and stationeries to land offices have been inhibited. Evidently, infrastructure development of local land and registry offices has been delayed and offices are operated in less spacious space. Although some officers have been newly constructed and renovated, still a

²³ National Budget FY 2014-15, The Government of Bangladesh.

large number of offices are housed in old and dilapidated buildings. Moreover, for the same reason logistic and stationeries for AC land, Union and registry offices remain quiet limited for which they cannot operate their regular operations smoothly. Some KIs told that even the need of such logistics and stationeries are met by taking illegal money from service recipients. For example, necessary forms like application form for mutation cannot not be supplied to service recipients for which they have to collect them from nearby photocopy shops by paying money.

The government in recent years has seriously been considering digitizing land sector. For digitalization huge amount money would be required in coming years. According to Senior Officials of Land Ministry, for ICT based digitalization of entire land administration and management around BDT 1000 billion would be required for the next 10 years.

4.2 Huge manpower shortages in land administration and management

Huge manpower shortages are observed under land administration and management. Overall, 8800 positions are vacant under management side which is around 60 of approved positions. It is to be noted that upgrade of *Kanongo* and *Tashilder* positions from Third Class to Second Class provoked many litigations for which recruitments in these positions have been stalled for many years. On the other hand, 43% First Class positions and 47% Second Class positions remain vacant in the Department of Land Survey and Records. Vacancies are also observed in registry department where 18% positions of Sub-registers are vacant. Because of vacancies of many positions and manifold increase of works due to rapid industrialization and increased land use, service recipients are deprived of desired services.

4.3 Lack of skilled manpower

According to the respondents working land administration and management and experts in this sector, there is a lack skill and expertise in a section of officials and employees. As a result, policy formulation and implementation in land sector have been hampered and service recipients are not getting efficient services. The government has taken the decision to digitalize land sector. However, there is a lack of skilled manpower to provide digital services. Moreover, there is a lack of skilled manpower for land surveys and their management.

4.4 Lack of effective training for officials and employees

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 to service recipients.

4.5 Deficits in infrastructures

Infrastructure deficit is another problem in land sector. Despite construction and renovation of some upazilla and union land offices over recent years²⁴, there exist large numbers of dilapidated and less spacious land and registry offices for which friendly services to service recipients cannot be ensured and large number of different register cannot be properly accommodated. Moreover, some unions do not have union land office. In larger number of upzillas, settlement offices are housed in rented places.

4.6 Inadequate logistics, technical equipments and transport facilities

Upazilla and union land and registry offices suffer from inadequate supply of logistics like different forms, register (balam) books and dakhila book (receipt for land development tax). Because of these inadequate supplies, officials sometimes fail to ensure friendly services and maintain information in a proper manner. Moreover, there are storages of relevant and modern equipments and technologies for conduction of land surveys. Because of this limitation, land surveys cannot be operated in a wider scale for which surveys take time to finish. For field movement, there are provisions of motorcycles for AC Land and cycles for Tahsilders. However, not all AC Land and Tahsilders do have such types of vehicles. Furthermore, most of AC-Lands do not find it convenient to use motorcycle for field movement. Rather, for such purpose they depend on other four-wheel vehicles available in upzillas particularly the vehicle used by UNO²⁵. As UNOs' vehicle remains busy most of the time, they cannot move to field to monitor field and *Tahsil* offices.

4.7 Manual record keeping and information management

Record keeping and information management in entire land sector are done manually. For land administration and management, upzilla and union land offices have to maintain more than dozens of registers for maintaining land records and office operations. The important registers include mutation register, khas land register, vested property registers etc. There are other office registers for keeping records of land development tax, letter correspondence, office expenditure etc. All these registers are maintained manually.

Moreover, over the last one and a half century the country has done different land surveys that include Cadastral Survey (CS), State Acquisition (SA) and Revisional Survey (RS). Records of these surveys were printed at DLRS and distributed to district level Record Room, district court,

²⁴ In the five years, the government has investedand constructed

²⁵ In a circular send by the ...Secretary, Ministry of Land requested AC land to use vehicle available in upazilla by bilateral relationship, Land Administration Manual Vol I page

upazilla and union land offices. Currently, there are around 45.8 million RoR (*khatian*)²⁶ and mauza maps the country that are maintained and used manually.

There are some reporting formats on mutation, land development tax, khasland distribution etc. These report formats are prepared by each Tahsil offices and are subsequently complied by upzilla land office, DC Office and Divisional Commissioner's Office. Finally they are sent to Ministry of Land. All these report formants prepared and complied manually.

Because of manual record keeping and information management upazilla and union land offices cannot serve their clients in efficient manner. They spend much time to search records from those manually maintained registrars and survey records. Moreover, old CS and SA survey records and maps kept in different offices particularly at Record Rooms have become tattered because of frequent use. Furthermore, manual reporting flow from upzilla to ministry through the conduit of DC Office and Divisional Commissioner's Offices creates inconvenience and hinders effective oversight and supervision at different level. This manual record keeping has become another potential threat as miscreants sometimes arson land offices to destroy records.

4.8 Fragmented and slow digitalization

Digitalization has been considered as a panacea to bring efficiency in land sector, improve client services and prevent anomalies and corruption. Thus, there has been a hype to digitalize entire land sector under the guidance of Digital Bangladesh²⁷. However, the digitalization efforts are still in inchoate state.

The digitalization initiatives that are being implemented include digital surveys in six upazillas²⁸ under two different technologies, digitalization of land records and integration of AC land and Sub-registry offices in 45 upazillas of 7 districts, e-filing requesting *Khatian* (RoR) from District Record Room and scanning of tattered *khatian* and maps. Another project for digitalization of land records of four City Corporations is going to start very soon²⁹. Moreover, under Innovation Fund³⁰, some Upazilla Land Offices have uploaded scanned copies of *khatian* and maps on their websites and started giving information about the status of mutation *khatian* to service recipients through sms.

These are just initial initiatives for digitalization of entire land sector. However, they are somewhat sporadic initiatives without taking into consideration of a master plan. Some were

²⁶ Recently during political unrest in first half of 2015 arson took place in a number of Upzaila Land Offices

²⁷ Perspective Plan of Bangladesh 2010-2021, Making Vision 2021 a Reality

²⁸ Savar, Mirersharai and Polash upazillas and Jamalpur Sadar, Amtoli and Mohonpur

²⁹ Five Years Achievement of the Ministry of Land, page

³⁰ UNDP, 28 Innovation Fund initiatives are being implemented in different Upazilla Land Offices

taken to address some short term goals without keeping into consideration real time maintenance land records. Sometimes, intentions are different. For example, surveys in three upazilla are being done in an advanced technology and in three other upazillas in a less advanced technology. So far, the government has not produced any master plan how to complete digitalize the entire land sector. According to ministry officials, the government with the support of Asian Development Bank (ADB) has developed a paper to learn how to complete digitalization across the country. According to this paper, this digitalization initiative would be implemented in one district through which country wide timeframe and budget would be ascertained.

Another issue is that most these initiatives are being implemented with the support from some donors whereas government expenditure from its revenue budget is quite minimal. The digital survey with advanced technology is being implemented with the support from European Union (EU) and digitalization of land offices in 45 upazillas of 7 districts with the support of ADB and the City Corporation initiative with the support of Korean Government. There is an allegation that Economic Relations Division (ERD) signed these projects with respective donors without taking wider participation of concerned departments. Furthermore, there has been lack of skilled manpower and modern technologies in the digitalization processes.

Because of above reasons digitalization process has been impaired in different ways. It has been fragmented and slow and has not got adequate momentum over the year. Eventually, the digitalization process has failed to ensure client friendly services and prevent corruption and anomalies in land sector.

4.9 Absence of Citizen's Charter in large number of Sub-registry and Union Land Offices

The government in 2008 instructed all government offices to implement Citizen's Charter³¹. The Citizen's Charters contain information regarding different service provisions Citizen's Charters were found available in all Upazilla Land Offices. However, they were not found available in most of Sub-registry and Union Land Offices. Because of their absence, service recipients cannot be made knowledgeable about available service provisions and different fees and thus enhance accountability of service providers. Therefore, corruption risk in Union Land and Sub-registry offices remain prevalent and continue service recipients' dependence on brokers.

³¹ Memo from the Cabinet Division, The People's Republic of Bangladesh

4.10 Absence of assigned Information Officers in many Upazilla and Union Land and Sub-registry Offices

Under Rights to Information Law 2010³², every government offices need to assign someone as Information Officer to provide information to service recipients. However, it is found that in many Upazilla and Union Land and Sub-registry Offices Information Officers have not been assigned. Moreover, even if they are assigned, most of the offices have not adopted necessary measures to inform people about their presence. As a result, information dissemination process has not been institutionalized in many land and sub-registry offices and service recipients' predicaments continue in getting information.

4.11 Court's limitations in resolving civil suits relating to land

Formal courts in Bangladesh are inhibited with some institutional limitations that impact resolving land disputes lodged at courts as well. They include inadequate number of judges and courts, lack of necessary infrastructure and manual informational management and lengthy legal procedures. To resolve disputes arising from land survey, the government has established 17 Land Survey Tribunals across the country of which 10 are functional because of shortages of judges³³.

Apart from courts' limitation, there are limitations with lawyers as well. Some lawyers are not knowledgeable and efficient enough to run and comply with different aspects of legal processes.

As a result, resolutions of land disputes are taking inordinate delays in most the cases; thus, number of pending cases in courts is increasing day by day. Right now estimated number of pending cases in formal courts is 1.8 million. These inordinate delays indirectly contribute corruption and anomalies in resolving land disputes and increase service recipients' harassments and incur their financial losses.

³² Rights to Information Law 2009

³³ The Chief Justice Comments in the Prothem Alo dated April 26, 2015

Limitations in different land service systems and processes

Apart from some institutional limitations, land services in Bangladesh suffer from process and policy limitations. Most of the cases processes are time consuming, unwieldy and involve multiple layers. Because of these limitations client friendly services cannot be ensured and indirectly encourage corruption and anomalies in land services. Although some processes appear to be legitimate in current institutional set up, service provision and systems, these processes sometimes incur additional time, visits, and costs for service recipients.

5.1 Time-consuming land surveys

Land survey process in Bangladesh is quite lengthy. It involves ten steps to finish involving multiple levels of field surveys, review processes, editing and final printing of records. According to the Survey Rule 1935, land survey in a district is required to be completed five years³⁴. But experiences have shown that it took 15-20 years to finalize and print survey records. Possible reasons are corruption and anomalies committed by surveyors during field surveys, use of unskilled manpower, lack of proper technologies and interference of influential people in the review processes. As land surveys take 15-20 years to finish, many changes take place by this period on tenancy right because of the changes of inheritance and land transfer and nature of land. As a result, survey records lose their efficacy in determining tenancy rights to a considerable extent.

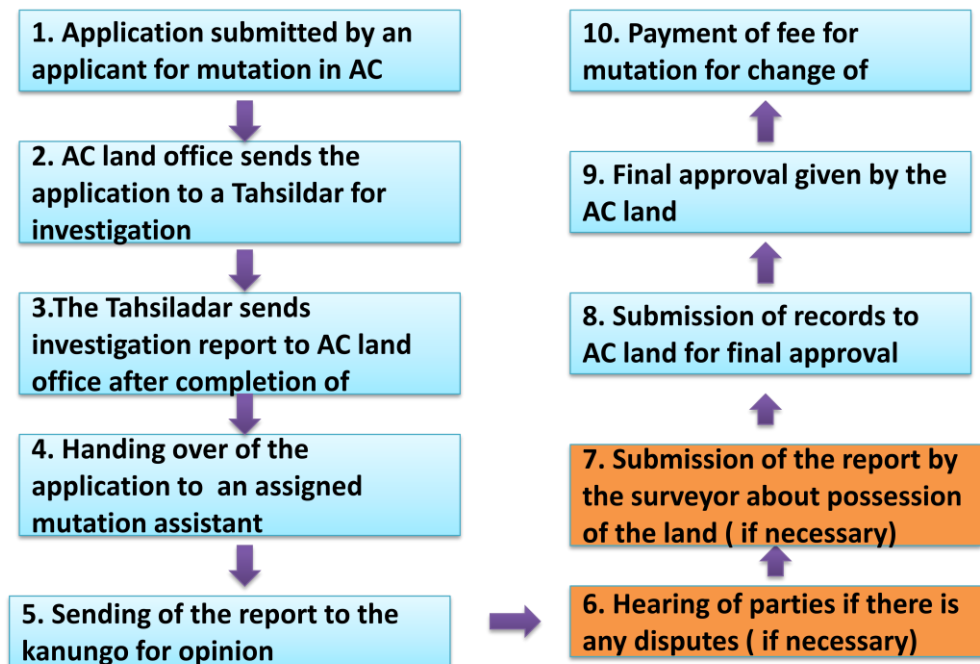
Another issue is that in land surveys unskilled and temporary staffs are employed as surveyors in field surveys. Their education qualification is high school graduate. Because of their lack of adequate skills and low educational qualification, it is difficult to uphold their incorruptibility. Moreover, temporary nature of the employment is a major hindrance to create their ownership to survey works and effective accountability to their accomplishments.

5.2 Multiple steps in mutation processes and provision to submit of multiple documents as attachment

The mutation of land transfer in Bangladesh requires at least eight steps and an investigation by Union Land Office. If there is any dispute on a piece of land, it requires two additional steps – conduction of hearing of disputing parties by the AC-land and measurement and occupancy report by a surveyor. Mutation application is requested to be submitted to concerned Upazilla Land Office, and then it will be sent to concern Union Land Office for investigation and physical verification. After investigation and physical verification, Assistant Land Officer (Tahsilder)

³⁴ Survey Rules 1935

Figure 2: Different Steps for Mutation



returns its report to the Upazilla office. Then, the application is placed to *Kanungo*³⁵ for his/her opinion. After that concern AC Land gives approval to the application and issues mutation *Khatian* to the tenant. Because of these mutation processes increase workload of Upazilla and Union Land offices and mutation *khatian* cannot be issued instantly³⁶. Rather, Service recipients need to go to land offices at least twice to land offices to complete mutation and mutation *khatian*. If a mutation is denied because of flaws in ownership documents, the service recipient is required to go to land offices several times to rectify anomalies.

Another issue is that mutation application requires submission of at most five duplicate or certified copies as attachment- CS, SA and RS *khatian* (RoR), duplicate of registration deed, receipt of land development tax (*dakhila*), inheritance certificate issued by Major, Councilor or Chairman of concerned local government. Submission of these documents as attached with mutation application requires mutation applicants to go to different offices like Record Room, Sub-registry offices, Sub-registry offices to collect these documents. However, collection of these documents incur additional time, visit and cost (TVC) for the service recipient. Moreover, this cumbersome process increases harassment and corruption risks for the service recipient as well.

³⁵ *Kanungo* is the second most senior land officer after AC-Land in a Upazilla Land Office

³⁶ As per government circular in rural areas mutation *khatian* needs to be delivered by 45 working days and urban areas by 60 working days

5.3 High mutation fee

From July 1, 2015, the government is taking Tk. 1000 as mutation fee for each *khatian (RoR)*. This amount is much larger than the earlier one of Tk 245. This increased rate would discourage land owners in rural areas to do mutation of their land that would put land management and determination of land ownership in jeopardy. Moreover, this increased rate would increase corruption as well.

5.4 High registration fees

The policy on registration fees for transfer and registration procure are somewhat flawed. Registration fees are different for different types of land transfer depending on value of the property and nature of transfer. In case of gift and power deed, registration fees are quite low. However, according to different studies, registration fees for transfer of land due to selling and purchase of land is quite high³⁷.

According to existing policy registration fee is 10% of selling price of the land in rural areas and 12% in municipal areas. As land prices in some areas are quite high, purchases have to pay handsome amount as registration fees. This is particularly applicable in urban areas. Because of high registration fees most of the purchasers in connivance of deed writers and registry officials show lower land price to avoid tax³⁸. Thus, the government is deprived of generating legitimize revenues from this source and unwittingly encourage tax evasion and corruption. Two studies in New Delhi and Maharashtra have shown that if registration fees are reduced to an optimum level and ensure digitalization, revenue generation from this would be increased.

5.5 Limited differentiation of registration fees

Another problem is that there exists limited differentiation in existing registration fees- only rural and urban registration rates. However, there is a high variability in land prices of municipalities across the country particularly in Dhaka, Gazipur, Narayanganj and Chittagong.

5.6 Provision to settle mutation and payment of land development tax before registration

For registration land sellers have to have mutation of their land and pay all due land development tax. Although they are legitimate processes to prevent forgeries they have to go to Upazilla land and union land office for doing so. However, they incur service recipient's time and cost and unwittingly encourage corruption.

³⁷ Doing Business Report 2014, The World Bank

³⁸ However, to avoid this trend the has set *mouza* price based on selling prices of last 12 months below which no registration deed can be produced.

Figure 3: Different steps in land registration



5.7 Submission of multiple documents as attachment for registration

Similar to mutation, service recipients need to submit multiple documents during registration that include mutation *khatain*, certified or duplicate copies of CS, SA and RS records, *dakhila* and inheritance certificates. For provision of these documents, service recipients need to go to different offices like Record Room, Upazilla land office and local government bodies to collect them. These incurs their additional time, visit a cost. Moreover, this provision unwitting encourages corruption as well.

5.8 True coping of registration deed on *balam* book

After completion of registration, the deed needs to be truly copied in a register called as *balam* book. For doing these copies each Sub-registry office needs to employee dozens of temporary staff who make copies of registry deed. Because of delay in producing true copies, Sub-registry offices cannot produce original deed within a shortest possible time for which service recipients have to wait for two to three years.

5.9 Low rates of land development tax

Land development tax rates in Bangladesh are quite low. Recently, the government has made land development tax rates double from July 1, 2015 compared to earlier one. However, the rates are still quite low. This tax rates are ludicrous ones in case of metropolitan areas. One

Assistant Land Office said people living multi-storied apartments in Dhaka pay nominal amount say Tk. 10-15 by paying Tk 300 to three wheeler vehicle. Because of these low rates the revenue generation from land development tax has been quite low. In FY 2014-15, the government generated BDT 3560 million from land development tax which is 0.002% of the revenue generated by the government³⁹. However, there is a huge potentiality to generate revenue from this source. According to some KII, successive government has been reluctant to increase these rates because of political repercussions.

5.10 Determination of tax through reporting of land owners

Land Development tax is determined by self-reporting of landowners because of the information gap in existing land record system⁴⁰. However, Assistant Land Officer at Union land office is asked to verify the report, it is extremely difficult for him/her to determine the accuracy of the report in existing manual information management because a family have land out of its Tahsil and even in other districts. As total permissible limit land ownership by a family in Bangladesh is 25 acres, most of people who possess more land than the permissible limit conceal information during self-reporting. Therefore, this system encourages unethical practices in paying land development tax.

5.11 Withdrawal of Certified Copies of *Khatians* (RoR) from District Record Room

Sometimes, people need certified copies of *khatians* particularly for pursuing legal matters. Those certified copies of land documents are only issued from District Record Room. As district Record Room is located far distance for most of people's places, this provision incurs service recipients' additional time, visits and cost. Recently, the government under A2I project has introduced e-filling of those requests from Union Digital Center (UDC), thus people do not need to go to District Record Room for collecting certified copies of documents⁴¹.

5.12 Dual authority in *hat-bazar* management

According to hat-bazar policies, DCs were given the supremacy on overall administrative and management of hat-bazar like establishment and abolish of hat-bazars, demarcation of boundary, establishment of any structure, demolition of any structure and illegal stores, etc⁴². However, concerned local governments were given the authority to lease and maintain hat-bazars. However, they have not given any authority to on other issues particularly control on illegal occupations. This dual policy inhibits local government's ability to prevent and evict illegal occupations.

³⁹ Information given by the Ministry of Land

⁴⁰ Land Administration Manual Vol I, The Ministry of Land, 2003

⁴¹ TVC Assessments, a2i Project, UNDP Bangladesh

⁴² Circular no PROJE-2/ha-5/2000/408 (5272), Date 20th July, 2002

5.13 Yearly leasing system of adjacent *khas* land of *hat-bazar*

In 1961, an order was issued not to lease any vacant land in Hat Bazaar periphery to anyone. However, difficulty being arisen for businessperson belong temporary store has claimed; hence government again issued order to maintain yearly lease of those temporary stores⁴³. Consequently, government appalled that by this order permanent structure has developed by some illegal occupant into Hat Bazaar periphery. Thus government again stopped the system. However, government found that periphery of Hat Bazaar occupation has been in progress. That resulted abating Toha Bazar and corrugating adjacent road⁴⁴, which again influence government to restore the order of early leasing rather eviction. Furthermore it is noted that the opportunity has to bestow of them in the basis of eligibility those belongs illegal permanent structure. By this government on the one hand particularly promote illegal occupant. According to key informant , this provision mainly ignoring the problem rather solving and promote notation over the illegal occupant that in any way it is possible to get legality of their illegal actions.

⁴³ Circular no Land: Min: 7-Misallaneous 3/87 (Hat)/547 (64)

⁴⁴ Circular no Land: 7-Misallaneous-24/95/491(74)1(920)

Corruption and irregularities in different land services

Land services are found to be extremely corruption prone. There is hardly any service for which service recipients do not experience corruption and irregularities. According TIB' National Household Survey on Corruption 2012, land was found third most corrupt sector after migration and law enforcement agencies. Because of high incidence of corruption in land services, it has got infamous reputation and lost public trust and confidence. On the other hand, ordinary people have to endure enormous hurdles in terms of money, time and travel. Moreover, the state has lost vast acres of its land resources. Corruption in land sector is believed to have increased land disputes for which legal system has become overburden with backlog cases.

6.1 Land surveys

Land surveys are done mostly to determine tenancy rights, location and nature of land. The first land survey in the country took place was a Cadastral Survey (CS). During colonial period, the British conducted this survey almost across the country from 1890 to 1940⁴⁵. It was believed to be a more accurate land survey. After abolish of Land Lord system through State Acquisition and Tenancy Act 1950, there was State Acquisition (SA) Survey from 1956-63⁴⁶. As this survey was done in a limited span of time without traverse in the field, there were many allegations about the accuracy of the survey. After that, Revisional Surveys (RS) has been taking place in different districts in phases maintaining 25 years interval.

6.1.1 Taking bribe from landowners during surveys through threat of less measurement and distortion of records

Over the years, the land survey process has been found to be to one of the corruption prone areas. Land surveys are conducted using some temporary surveyors whose educational qualification is of high school graduation. Because of these factors, it has been difficult to make them accountable for any wrongdoings and maintain their professional integrity. During surveys surveyors take shelters from elites and sometime collude with them. During traverse surveys, they virtually force landowners to pay bribe by the threats of distortion of measurement and records. According to service recipients, in rural areas landowners invariably have to pay Tk 200-500 per bigha to surveyors.

⁴⁵ The Financial Express, February 9, 2014

⁴⁶ *ibid*

6.1.2 Not handing over of *mat-parcha* in the field

After conduction of traverse survey, they are required to handover math parcha to land owners. Rather, dishonest land surveyors sometimes asked landowners to collect them from Settlement Office or any other place and force them to pay bribe. Otherwise, harass landowners in various ways and intentionally delays submission of *mat parcha*. As *mat parcha* is regarded as a primary document on tenancy right, people sometimes compelled to pay bribe to corrupt land surveyors. In digital land survey in Savar, surveyors in many areas force landowners to pay Tk. 3000-5000 per decimal for *mat-parcha*.

6.1.3 Making deal with influential people and produce records of government and disputed land on behalf of individuals

Sometimes local influential people make special deal with surveyors and field level Settlement Officers to write record of rights of disputed land like *arpito sampatti* and *abandoned* land on behalf of individuals. Sometimes they write records of kash land on behalf of illegal occupants or powerful and influential people through receiving of bribe. During Dhaka City Survey corrupt land officials and employees recorded 2,800 acres of khas land and 43 canals to powerful private property companies.⁴⁷ In another case, the Ministry of Land in its investigation found that a Settlement Officer illegally recorded Court of Wards land worth of several thousand crores in the name of individuals.⁴⁸

6.1.4 Taking bribe for correcting records during review processes under Article 30 and 31

Review processes are not immune from corrupt practices. Review processes under Articles 30 and 31, Settlement Officers in many cases take Tk. 5000-10000 from landowners for correcting records.

6.1.5 Making records without proper investigation on behalf of the government for absence of tenant

In cases of absence of tenants, surveyors sometimes write records on behalf of state without proper verification for which landowners have to endure many difficulties and sometimes resort to courts to return their land.

According to KIIs, surveyors indulge in corrupt practices through colluding with a section of Settlement Officers and DLRS Officials. Higher management of DLRS in most of the cases cannot take measures against corruption surveyors and Settlement Officers for absence of concrete evidence.

⁴⁷Corrupt Land Officials Care None, Daily New Age, 14 June, 2014

⁴⁸Corrupt Land Officials Care None, Daily New Age, 14 June, 2014

6.2 Mutation or *namjari*

Assistant Commissioners (Land) are given the authority to do mutation or change of Record of Rights (RoR) after transfer of land through purchase, inheritance, gift etc. However, this service is found to be highly corruption prone.

6.2.1 Receiving of mutation application by Tahsil offices

As land ownership is settled by mutation, much sensitivity is associated with it. Thus, concerned Tahsil Office is made responsible to do investigation on any mutation case. As per rule, once a mutation application is submitted to AC Land Officer, it is sent to Tahsil Office for investigation. Because of these rule, Tahsil Offices in connivance with some corrupt employees in land offices and brokers make package deal and receive mutation applications violating the rule. Moreover, some officials and employees of AC Land Office are reluctant to receive mutation applications and prefer submission to Tahsil offices. Although government fee is Tk. 245⁴⁹, normally the package is set Tk. 3000- 2 lacs depending on the price, location and nature of the land. In case of mutation of properties belonging to minority communities, concerned respondents reported that the rate of bribe is found to be higher.

If any service recipient submits mutation application without deal with employees and brokers, land officials at different levels try to find out flaws in objection on the application and land records and request for further investigation.

6.2.2 Collusion with influential people and issue mutation of government and disputed land

Sometimes, some corrupt officials of AC Land Office in collusion with some socially and politically powerful and influential people made mutation of khas land, *hat-bazar* land, water-bodies and disputed land (*aropatti samptti*, abandoned properties, etc.) by making hefty deal. Amount of such deal depends on location, size and market price of the land.

6.2.3 Noncompliance of mutation deadline

As per circular, mutation has to be completed by 45 working days in rural areas and 60 working days in urban areas. However, in some cases AC Land Offices take more days to complete mutation and handover mutation *khatain*. In such cases, service recipients have to make multiple visits to AC Land and Tahsil Offices.

6.3 Registration of land transfers

The Registration Law 1908 stipulates that a property whose transfer value is Tk. 100 or more should be registered at a sub-registry office. However, land registration process in Bangladesh

⁴⁹ However, from July 1, 2015 new mutation fee is Tk. 1000 per case

is somewhat cumbersome as it involves 8 steps⁵⁰ and entails service recipients to collect various documents from different institutions. For collecting those documents service recipients need to endure tiresome efforts and invariably pay bribe to corrupt elements. This perplexing situation makes service recipients so dependent on deed-writers or officials of registry office. Because of these cumbersome processes Doing Business Report 2014 of the World Bank ranked Bangladesh's property registry service 184th out of 187 countries.⁵¹

6.3.1 Sub-registers' collusive corruption with the help of deed-writers

All sub-registry offices are virtually littered with deed-writers. As per official instruction deed-writers are supposed to be monitored and disciplined by respective sub-registry office. The government has set a nominal fee (Tk. 15 per page) for deed-writers for writing deeds. But they do not follow this rate rather they collect very high amount as registration writing fee. Moreover, a section of officials within sub-registry office maintain close ties with deed-writers and collude with them to usurp service recipients' money. Sub-registry offices keep record of registrations done through respective deed-writers on daily basis and at the end of the day realize their share from them. Deed-writers voluntarily give their share as they usurp hefty amount from service recipients. There have been instances where these corrupt officials and deed-writers colluded with each other and produced fake-deeds and presented false information in registry deeds through taking bribe with the help of deed-writers.

In 2009, the government appointed 190 Sub-registers in different Sub-registry offices with the aim of reinstating officials and employees of the *Mujibnagar* Government. There have been numerous allegations against those appointments. Even there were appointments who were minor children during Liberation War in 1971. A lot of them joined Sub-registry offices in their late age and who did not have similar or formal job expertise for many years. Some of them would go to retirement after several years later. It is found that these people indulge in enormous level of corruption indiscriminately. Even Sub-registers who joined through regular process have repulsion about them.

6.3.2 Tax evasion with help of registry officials and deed-writers

Registration fees in Bangladesh are quite high which makes registration cost high for land purchasers. The impact of this high fee is felt more prominently in areas where land price is quite high. In such a situation, deed writers tempt land purchasers to show lower land prices and thus encourage them to evade tax. The registry officials tacitly approve their wrongdoings without taking any disciplinary measures.

⁵⁰ Doing Business Report 2014, The World Bank

⁵¹ *ibid*

6.3.4 Registrations without mutation and *dhakila*

The government has made mutation *khatian* and *dhakila* (a proof showing settlement of all due land development tax) as mandatory perquisites for preparation of transfer deeds. However, some Sub-registry Offices produce deeds without them which later create confusions and disputes in determining land ownership.

Most sub-register offices do not display registration fees and citizen charter to educate service recipients for which deed writers can beguile service recipients easily and usurp more money than real fees.

6.4 Agricultural khas land distribution

Over the years, due to river erosions, fragmentations of land through inheritance and other causes many people have become landless. In this context, under land reform initiative the government has been distributing khas land to landless people under the guidance of Agriculture Khas Land Policy 1997. With the objectives of land reform initiative, the government has implemented many programmes like *Guchhagram*, *Asrayan*, under which agriculture khas land has been distributed to landless people.

6.4.1 Selection of landless people through nepotism and party affiliation

For selection of landless people local government body like Union Parishad (UP) play a pivotal role. In the selection process UP Chairman and Members and local political leaders aligned with ruling party collude with each other and indulge in nepotism and corruption. Most of the cases they list people from their relatives and based on political patronage.⁵² There have been allegations that in some cases UP Chair and Members take money from landless people to include their names in the list. There is an Upazilla level committee headed by Upazilla Nirbahi Officer who recommends the list to DC for final approval. However, in most of the cases, the Upazilla Committees find it difficult to verify those lists and thus, they mostly rely on lists given by local government bodies.

6.4.2 Inadequate campaign to inform landless people

Another problem is that the process of listing of landless is not that much transparent in most of the cases. AC land and Tehsil offices do not perform adequate campaign to inform landless people on *khas* land distribution. To serve the interests of the vested interest groups, information regarding distribution of *khas* land is not disseminated properly, thus real landless

⁵² Barkat, A. , Zaman, S. & Raihan, S., 2000. *Distribution and Retention of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka.

people become less informed.⁵³ The landless people are not involved in the process either. Rather, local influential people influence much in the listing processes.⁵⁴

6.4.3 Receiving of bribe during handing over of *kabuliat* of khas land

As per the rules khas land distribution programme the landless people is to pay only Tk. 1 per acre as 'salami' (government fees) to get khas land. No other extra payment is required. However, any extra payments in this regard indicate the existence of unfair practices in the distribution mechanism. Almost all the agents involved in the distribution mechanism take bribe. Tehsildar appears to be very much active in taking bribes followed by Chairman of Union Parishad and a group of people consisting of local touts and officials at the land offices.⁵⁵ According to eligible beneficiaries of khas land 15,000 to 30,000 taka is required to pay as bribes for getting 1 acre of khas land.

6.4.4 Non-eviction of illegal occupants from khas land by collusion and taking bribe

Once land is distributed to landless people, sometimes Tahsil Offices do not handover the land to landless people by evicting illegal occupants. Rather, AC land and Tehsil offices connive with illegal occupants to hold agriculture khas land illegally by taking bribe. One study revealed that of the amount of land distributed, about 56 percent could not be retained by landless people for influential people's connivance with agents of power structure.⁵⁶ Sometimes, vested interest of groups try to grab land distributed to landless people through use of force and mastans.

6.4.5 Inadequate efforts for identification of khas land

In regard to management and identification of khas land, AC land and tahsil offices are required to identify khas land under their jurisdiction through proper use of land ceiling, illegal occupancy and land raised through alluvial and diluvial of rivers and sea deposit. However, AC land and Tashil offices do not do proper investigations to identify those land and do not request DLRS regularly to conduct diyara survey to identify alluvial land. Because of less attention to identify khas land there is a serious mismatch in official statistics of agriculture land where a total of about 71,000 acres of agriculture khas land is missing.⁵⁷ In this connection, one of the main reasons is that AC land and Tehsil offices do not pay enough attention to identify agriculture khas lands and include them into register.

⁵³ Barkat, A. , Zaman, S. & Raihan, S., 2001. *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka.

⁵⁴ *ibid*

⁵⁵ *ibid*

⁵⁶ Saha, B.K., 2010 *Promoting Agrarian Reform* in Rehman Sobhan (ed.) *Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia*, Sage, Delhi.

⁵⁷ Land Administration Manual VII, page 14

⁵⁷ Land Administration Manual VII, page 14

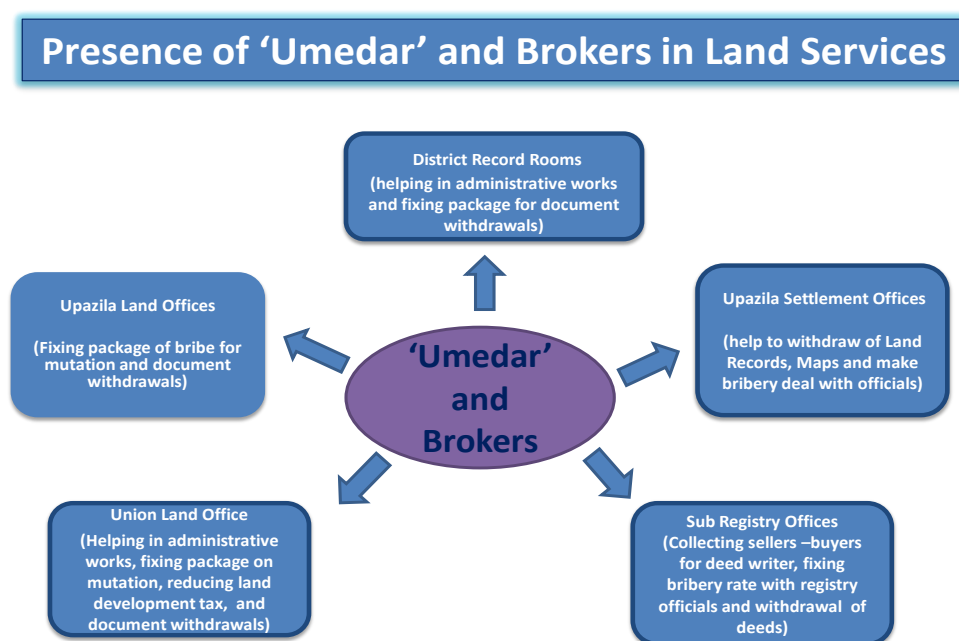
6.4.6 Leasing of khas land through collusion and maintaining illegal occupation by getting court orders

Sometime, influential people aligned with power structure take of short term lease and retain khas land in their possession for many years with the connivance of land officials. Sometimes, influential illegal occupant sue to court and keep the land in their control by prolong the court processes by resort of corrupt practices with the help of land officials, courts and police.

6.5 Payment of land development tax (LDT)

Once land was one of the major sources of revenue for the state. However, it lost supremacy after promulgation of Presidential Order in 1972 giving exemption to land tax for having land less than 25 bighas. Land Development Tax (LDT) is collected based on DLT Rules 1976 that declared differentiated tax rates based land use and location of land⁵⁸.

Figure 4



6.5.1 Tax collection noncompliance with LDT Rule 1976

However, tax rates are quite low despite imposition of new tax rates effective from July 1, 2015. And Tahsildars were given the authority to collect LDT from their tahsil. However, it is found

⁵⁸ Land Administration Manual Vol I, The Ministry of Land, 2003

that Tahsilder do not follow Rules properly in collecting tax. They sometimes impose less tax to tenants by reducing their tax amount in exchange of bribe. They sometimes impose less tax by changing amount of land and nature of land use as well. These trends are highly visible in cases of land used for commercial and industrial use.

6.5.2 Receiving of extra LDT

As ordinary tenants do not pay LDT regularly and make payments after many years, they reduce their tax by taking bribe. Sometimes ordinary tenants do not divide land among successors after the death of their ancestor even for generations. In those cases, they do not encourage tenants to divide *joth* and unlawfully continue to impose LDT based on earlier records. Thus, most of the Tahsilder and other employee of Tehsil offices are often receive extra land development tax illegally from ordinary tenants at rural area 100 to 500 taka and 500 to 1000 taka at urban area and provide receipts lower than the actual tax amount.

6.5.3 Infrequent field visits to identify potential tax payers

One of the responsibilities of Tahsilders is to make field visits to indentify changes in land use under their Tahsil. However, they do not make field visits regularly to oversee changes of land use; thus a section land remains out of their tax net.

Land Development Tax is assessed through on self-assessment system. As there is a policy not to possess land exceeding 25 acres per family, some landowners who possess more than 25 acres of land as do not report actual amount of land in their assessment. Tahsilders are instructed to investigate those statements by checking records, but most of the Tahsilders do not follow them meticulously.

6.6 Hat Bazaar Management and Leasing

Management and leasing of hat-bazar is another major area of land management. There is a dual structure in the management and leasing of hat-bazar involving land administration and local government bodies. As hat-bazars are the sources of businesses and commercial activities, vested-interest people have a covetous look on its land and leasing processes. Therefore, hat-bazar is found to be highly corruption prone.

6.6.1 Syndication of local government, businesspersons and powerful and politically influential people to lessen lease money

There is a provision in the lease policy that Upazilla Nirbahi Officer and Chairman of concerned local government must inform probable lease value in the full meeting of upazilla/pauroshova/City Corporation three months before the start of Bangla Year. At the same time, they would publish full list of hat-bazars and bidding time. If bid price is found less than the previous year, the Executor would announce another bidding process not exceeding

three times.⁵⁹ However, the syndicate of local government, businessperson and politically influential people every time keep the bidding price least and finally get the lease. According to KII, the syndicate sometimes colludes with lease officials or Mayor/Chairman to keep the lease value least.

6.6.2 Lack of campaign of tender notices

According to policy, tender notice for bidding should be hanged in DC Office, Upazilla Complex, union parishad, pauroshova and corporation offices, police stations, sub-register offices, local health centers, post offices, community centers, tahsil office, concerned hat-bazar 15 days before from the tender. Moreover, miking has to be done to announce the date of tender⁶⁰. However, this wider circulation is followed rarely. Tender is hanged only in DC Office and city corporation, pauroshova or union parishad.

6.6.3 Less wider campaign to favor preferred people

The campaign process for leasing hat-bazar is found less wider. According to the Rule, it is obligatory for the Mayor/Chairman or UPazilla Nirbahi Officer to start tender notification campaign 15 days before. However, instead making it wider⁶¹, the campaign processes are kept limited to DC office and the local government. According to KKI, they make it less wider to favor their own preferred bidder. In those cases, hefty transaction of illegal money takes place between the lessee and authority.

6.6.4 Illegal grabbing of hat-bazar land and making of permanent structures

It is found that huge amount of hat-bazar land have been grabbed by some influential people with the connivance of land officials and local government bodies. They make permanent structures on those lands and get record and mutation with the help of corrupt land officials. Fluctuations of leasing policies over the last four decades have encouraged some illegal occupants to grab hat-bazar land and make permanent structures.

6.6.5 Collection of toll beyond approved rates

In the policy, it clearly mentioned that ADC (Revenue) should give approval to toll rates and hang them in visible places⁶². However, toll rates are not hanged in visible places for which the lessee finds it convenient to collect more toll than the approved ones. Sometimes, tools are collected from both traders and buyers. This anomaly mostly happens in cattle markets. In those cases, sufficient monitoring are absent as DC office people connivance with leasee.

6.7 Information collection and documents withdrawals

Land sector deals with huge amount of information that includes different types of records, maps, deeds etc. At present, the country has 45.8 million khatians (RoR) and 0.21 million maps.

⁵⁹ Land Administration Manual VII, page 14

⁶⁰ Circular no Sec -9/H-2/82/87(538)

⁶¹ Land Administration Manual Vo II, The Ministry of Land, 2003

⁶² ibid

These records serve for different purposes like proof of ownership, legal decision making, administrative processes and service delivery. However, service recipients have to endure different anomalies and harassment in different offices to collect and process those documents.

6.7.1 Documents withdrawal from AC land, Tahsil and Registry Offices

AC land and Tahsil offices retain CS, SA and RS *khatains* and maintain their changes. On the other hand, registry offices keep numerous registers to maintain registration and *ballam* books where they cope registry deeds. These offices maintain records and information manual and complex systems through use of numerous registers on which service recipients do not have any access. Thus, officials and employees in these offices enjoy monopoly on available information. Therefore, whenever service recipients approach these offices for collection documents and duplicate copies, officials and employees most of the time give those in exchange of bribe. Brokers sometimes facilitate the collection through their connections with officials and employees. Ordinary service recipients are compelled to pay bribe otherwise officials and employees pretend bureaucratic red-trap and pose threat of information distortion and denial.

6.7.2 Document withdrawal from Record Rooms

Record Rooms in DC offices are the central repository of all land records under their jurisdiction. As per existing system Record Rooms are officially assigned to deliver certified copies of land records. As their legal and official value is high people and even lawyers and court officials approach Record Rooms to collect documents and collection. Here, similar to other offices, people in Record Rooms enjoy their monopoly on all land records. Therefore, whenever people approach them to collect documents and information, they have to pay bribe to receive information and necessary documents. There are official fees for these documents, but they receive much higher money from service recipient.

Brokers' presence in these offices is highly visible and they facilitate information delivery with their collection with Record Room officials and employees. Sometimes, officials and employees of AC land and Tahsil Offices act as brokers and help people to collect information and documents. As Record Rooms are located far distant from ordinary people in rural areas they have to endure enormous hassle and trouble in travelling long distance and making multiple visits. Therefore, people have to resort to brokers.

Sometimes, vested interest groups and land grabbers destroy or tear records and documents from registers in connivance of corrupt officials and employees.

6.7.3 Document withdrawal from Settlement Offices

Settlement offices generally provide mauza map and field level record of rights and final record of rights. According to rules, field level record of rights should give to land owner at field, however, in most cases officials of settlement office do not maintain this rule, rather they encourage service recipients to get it from settlement office. Then officials claim extra money

to provide field record of rights. On the other hand, giving mauza map many settlement officials bring together broker for earning extra money from service recipients. If service recipients disagree to give extra money, in some aspect they simulate that the Mauza map has shortage or has been send back to DC office. In addition, in the period of providing final record of rights, a service recipient needs to pay bribe to get the document beyond official fees.

Box 1: Presence of ‘Umedar’ (lower level temporary staff) and Brokers in Land Services

Some people work at Union Land Offices known as ‘Umedar’ because lack of adequate manpower, stalled recruitment in different positions for many years and increased work load for increase of land related activities for urbanization and social and economic progress. These ‘Umeders’ receive money for exchange of the work. Besides, brokers’ presence is also visible in some services like mutation, registration, payment of land development tax, withdrawal of *khatains* and different documents etc. from different land offices and sub-registry offices. Some employees of these offices, Umedars, a section deed- writers and stamp vendors work as brokers to facilitate services for the service recipients. And they make package deal with service recipients in exchange of money.

6.8 Land Dispute Resolutions in Civil Courts

As mentioned earlier land is the source of around 60% ligations in our formal courts. At present number, cases pending with courts are 1.8 million. An archaic case management system, lack of access to information such as case status and case data combined with a large backlog of cases create opportunities for court clerks and judicial officers to harass clients or ask for bribes⁶³ Experts have expressed the opinion that a transparent and automated case management system is vital to instill accountability and reduce corruption in the judiciary in Bangladesh.⁶⁴

6.8.1 Political appointments of Judges and Government Pleaders (GP)

Some experts have expressed concern that politically motivated appointments of Judges and Government Pleaders (GP) have increased in recent years. For example, it is alleged that among the 45 Supreme Court judges recruited by the previous Bangladesh Nationalist Party (BNP)-led alliance government, more than one-third were affiliated with the ruling alliance and at least one-third of the 17 judges appointed by the current government have been involved in Bangladesh Awami League’s (current ruling political party) political activities.⁶⁵ On the other hand, most of the GPs are appointed by political considerations as well without giving any heed to their skills and previous track records. Once a government changes all existing GPs would

⁶³. Transparency International, 2007. *Global Corruption Report: Corruption and Judicial Systems*

⁶⁴ Parven, K. No date. *Court Management Information System (CMIS) in Bangladesh: IT as a tool of justice*

⁶⁵ Global Integrity. 2007. *Bangladesh: Integrity Indicators Scorecard*;
<http://report.globalintegrity.org/Bangladesh/2007/scorecard/44>

resign immediately and they are replaced by batch of fresh GPs alienated with the party in power. Partisan political appointments of judges and Government Pleaders have been cited as a significant reason for judicial corruption and in efficiency.⁶⁶

6.8.2 Low remuneration of GP and survival crisis of large number of lawyers

The remuneration of Government Pleaders (GP) is quite low for which they find it lucrative to collude with public or private sector. They rarely render their best effort to protect the interest of the Government rather and sacrifice governments' legitimate interest. Moreover, they do not handle the suit cautiously and therefore delay in the litigations is taking place indiscriminately. On the other hand, maximum portion of lawyers face challenges to survive and living hand to mouth from their beginning. Hence, there is no alternative way for survive than to linger the suit and defraud clients. They know that if they go with the laws and fact, the suit will die and his earnings would be frozen. That's why civil practitioners always try to make the suit multifaceted upon filing diversified ad-interim applications and thereby they deceive their clients as they are ignorant about laws.⁶⁷

6.8.3 Wealthy and influential people's upper hand on litigations

A number of people in our society are litigious in nature. They find it convenient to harass their opponents by filing litigation on land disputes. These people mostly belong to wealthy and influential section of the society. The general attitude of these people is to win by the shortest way in the quickest time. In that connection these wealthy people always try to squander their capital for the advocate with an impressive profile to deal their suit successfully and the poor litigant always search for the advocates whose reputation and charge are not so high. Some feels panic and fear by the name of any litigation due to ignorance of existing legal procedure.

6.8.4 Bribery by judicial officials and employees

As civil suits are run by some procedural laws, clients have to come to courts many times. On the other hand, judicial processes are managed by manual systems where there is no access for clients. Therefore, people coming to courts are captive to these officials and employees to get dates, necessary papers, judgments and decrees. On the other hand, Judges are not well trained up to operate computer independently and they depend on them for running different processes. Moreover, there is a scarcity of Forms and Registers needed for civil courts. And, Forms and Registers are not being distributed towards the district courts regularly in each and

⁶⁶ Nawaz, F. 2012. *Overview of corruption within the justice sector and law enforcement agencies in Bangladesh*

⁶⁷ Hasan, T. 2013. *Critical Scanning on Civil Litigation: Bangladesh Perspective: ASA University Review*, Vol. 7 No. 2, July–December, 2013

every year. Because of these limitations, court officials and employees sometimes force clients to pay bribe for proving necessary information, documents and accelerate juridical processes.

Table 2: Bribery Rates in Different Land Services and Civil Suits Relating to Land Disputes

Types of Services	Bribe Amount (in Taka)
Land Development Tax (LDT)	100-10,000
Mutation	3,000- 2,00,000
Registration	1,000-50,000
Withdrawal of Records and Maps	200-1,000
Withdrawal of Certified Copies of Records and Maps	200-1,000
Withdrawal of Registrations Deeds	800-1,000
Land Survey -Urban (Per Decimal)	3,000-5,000
Land Survey -Rural (Per Bigha)	500-1,000
Corrections of Records under Tenancy Rules 30 & 31	4,000-5,000
Leasing of <i>Hat-bazar</i>	10,000-20,00,000
Bribery for Preventing Any Administrative Measures and Investigations against Collection of Toll at Hat-bazars beyond Approve Rates	10,000-2,00,000
Bribery at Different Stages of Civil Suits Relating Land Disputes (<i>Filing of case, Summon of Accused, Fanning of Issues, Fixing of Hearing Date, Hearing and Issue of Decree</i>)	300-1,000

Chapter Seven

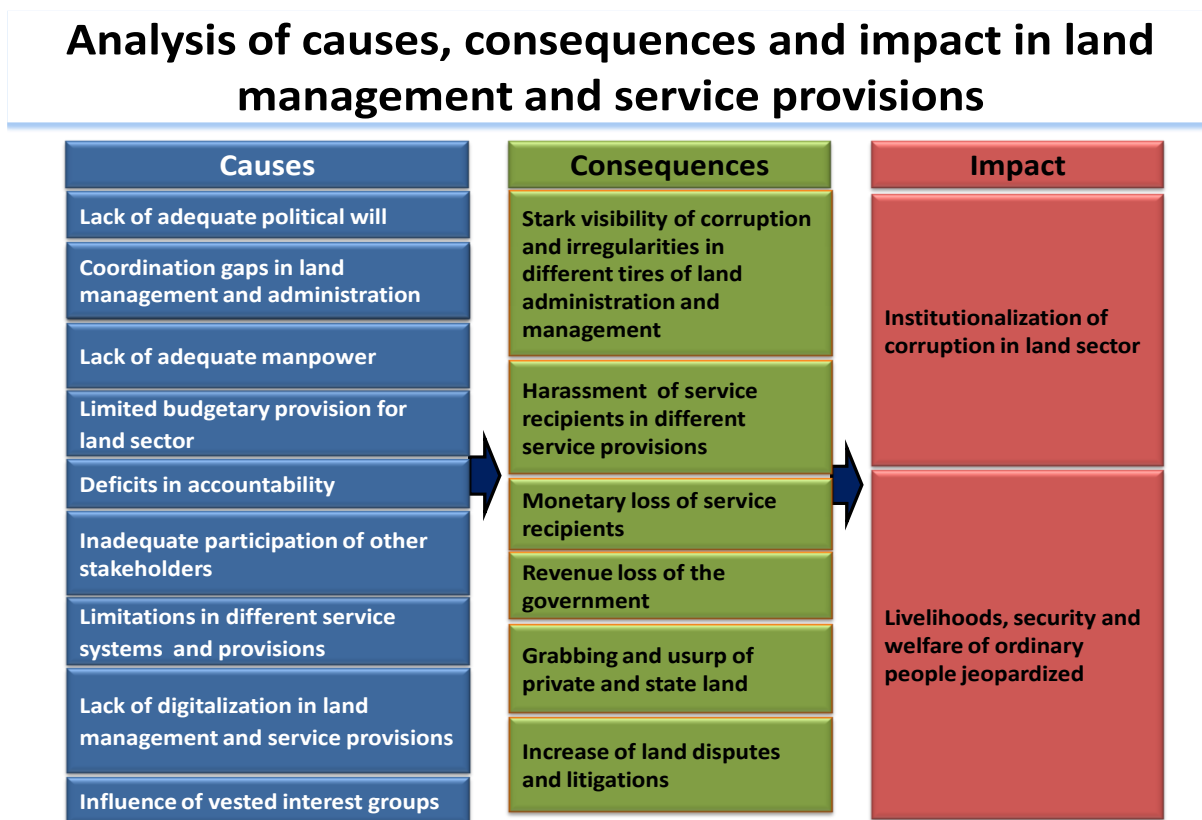
Conclusion and Recommendations

The findings of the study reveal that although land is one of the important sectors for our livelihood and economic activities, according to some arguments this sector has not received due importance from political leadership and policy level for decades. On the other hand, numerous fragmented and piecemeal policy initiatives have been taken leaving aside its sustainable solutions. It might have happened unwittingly as land policies have always been found very difficult to make in different societies as people livelihood and interests of multiple stakeholders are closely associated with land. Despite this argument, there are some plausible issues to be taken into cognizance. Budgetary allocation has been perennially low for which major reform measures to modernize land sector has been neglected. There have been deficits in infrastructures, logistics, equipments and technologies and adequate and proper transport facilities for which land management has been inhibited and client friendly services could not be ensured properly.

There are limitations in existing land administration and management structure. Land services are delivered through fragmented institutional framework involving multiple offices and service delivery points. Due to these fragmentations coordination gaps in formulating and implementing policies and managing human resources arise and mutual accountability among different entities becomes weaker. Moreover, service recipients have to go from one office to another that incurs their additional time, visits and cost. It is to be noteworthy that due to the influence of New Public Management (NPM) in the 80s and 90s, different countries have reformed their public sectors to bring efficiency and effectiveness in service deliveries; however, the wave has been almost absent in land administration and management in Bangladesh.

Land sector has to deal with huge amount of information. However, all information is processed and managed manually for which in many cases instant accountability of responsible officers cannot be ensured and client friendly services cannot be made. Digitalization of land sector is believed to be a solution to overcome this limitation. However, digitalization in the sector is still at a nascent stage and all encompassing master plan to digitalize entire land sector across the country is absent. Moreover, most of the digitization initiatives are now funded by donor agencies and allocation from revenue budget has been negligible.

Figure 4



Over the years, the Ministry of Land has produced numerous memos and circulars and sent them to field to provide necessary instructions and guidelines to strengthen land administration and management at field level. Moreover, it has introduced regular reporting flows to monitor and regulate field. However, all those reports are produced and processed in manual manner. Moreover, for shortage of human resources, it has been very difficult for the Ministry to scrutinize those reports in an effective manner. Thus, *agency loss*⁶⁸ in at different levels of land administration and management has remained high over the years. Therefore, despite policy makers' well intension and efforts, corruption and anomalies in land sector could not be

⁶⁸ Agency loss is the gap between policy makers (principal) and street level bureaucrats (agent) in the context of principal agent relationship. It appears to be higher when interests of principal (policy makers) and agent (public officials at grassroots and elected representatives) differ much and there is a higher degree of information asymmetry among them. In land sector, policy makers have produced different laws and rules and issued different circulars with a belief that public officials at grassroots would follow them meticulously. However, their interests differ as agents work in a difficult context where street level bureaucrats and different interest groups engage in a collusive corruption. Moreover, because of less effective information management from field to central on regular basis (information asymmetry) policy makers cannot comprehend instantly what is going on in the field. In this context, gulf between policy makers and grassroots public official and elected representative become wider and policy makers cannot monitor their agents effectively.

prevented. It is believed that the digitalization of land sector would reduce *agency loss* considerably and help to bring efficiency and control corruption and anomalies.

Land sector has become one of the most corrupt sectors. Service recipients have to experience corruption in almost every stage and are compelled to spend hefty amount in many cases. The monopolistic nature of this sector and discretionary power enjoyed by different revenue officers create a condition for indulge in corruption.⁶⁹ According to Robert Klitgaard corruption would be higher where monopoly and discretionary power exist for public officials without considerable level of accountability (Corruption = Monopoly + Discretionary Power – Accountability). Therefore, an effective accountability mechanism would be a countervailing factor to prevent corruption. However, existing administrative accountability mechanism is found to be weak for presence of collusive corruption involving a section of officials and employees at different levels. In this context, *horizontal accountability* through stakeholders' participation at different levels might strengthen accountability to considerable extent. However, stakeholder's participation in land sector has been quite low because of public offices' dominance and apathetic attitude. Therefore, stakeholder's participation at different levels needs to be enhanced to prevent corruption in land sector.

There is another analogous accountability theory offered by renowned economist Albert O. Hirschman – *exit* and *voice*⁷⁰. *Exit* is an economic mechanism operating through competition and market, while *voice* is more of a political response operating through organizations such as political parties, voluntary agencies and citizen groups. Because of monopolistic nature of land services there is no scope to introduce market mechanism. On the other hand, *voice* is the degree to which the public can influence the quality and access of the public services by some participation or expression of protest or views. Thus, stakeholder's participation in land management and service provisions would contribute in enhancing accountability.

The governance challenges in land sector are quite old. However, there has been apparent lack of political will to solve these challenges. Recently, the government has realized its importance and included it as one of the priority areas for in the Seventh Five Year Plan to be implemented from FY 2015-16 to 2019-2020. On the other hand, given the complexities of land sector and diverse interests of different stakeholders, policy solutions for any land issue have always been found very difficult to make. This study has tried to identify major governance and policy challenges in land sector. It is hoped that the government, the Ministry of Land and other stakeholders take into cognizance of the findings and recommendations of the study and make concerted efforts to solve governance challenges in land sector.

⁶⁹ Robert Klitgaard produced the equation Corruption= Monopoly + Discretionary Power – Accountability, Controlling Corruption, University of California, 1991

⁷⁰ Salvatore Schiavo Campo and Hazel M. McFerson, Public Administration in Global Perspective, 2008

Recommendations:

Key recommendations

1. Single department under the Ministry of Land needs to be established to operate administrative and management operations of land sector
2. A long term strategic plan for digitalization of land sector needs to be developed and integrated digitalization of entire land management, registration and land surveys have to be ensured
3. Adequate budgetary allocation in land sector need to be ensured to implement digitalization initiatives, developing of infrastructure, procuring modern equipments and meeting daily logistical needs

Other recommendations

4. Adequate manpower in land administration, land survey department, registry department and civil courts need to be ensured
5. 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
6. One-stop services need to be ensured at upazilla level mainly the services of mutation, registration and documents withdrawals
7. Land Survey Tribunals should be comprised of three members involving representation from judiciary, settlement department and land administration
8. Rule for Alternative Dispute Resolution 2012 should be prepared immediately
9. 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.
10. 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
11. The new mutation fee that has been in effect since July 1, 2015 should be annulled and rational fees should be set keeping the realities into consideration
12. The provision to have adult sons for widow and deserted women for getting agricultural khas land needs to be annulled

Bibliography

Antonio B. Quizon, Land Governance in Aisa, International Land Coalition, 2013

Barkat, A. , Zaman, S. & Raihan, S.,*Distribution and Retention of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka, 2000 .

Barkat, A. , Zaman, S. & Raihan, S., *Political Economy of Khas Land in Bangladesh*, Association for Land Reform and Development, Dhaka, 2001.

Campo, S., McFerson, H, *Public Administration in Global Perspective*, 2008

Hasan, T., *Critical Scanning on Civil Litigation: Bangladesh Perspective*: ASA University Review, Vol. 7 No. 2, July–December, 2013.

Global Integrity., *Bangladesh: Integrity Indicators Scorecard*; 2007
<http://report.globalintegrity.org/Bangladesh/2007/scorecard/44>

Afroza Ahmed, et al. Implementation of Land Assessment Framework in Bangladesh, The World Bank and Brac Development Institute

Klitgaard, R., *Controlling Corruption*, University of California, 1991

Klaus Deininger, et al. The Land Governance Assessment Framework, The World Bank

Nahrin,K., Rahman,S., *Land Information System (LIS) for Land Administration and Management in Bangladesh*, (Name of Journal),Dhaka, 2009.

Nazrul Isalm Khan, Bhomi Ainer Sohaj Pat (Easy Reading of Land Laws), Research Initiative Bangladesh, 2007

Nawaz,F., *Overview of corruption within the justice sector and law enforcement agencies in Bangladesh*, 2012.

The Ministry of Land, Bangladesh, Land Administration Manual Vol I and II, 2003

Ministry of Finance, Bangladesh *National Budget FY 2014-15*.

Monzur Hossain, Improving Land Administration and Management in Bangladesh, Bangladesh Institute of Development studies (BIDS), 2015

Parven, K., *Court Management Information System (CMIS) in Bangladesh: IT as a tool of justice*, No date.

Rural Livelihood Programme, CARE land Policy and Administration in Bangladesh, A Literature Review, 2003

Saha, B.K., *Promoting Agrarian Reform* in Rehman Sobhan (ed.) Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia, Sage, Delhi, 2010.

T. Hussain, Land Rights in Bangladesh, Problems of Management, University Press Limited, 1995

Transparency International, *Global Corruption Report: Corruption and Judicial Systems*, 2007

Weimer, D., Vining, A. Pearson, *Policy Analysis: Concepts and Practice* (5th Edition), 2014