Flexibility Fixes Land Acquisition, Payment Concerns in Bangladesh

BACKGROUND

The Chittagong Hill Tracts (CHT) lie in the southeast of Bangladesh, bordering India and Myanmar. It is a geographically isolated and remote area covering 13,000 square kilometers, 90% of which is sloping land that is not easily accessible yet is home to 11 distinct groups of indigenous people.¹

Land Pressures Rising. In 1960, the construction of Kaptai Dam inundated 40% of the prime cultivable lands in the CHT and displaced one-third (about 100,000) of the CHT population, resulting in intensified shifting cultivation in all three districts as affected people were resettled.² The pressures of land policies (transmigration and awarding of land to migrated persons) and their associated ethnic confrontations aggravated an insurgency that spanned more than 20 years, and ended with the signing of the CHT Accord in 1997. CHT residents were economically adversely affected. Insurgency also damaged much of the rural infrastructure and depleted natural resources, as land pressures increased from an influx of population from outside CHT.

Economically, the CHT is worse off, with per capita income roughly 40% lower than the national average.³ Access to energy is lowest in CHT, with only 2% of indigenous people connected to the grid. Only 16% of the CHT villages have access to paved roads and the average distance between a village and a paved road was 4.5 kilometers (km). Economic hubs are on average at least 7 km away from villages. The CHT’s remoteness and the people’s lack of access to markets, education, health, and other facilities are serious constraints, and addressing them is a key factor in the development of the region.

A Rural Infrastructure Project. In July 2011, the Asian Development Bank (ADB) approved the $55 million Second CHT Rural Development Project to improve rural infrastructure and increase rural incomes, particularly those of remote rural women and disadvantaged groups. Among its targets was the improvement of rural infrastructure, including the construction of 92 km of new village roads, footpaths, and steps; improvement of 61 km of upazila roads, 105 km of union roads, and 3,884 meters of bridges and culverts.⁴ This meant land acquisition (of about 433 hectares)—already a sensitive subject for CHT inhabitants—again took center stage. The project was categorized “A” for resettlement.⁵

APPROACH

Land Acquisition Challenges. Land is a very sensitive topic in CHT, mixed as it is with historical grievances, insurgency, and isolation-based poverty. To compound the problem, indigenous peoples of the region do not have individual land titles. Rather, they follow their traditional communal landownership system. This form of land tenure is not recognized under national legislation.

Adding challenge to the project was the CHT inhabitants’ experience with the earlier ADB project—the first CHT Rural Development Project approved in 2000—that focused on reducing poverty incidence in CHT and fostering confidence in the 1997 CHT Accord. While this project had successfully achieved its outputs, the lack of transparent guidelines for project land acquisition appears to have resulted in poverty-inducing impacts.

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¹ Under the Constitution of the People’s Republic of Bangladesh, indigenous people are referred to as “small ethnic communities.”
² Circumstances surrounding the Kaptai Dam construction transformed the CHT from being self-sufficient in cereals to being a food-deficit area.
⁴ Upazila roads are subdistrict roads, while union roads are smaller subdivisions of a subdistrict or upazila road.
⁵ Under ADB Safeguard Policy Statement (2009), a proposed project falls under “Involuntary Resettlement Category A” if it is likely to have significant involuntary resettlement impacts. A resettlement plan, which includes assessment of social impacts, is required. www.adb.org/site/safeguards/safeguard-categories#section1
Much of the land in CHT is under customary landownership. According to ADB’s 2009 Safeguard Policy Statement (SPS), this is equivalent, in terms of eligibility for compensation, to titled landownership. The project land acquisition and resettlement framework outlines an approach to the valuation and compensation of land that is a blend of statutory and customary laws, for valuation, verification, and settling disputes. It also details a robust system for monitoring the resettlement and land acquisition process, including provision for verification of monitoring by an external expert. The project is designed to provide further support to ensure a rigorous process is followed for resettlement planning and implementation, particularly payment of compensation.

**Transparency and Trust.** CHT is further challenged by a unique multilayered administrative structure comprising ministry and line department counterparts, district administration, local government institutions, and two sets of CHT-specific institutions. These are the Ministry of Chittagong Hill Tracts Affairs (MOCHTA), responsible for all development activities in CHT; the Chittagong Hill Tracts Regional Council, which supervises and coordinates all activities; and Hill District Councils, which implement activities. There are also traditional institutions of circle chiefs, mouza (type of administrative district) head, and karbari. Despite the remoteness and range of stakeholders, the project team made sure to engage them in discussions to build trust, making several repeats of difficult treks to remote sites in the process.

Through a water resources study, the team found an opportunity to build relationships with the MOCHTA, the CHT Regional Council, Hill District Councils and village leaders, and beneficiaries. The team further conducted workshops at the community level to explain its presence and why ADB was financing infrastructure development for CHT.

**Compensation Concerns.** The team was concerned that since communal land titles were not recognized by national law, indigenous CHT people might not get paid during land acquisition through the conventional government process. They discussed these issues with MOCHTA and the CHT Regional Council, and were pleased to note that resettlement and land acquisition impacts were fully understood. Usufruct rights of indigenous people for communal land were reviewed to ensure compensation.

Eventually the government requested ADB not only to finance land payment but also handle the entire acquisition and resettlement process. The objective was to avoid government procedures where CHT people might not get compensated. As communal land cannot be compensated under Bangladesh laws, MOCHTA requested ADB to finance land acquisition through the loan project.

**Adaptation and Flexibility.** The project team found that flexible use of ADB operating procedures facilitated matters. Allowing all key stakeholders, including the CHT Regional Council and traditional leadership, to guide land acquisition and compensation for loss of any other assets and giving them greater involvement in the resettlement process also contributed in resolving the problem of nonexistent land titles in CHT.

Another project innovation was the way CHT people were compensated through the village hierarchy. CHT’s traditional institutions are centered around the office of the circle chief and comprise the circle chief, mouza head, and village-level karbari. This structure continues to play a significant role in the social life and development of CHT. Now recognized by law, this traditional hierarchy was utilized to facilitate payment of compensation.

**MOVING FORWARD**

The CHT presents a challenging background of complex land tenure, multilayered institutional systems, and remote and scattered indigenous communities. Despite these confines, the project demonstrates the value of continued and broad-based consultation and trust and consensus building to resolve complex issues. In fact, it has the distinction of being the first case in ADB where consensus-based compensation under the SPS has been applied. With a community-generated design and implementation approach, this project paved the way for greater ownership and future sustainability; a project designed by and for the benefit of the people of the CHT.

**Related Links**


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8 The circle chief, head (responsible for a group of villages), and karbari (village head) system is a unique traditional system and a distinct characteristic of the CHT region. Their function is primarily for revenue collection and judicial matters under customary law, which is recognized under CHT Regulations of 1990.

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**KNOWLEDGE CONTRIBUTOR**

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