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Structural Impediments to Indigenous Land Justice in the Chittagong Hill Tracts: Legal Pluralism, Power, and Institutional Reform

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ABSTRACT: Land disputes in the Chittagong Hill Tracts (CHT), in Bangladesh, present one of the most complex and long-standing governance problems in the area. Stemming from historical colonial land practices, post-colonial settlement policies, and inconsistent laws, such disputes particularly affect the indigenous people through limiting their access to justice and denying their rights to land and identity. This paper seeks to critically analyze the structural obstacles that impede efficient handling of land disputes in the Chittagong Hill Tracts. Using doctrinal and socio-legal methodologies, the research considers the consequences of legal pluralism, insufficient implementation of land governance policies, power asymmetries, and socio-economic marginalization of the indigenous peoples. Legal pluralism and its negative consequences, the failure to implement Chittagong Hill Tracts Peace Accord 1997 and the limitations of the structure of the Land Dispute Resolution Commission (LDRC) have been identified as the main reasons for the development of land disputes in the region. In light of the results, a number of recommendations on how to resolve the problem have been offered. These recommendations are based on lessons drawn from other pluralistic jurisdictions and seek to develop a coherent rights-based process for resolving land disputes in the CHT.

KEYWORDS: Chittagong Hill Tracts, Land disputes, Legal pluralism, Indigenous peoples' rights, Land administration, Institutional reform, Bangladesh

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1. Introduction

The Chittagong Hill Tracts (CHT) is a geographical-culture zone of Bangladesh where different indigenous groups reside, having been practicing their customary system of land ownership for centuries.[1] Land of the CHT is not merely an economic factor; rather, it is something that is directly associated with the very existence of indigenous people.[2] Yet, land-related conflicts have always been present in the area due to its rich history, legal and political background.[3] Even though in 1997, the CHT Peace Accord was signed, which was supposed to settle the long-standing issues, land conflicts are still present and even intensified in certain aspects.[4]

The core argument of this paper is that the land conflict in the Chittagong Hill Tracts is not just an issue of property conflict; rather, it is indicative of a much larger problem of structural inefficiency within the structures of law, administration, and politics that control the area. The structural challenges that arise in the form of legal pluralism, structural fragmentation, power disparity, and partial implementation of the Peace Accord all lead to an unjust system.

The contributions of this article to the current body of literature include three aspects. Firstly, it conducts an analysis of the interrelated nature of structural barriers by explaining how they are supported by each other to continue the existence of the land dispute. Secondly, it evaluates the current capability of the LDRC institution using the recent governance data from 2025-2026. Finally, it suggests a holistic reform agenda for resolving the issue that includes law harmonization, capacity building, and community involvement based on the experience in other jurisdictions.

2. Methodology

The research methodology employed in this study is that of doctrinal and socio-legal research to understand the structural obstacles of resolving land disputes in the CHT.[5] Doctrinal research

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[1] Oliver Tirtho Sarkar and Sharif A Mukul, 'Challenges and Institutional Barriers to Forest and Landscape Restoration in the Chittagong Hill Tracts of Bangladesh' (2024) 13(4) *Land* 558.

[2] Shapan Adnan, 'Migration, Discrimination and Land Alienation: Social and Historical Perspectives on the Ethnic Conflict in the Chittagong Hill Tracts of Bangladesh' (2007) 1(2) *Contemporary Perspectives* 1.

[3] Md Sarwar Hossain, 'Chittagong Hill Tracts (CHT) Land Issue: Challenges and Way Ahead' (2015) 14(2) *NDC E-Journal* 17.

[4] Rafiqul Islam, Susanne Schech and Udoy Saikia, 'Violent Peace: Community Relations in the Chittagong Hill Tracts (CHT) in Bangladesh after the Peace Accord' (2022) 22(3) *Conflict, Security & Development* 271.

[5] Reza Banakar and Max Travers, *Theory and Method in Socio-Legal Research* (Hart Publishing 2005).

includes the critical examination of the primary laws like the Chittagong Hill Tracts Regulation 1900[6], Chittagong Hill Tracts Land Dispute Resolution Commission Act 2001[7] (amended 2016), and Chittagong Hill Tracts Peace Accord 1997[8]. Socio-legal research helps in understanding the functioning of the aforementioned legal framework in its social, political, and institutional settings through the use of secondary sources like academic studies, government reports, human rights reports, and newspaper articles.[9]

2.1 Research Objectives

1. To study and analyze the structural obstacles – legal, administrative, and political – which have prevented an effective resolution of land disputes in the CHT region.
2. To examine the capability and performance of the Land Dispute Resolution Commission and other institutions
3. To review the implementation of the CHT Peace Accord of 1997 regarding land administration.
4. To recommend changes based on the above analysis.

2.2 Research Questions

1. In what ways does legal pluralism lead to jurisdictional disputes and land disputes in the CHT region?
2. Which obstacles prevent the effective resolution of land disputes?
3. What power relations and political factors play an important role in resolving land disputes?
4. What changes are needed for an effective land governance system in the CHT region?

The theoretical perspective used in this study is the concept of legal pluralism, which offers an analytical tool through which one can appreciate the dynamics of the interactions of customary and statutory law systems and their implications for indigenous peoples' land rights.[10] Legal pluralism theory is complemented by institutionalist analysis in which one analyzes the role played by institutions and inter-institutional relationships in dispute resolution. Legal pluralism is the theoretical model used in this research because it gives an insight into the interface between customary and statutory law systems as well as the impact of such interaction on the land rights of indigenous people. Institutional analysis will be applied to the process to identify

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[6] Chittagong Hill Tracts Regulation 1900

[7] Chittagong Hill Tracts Land Dispute Resolution Commission Act 2001 (Bangladesh), as amended by the Chittagong Hill Tracts Land Dispute Resolution Commission (Amendment) Act 2016.

[8] Chittagong Hill Tracts Peace Accord (Bangladesh–Parbattya Chattagram Jana Sanghati Samity) (signed 2 December 1997).

[9] Elinor Ostrom, *Understanding Institutional Diversity* (Princeton University Press 2005).

[10] Franz von Benda-Beckmann, 'Who's Afraid of Legal Pluralism?' (2002) 34(47) *Journal of Legal Pluralism and Unofficial Law* 37.

the extent to which institutional arrangements, capacities, and relationships influence the dispute outcomes. The study is qualitative in nature because it will use only documentation and interpretation as sources of data without conducting fieldwork. Such an approach has its drawbacks in terms of generalizability but it is relevant in this case of policy and legal analysis.[11]

3. Evolution of Land Governance in the Chittagong Hill Tracts

History of land management in CHT may be explained based on the interaction between customary laws, colonial laws, post-colonial state policies, and modern statutory laws.[12] While lands in the plains of Bangladesh are governed only by statutory laws passed by the government, lands in the CHT are governed by both statutory laws and customary laws of the indigenous population - a unique combination that has greatly influenced the nature of land disputes and their solutions.[13] Before colonisation, lands were managed according to the customary laws of indigenous communities such as the Chakmas, Marmas, and Tripuras.[14] The idea of individual property rights was unknown to these people; the lands were communal in nature and were used for jhum cultivation.[15]

However, the formal legal system was introduced through the Chittagong Hill Tracts Regulation 1900, which acknowledged the uniqueness of the area socially and culturally but maintained customary systems of land ownership within a structured administrative system.[16] After the partition of India in 1947, when the CHT became a part of Pakistan, state policies led to the weakening of the customary systems of land ownership in the area. However, the introduction of the Kaptai Hydroelectric Dam in 1960 brought about a major blow to the system, as it submerged large portions of land and displaced thousands of indigenous people.[17] After the emergence of Bangladesh in 1971, further changes in land management came about through post-independence state policies.[18] The coexistence of customary law and formal law

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[11] Sally Engle Merry, 'Legal Pluralism' (1988) 22(5) *Law & Society Review* 869.
[12] Gopal B Thapa and Golam Rasul, 'Implications of Changing National Policies on Land Use in the Chittagong Hill Tracts of Bangladesh' (2006) 81(4) *Journal of Environmental Management* 441.
[13] Fariba Alamgir, 'Land Politics in Chittagong Hill Tracts of Bangladesh: Dynamics of Property, Identity and Authority' (PhD thesis, University of East Anglia 2018).
[14] Md Ashrafuzzaman, 'The Tragedy of the Chittagong Hill Tracts in Bangladesh: Land Rights of Indigenous People' (2014).
[15] Masheli Chakma and others, 'An Assessment of Landscape and Land Use/Cover Change and Its Implications for Sustainable Landscape Management in the Chittagong Hill Tracts, Bangladesh' (2023) 12(8) *Land* 1610.
[16] Parban Chakma, 'The Chittagong Hill Tracts Regulation and Its Constitutional Status' *The Daily Star* (Dhaka, 28 February 2022).
[17] Sadeka Halim and Khairul Chowdhury, 'The Land Problem in the Chittagong Hill Tracts: A Human Rights Anatomy' (2015) *JAMAKON Year Book 2015* 36.
[18] Tamina M Chowdhury, 'Raids, Annexation and Plough: Transformation through Territorialisation in Nineteenth-Century Chittagong Hill Tracts' (2016) 53(2) *The Indian Economic & Social History Review* 183.

in the region generated numerous conflicts, particularly involving indigenous and settler populations. Indigenous peoples found formal courts difficult to access for resolving land tenure disputes.[19] The signing of the Chittagong Hill Tracts Peace Accord in 1997 stands as a landmark event, as it sought to integrate customary laws and statutory laws in land management.[20] Among its provisions was the establishment of the CHT Land Dispute Resolution Commission, recognition of customary land tenure, resolution of land disputes, and rehabilitation of displaced persons.[21]

4. Legal Pluralism and Jurisdictional Conflicts

The Chittagong Hill Tracts is yet another instance of classic legal pluralism where more than one legal system works at once. The legal systems include the Chittagong Hill Tracts Land Dispute Resolution Commission Act 2001 (amended 2016). These include: state statutory law under the CHT Land Dispute Resolution Commission Act 2001 (as amended in 2016);[22] customary indigenous land governance systems such as the Circle Chiefs and Headmen institutions under the CHT Regulation 1900; administrative control mechanisms involving Deputy Commissioners, Hill District Councils, and military-influenced governance structures; and informal power structures shaped by settler communities and local political actors. This multiplicity of legal systems generates considerable fragmentation in jurisdiction, where no one body has full and exclusive jurisdiction over land dispute resolution.[23]

The Chittagong Hill Tracts Land Dispute Resolution Commission continues to be partially operational and institutionally hindered due to lack of adequate regulations, with more than 23,000 unresolved land disputes left pending.[24] It also holds meetings irregularly and often gets interrupted by the prevailing political-security situation. The major impediments to land dispute resolution in the CHT persist as: (a) jurisdictional contradictions between customary land tenure laws and official cadastral law, evidenced by the lack of harmonised dispute

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[19] Raja Devarsish Roy, 'Challenges for Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh' (2004) 21 *Arizona Journal of International and Comparative Law* 113.
[20] Mohsin Amena, 'Chittagong Hill Tracts Peace Accord, 1997' in *Banglapedia: National Encyclopedia of Bangladesh* (2012) 43.
[21] Ibid.
[22] Md Zahid Hassan, 'Institutional Responsiveness to Indigenous Rights: The Case of Chittagong Hill Tracts Land Dispute Resolution Commission' (Master's thesis, UiT The Arctic University of Norway 2011) <https://munin.uit.no/handle/10037/3554\> accessed 24 April 2026.
[23] Md Atiqur Rahman, 'Understanding the Developmental Approach to Legal Pluralism and Access to Justice in Bangladesh' (2024) 25 *Australian Journal of Asian Law* 17.
[24] Ministry of Chittagong Hill Tracts Affairs, *Annual Administrative Coordination Report* (2025); see also Mohammad Moin Uddin, 'Settlement of Indigenous Land Disputes by the CHT Land Dispute Resolution Commission of Bangladesh: Challenges and Possible Solutions' in *The Indian Yearbook of Comparative Law 2018* (Springer Singapore 2019) 251.

resolution guidelines; (b) contestations between hill district institutions and central government bureaucracies, despite occasional coordination calls by the Ministry of CHT Affairs in 2025–2026; and (c) conflicting land registration practices, in which District Land Offices continue to challenge the authority of customary record-keepers.[25] The 2026 context of land disputes in the CHT is further characterised by the politics of land, with disputes firmly entrenched within processes of settlement-making, identity politics, and demography. Administrative reviews conducted during 2025–2026 have exposed persisting contradictions involving indigenous land rights claims on one hand and state developmental and infrastructural projects on the other, as well as conflicting perspectives between local/regional autonomy and territorial governance.[26] Administrative fragmentation persists in 2026 involving the Ministry of Chittagong Hill Tracts Affairs, the Ministry of Land, district administration, the Regional Council, and an informally influential security presence. This is confirmed by continuing overlapping approval mechanisms in land-related decisions reported in 2025 governance monitoring updates, which produce a lack of unified land authority, conflicting administrative directives, and recurring delays or blockage in dispute resolution processes.[27] Moreover, the CHT Land Commission is institutionally restricted because of its ongoing inability to have complete enforcement powers, its reliance on the good will of the executive to implement the commission's decisions, and the persistent political contestation regarding the commission's composition and powers owing to the failure of the reform process that took place in 2025-2026.[28]

5. Power Dynamics and Political Influences

Power dynamics and political influences constitute a central structural barrier to land dispute resolution in the CHT, where land governance remains deeply embedded in broader questions of state control, identity politics, and security governance. According to national data, around 60% of all litigation cases in Bangladesh are land-based, highlighting the extent to which land issues have been politicised in Bangladesh.[29] At the regional level, these dynamics are intensified by the persistence of conflict and militarised governance structures. Recent analyses (2025) highlight that the CHT continues to experience low-intensity conflict conditions and

[25] Chittagong Hill Tracts Land Dispute Resolution Commission Act 2001 (Bangladesh); Ministry of Chittagong Hill Tracts Affairs, *Administrative Circulars on Land Coordination in CHT* (2025–2026); Roy (n 13).
[26] Barkat and others (n 8); Halim and Chowdhury (n 11).
[27] Ministry of Chittagong Hill Tracts Affairs, *Annual Administrative Coordination Report* (2025); Government of Bangladesh, *Land Administration Reform Policy Documents* (Ministry of Land 2024–2026); Chittagong Hill Tracts Regional Council, *Reports* (2025–2026).
[28] Chittagong Hill Tracts Land Dispute Resolution Commission Act 2001 (as amended 2016); Hassan (n 16); *The Daily Star*, 'CHT Land Commission Reform Updates' (2025–2026).
[29] Bertelsmann Stiftung, 'BTI 2026 Country Report: Bangladesh' (BTI Project 2026) https://bti-project.org/en/reports/country-report/BGD accessed 19 April 2026.

risks of insurgency revival, despite the 1997 Peace Accord, thereby linking land disputes directly with security and political stability concerns.[30]

Statistical evidence from 2025 demonstrates the effect of these power struggles on individuals that 268 instances of human rights abuses involving 606 people were reported in the CHT, with perpetrators including security personnel, settlers, and armed groups often directly involved in disputes over land and territories.[31] It is also important to note that these figures indicate the role of economic power, as more than 300 acres of land were encroached in 2025, with many of these encroachments involving powerful figures or development activities such as tourism and plantation projects.[32]

Moreover, political conflicts over land are intimately related to demographic changes, where shifts in the demographic profile and settlement patterns continue to play an important role in determining security and resource management, thereby causing tension between the indigenous population and state-sponsored developmental policies.[33] The inability of the dispute resolution system—particularly the Land Commission—to implement its mandate has exacerbated these power struggles, as thousands of unsettled land disputes maintain a fragile environment that has enabled powerful political figures to hijack the land dispute process.[34] The findings suggest that the issues relating to the CHT cannot simply be resolved by the legal approach because they have deep roots in political and power relations.

6. The Role of the CHT Peace Accord 1997

The Peace Accord 1997 still acts as the major political-legal accord for resolving issues of land disputes within the CHT region. Nevertheless, empirical evidence gathered from research until 2025 shows that the process of implementation has been significantly poor, and only one-third of the major parts have been successfully implemented, especially regarding the resolution of land disputes, demilitarization, and decentralization of administration.[35] From an institutional

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[30] S M Abdur Rouf, 'Conflict Transformation in the Chittagong Hill Tracts: Bridging Peace Theory and UN Practice' (2025) *National Defence College E-Journal* https://ndcjournal.ndc.gov.bd/ndcj accessed 19 April 2026.

[31] Parbatya Chattagram Jana Samhati Samiti (PCJSS), *Annual Report of 2025 on Human Rights Situation in CHT* (PCJSS, 1 January 2026) <https://www.pcjss.org/pcjss-annual-report-of-2025-on-human-rights-situation-in-cht/\> accessed 20 July, 2026

[32] Ibid.

[33] MH Kabir, R Karim and MM Alam, 'Demographic Transitions in the Chittagong Hill Tracts: Implications for Environmental Degradation and Human Security' (2025) 46(3) *BIISS Journal* 339 https://doi.org/10.56888/BIISSj2024V45n3a1 accessed 19 April 2026.

[34] 'No commission in place to resolve Chittagong Hill Tracts crisis' *The Business Standard* (Dhaka, 18 August 2025)https://www.tbsnews.net/bangladesh/no-commission-place-resolve-chittagong-hill-tracts-crisis-biplobi-workers-party-1214731 accessed 19 April 2026.

[35] 'Human rights situation in CHT worsened in 2025: PCJSS' *The Daily Star* (Dhaka, 1 January 2026) https://www.thedailystar.net/news/bangladesh/news/human-rights-situation-cht-worsened-2025-pcjss-4070901 accessed 19 April 2026.

perspective, several studies reveal that although the agreement created important institutions—namely the Regional Council, Hill District Councils, and Land Commission—the functioning of these organisations has been ineffective due to limited delegation of power.[36]

Empirical analyses related to governance through 2025 further show that although the Land Commission was established to be the principal mechanism for dispute settlement, it is yet to become fully functional, with thousands of cases unresolved due to delays and lack of enforcement powers, among other factors.[37] The security and governance dimension also shows that while demilitarisation was expected after the Accord, it was not entirely achieved, as security presence remains visible in vital areas and causes an overlap of administrative and security mechanisms, complicating the land adjudication process.[38]

Moreover, assessment reveals little achievement in relation to land restitution and rehabilitation, as questions related to land occupation, expansion of settlement areas, and disputes among indigenous groups and settlers continue to create problems for the implementation of the law. In summary, from the data collected through 2025, it can be concluded that despite the Peace Accord of 1997 being the primary legal document providing the foundation for peace and land governance in the CHT, its lack of full implementation has led to several obstacles.

7. Reform Proposals and Way Forward

Given the existence of barriers to the settlement of land disputes in CHT, there will be a requirement of a strategy that addresses the issues of legal pluralism, institutional segmentation, and power dynamics. Below are recommendations that draw upon the experiences of India, Philippines, and Canada where similar dilemmas regarding the harmonization of customary and statutory land systems have been experienced.

7.1 Legal Harmonisation

Harmonisation of statutes dealing with land rights and customary land tenure systems is desirable through formal recognition of customary land tenure systems within the framework of the national legal system so that the problem of dual jurisdiction does not arise. This is illustrated by the practice of formal recognition of the ancestral domain rights in the Philippines by way of Indigenous Peoples' Rights Act 1997 wherein CADTs (Certificates of Ancestral

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[36] 'Chittagong Hill Tracts Peace Accord' *Peace Accords Matrix* (University of Notre Dame) https://peaceaccords.nd.edu/accord/chittagong-hill-tracts-peace-accord-cht accessed 19 April 2026.

[37] 'Human rights situation in CHT worsened in 2025: PCJSS' (n 33).

[38] Shadia Afrin, 'Resisting Displacement: The Mro Community Stands for Land Justice against Corporate Intrusion in the Chittagong Hill Tracts of Bangladesh' (MA thesis, University of Manitoba 2026).

Domain Titles) are issued in order to integrate the ancestral domain rights in the national system of land administration. Canada also provides an excellent example where the recognition of the Aboriginal title takes place through judicial decisions of the Supreme Court of Canada such as Delgamuukw v. British Columbia [1997]. Harmonisation of laws in CHT will involve: (a) recognition of the customary land tenure as a legitimate form of property right; (b) creation of a hierarchical order of precedence in case of conflict between customary and statutory laws; and (c) uniform land registration procedures.

7.2 Strengthening the Land Commission

The proper creation and enhancement of the Chittagong Hill Tracts Land Dispute Resolution Commission is needed, which includes the creation of proper guidelines and procedures, more powers and independence to ensure proper and timely resolution of disputes. With regard to the example of India's Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 which has a multi-level dispute resolution process with timelines provided, the LDRC should have the ability to: (a) give binding decisions enforceable by the civil courts; (b) create circuit benches for better accessibility; (c) create statutory time limit for case disposal; and (d) be composed of indigenous people.

7.3 Strengthening Administrative Cooperation

The administrative coordination can be improved by adopting an integrated system of land administration system that does not create jurisdictional overlaps involving the Ministry of CHT Affairs, Ministry of Land, district administration, and the Regional Council. It will include (a) adopting a common land information system for all concerned agencies; (b) identifying one agency that will be in charge of the land record management system in the CHT; (c) adopting interagency coordination bodies with their respective terms of reference; and (d) creating memoranda of understanding among the customary bodies and the government agencies on their respective functions. The case of the Australian Native Title Representative Bodies (NTRBs) is relevant for comparison purposes.

7.4 Comprehensive Land Survey and Digital Record System

There is a need to conduct an effective land survey that will assist in solving problems related to land rights and help clear ownership issues. The development of a digital land records system must be considered. The steps that must be taken include: (a) the conduct of a cadastral survey that maps both customary and statutory land; (b) creating a digital database that brings together customary and statutory land records; (c) having the involvement of the community during the process of the land survey; and (d) offering training to customary record holders on how to

manage digital records. Some lessons can be learned from the Cadastral Resurvey Project of South Korea. It was implemented to address "cadastral nonconformity," meaning the 15 percent of lands whose boundaries did not match the colonial-era paper maps that were created—a situation directly mirroring the CHT's own problem of making sense of its colonial era record against customary tenure systems. South Korea passed the Act on Special Cases concerning Cadastral Resurvey 2011 to provide legal clarity, with the implementation done by MOLIT in collaboration with local government units and Korea Land and Geospatial Informatix Corporation (LX). This project had a well-outlined roadmap consisting of preparation phase (2012-2015), pilot execution (2016-2020), full-scale execution (2021-2025) and finalization (2026-2030) phases. This provided ample time for trial and error and then moving forward. Modern technologies like drones, satellites, and RPA were used to collect "smart cadastre" data. Most importantly, digital cadastral data is made to interface with Korea Real Estate Administration System (KRAS), consolidating 18 property records into a "Real Estate Comprehensive Certificate" for the citizen.

7.5 Community Participation

The frameworks for land governance need to be made participatory through the inclusion of indigenous peoples in land settlement, relocation, and development projects. This can be achieved through: (a) creation of consultation procedures that would demand that there is free prior and informed consent (FPIC) from indigenous peoples for any development project taking place on their land; (b) creation of community land councils that have the power to make decisions regarding local land governance issues; (c) representation of indigenous women and marginalized people within land governance structures; and (d) capacity building of indigenous communities to enable them to participate in the legal and administrative process.

Taken together, these recommendations will contribute to an improved and rights-based method of dispute resolution on issues relating to the CHT’s land, from both the legal and political perspectives. The reform agenda is based on the realization that legal reforms are not enough; capacity building, political will, and empowerment are equally crucial parts of the process.

8. Conclusion

Land disputes that have emerged in the Chittagong Hill Tracts are a consequence of past injustices, legal complexities, and disparities in power between people in the area. Land disputes emerge out of the structural inadequacies present in the system rather than being disputes in themselves. Effective resolution of such issues cannot take place merely by means

of the law alone but must be accompanied by political and socio-administrative transformation as well. Only in such an approach will it be possible to implement the Peace Accord and ensure the rights of indigenous peoples to their lands and their cultures. The recommendations made in this article are a way forward towards achieving such a transformation based on lessons learned from elsewhere in the world and suited to the particular legal and cultural context of the CHT. Whether such transformation takes place will be the true test of its success in terms of enabling indigenous peoples to gain justice and control of their lands.