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Analytical Framework for Institutional Contribution in Land Tenure Reforms

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Abstract: *Land tenure systems, especially in Sri Lanka and many other developing countries in Asia and Africa are very complex. This complexity has arisen from complex relations between man, land, and organizations. These relations are mainly based on different institutions. However, in most cases, consistencies between these institutions are poor. This results in inefficient tenure system which in turn brings tenure insecurity, low productivity, resource degradations, etc.*

The main objective of the paper is to develop an analytical framework to study the institutional character of land tenure system so as to reduce the institutional inconsistencies and thus to form an effective land tenure system.

Accordingly, based on a thorough literature review and field experiences, the paper has developed an analytical framework to study the land tenure relations and institutions involved in them. The analytical framework also describes the interdependent nature between property rights and other institutions within a land tenure system and their contribution towards the development of a coherent land tenure system.

By using the analytical framework the paper has analyzed the land tenure system in Sri Lanka. For this purpose the case study method was adopted. The outcomes show that failure of the land tenure system is mainly caused by institutional inefficiencies. Further, this paper discovers that a well developed institutional analytical framework can be used to identify the institutional inconsistencies within a land tenure system. Thus, it can be an effective tool in land policy making.

Key Words: *Land Tenure, Land Policy, New Institutional Economic Theories, Rural Development.*

1 Introduction

“Have you ever seen the Equator, or the Arctic Circles? Of course you have not; both are invisible lines. There are many invisible lines in the globe. Any social organization has established rules, institutions, and customary relationships governing the behavioral relations among individuals and groups, and all these create lines most of which are invisible.” (Dekker 2003, p. 1.)

A land tenure system also consists of such invisible lines. According to Kirk and Migan (1995, p. 5), Land tenure fulfils different socio economic, political, and cultural functions:

- Economic functions: ensure stable agricultural production, guarantee the effective and efficient land transaction, access to credit, etc.
- Social functions: Social status, origin of land conflicts, social interactions, etc.
- Political functions: secure power, facilitate/ disturb the government land policy implementation, maintains the power structure, etc.
- Cultural functions: Safeguarding the existence of cultural institutions and community identity, etc.

An efficient land tenure system (i.e. with clearly defined property rights, well enforced, and low transaction costs of implementing such rights) supports proper land management system which could in turn increase production and productivity of land, realization of social justice and generation of employment opportunities for the growing population.

Land tenure complexity and the resulting inconsistencies between land tenure institutions prevent a land tenure system from achieving the objectives mentioned above (Feder & Feeny 1991, p. 136). This is especially true of developing countries in Africa and Asia. However, the lack of a proper analytical framework to study the institutional aspects of a land tenure system capable of being used for reduction of institutional inconsistencies has long been felt. Such an analytical framework can be a catalyst in bringing about effective land tenure reforms.

1.1 The objective

In view of the widely felt need for an effective land tenure system, the present paper primarily proposes an analytical framework to study the institutional behavior within a land tenure system and then to use this new analytical framework to evaluate the existing land tenure system in Sri Lanka, in a way that it undergirds policy making for an effective land tenure system.

2 Methodology

An initial literature review conducted to verify the current understanding of land tenure and land tenure system lead this study into further investigation of its major components, i.e. property rights and various other institutions, of which the function is organizing land tenure. For the purpose of the present study, property rights were recognized drawing from economic theories of evolution of property rights in general with special attention to institutional economic

theories. Economic as well as socio-cultural theories on institutions were used to understand their function and relation in social integration of property rights. After the literature review, models were developed to represent the formation of institutions and the relations between property rights (synonymous to land rights) and other institutions within a land tenure system, which are described in detail in Section 4 of this paper.

Once the new framework was developed, it was used, based on the case study method, to analyze the rural land tenure system in order to account for existing socioeconomic complexities. To ensure a full representation of land tenure system in the selected case study areas, intensive use was made of the relevant data available in the title registration project documents. The procedure was supported by a literature reviews and expert interviews in order to better comprehend the ground situation. Finally case study areas were selected the from among the prevalent following major land use types (Karunathilake 2003, p. 5) (see figure 5): A treatment of land tenure in urban areas of the island deserves a separate study owing to its complexity and it stretches beyond the scope of this paper.

1. Rural areas in the Wet Zone
2. Rural areas in the Dry Zone
3. Irrigation settlement schemes
4. Plantation areas

Following tools were adopted for primary data collection within the case study areas:

- **Semi-structured interviews with experts at national level:** These were conducted to get an overview about the interests, ideological imperatives that exist in the case study areas and the types of relations that they form. Further, they were also consulted for identifying the types of organizations that exist for land matters and the purpose of their existence.
- **Semi-structured interviews with experts at local level:** These were conducted to obtain specific details about the interests, ideological imperatives, and resulting relations and institutions, and also to identify the degree of interest satisfaction.
- **Structured questionnaires with villagers in case study areas:** This necessary to verify and to confirm the facts mentioned by experts at local level and also to find new issues if there are any.
- **Semi-structured interviews with representatives from organizations and review of archives:** This has been of central importance to verify the objectives of public and private development organizations in relation to the problems faced by them in performing relevant duties. Further, government archives, especially in the title registration project, allowed in gaining a clearer understanding of the intentions of the government in land development.

Respondent villagers were selected randomly in each case study areas according to pre-identified tenure groups (e.g. co-ownerships, state land encroachers, etc.) within each of the four property regimes namely, State Lands,

Private Lands, Temple Lands and Mosque Lands, depending on availability. Data collection for this purpose was mainly qualitative and the number of semi-structured interviews and structured questionnaires which were conducted by me in person with experts, organizational representatives and respondent villagers depended upon the number of pre-identified tenure types within the study areas and the degree of satisfaction of the interviewer with their information.

The models described in section 4 were used to analyze the tenure relations on the ground. Accordingly, different land tenure relations between individuals, land, and organizations in each of the case study areas have been identified and subsequently classified under two broad categories, namely, relations emanating from the side of individuals and from the side of organizations respectively. Then each of these two broad categories was sub-divided into the three sub-categories.

1. Individual to land relation
2. Individual to organizations relations
3. Individual to individuals relations
4. Organization to land relation
5. Organization to individual relation
6. Organization to organizations relations

Positive and negative outcomes observed from the side of the individuals and that of the organizations were given an average weight after consideration of the opinion of the participants in the study. To facilitate the identification of most likely causes behind those outcomes, relations manifest in each of the outcomes were also tabulated. The causes were identified by using the models developed in section 4. Pie charts were drawn to illustrate the contribution of institutional matters on the existing situation of land tenure. These understandings of land tenure system lead to some vital recommendations for land tenure reforms in Sri Lanka.

3 Literature review

The primary **objectives** of the literature review was to study the characteristics of the main components of a land tenure system and study the factors that affect the evolution of land tenure system, in view of crafting an analytical framework for understanding various the institutional aspects of a land tenure system.

3.1 Land Tenure System

Land tenure, in its simplest form, implies the way of holding the land. However, the term “land tenure” contains legal and emotional/ social dimensions (Dekker 2003, p. 43). Legal aspects of land tenure deal with rights over land and its resources while social/emotional aspects place more emphasis on various relations resulting due to such land rights. In **legal sense** “land tenure can be defined in terms of a ‘bundle of rights’ – specific rights to do certain things with land or real property. The institutions governing land tenure answers the question who, what, when, how much, and where?” (Dekker 2001, p. 15).

However, when the land is not an abundant resource, the individual needs to obtain this ‘bundle of rights’ through a social process of negotiation and compromise. Therefore, the social functions of land tenure are an imperative factor

in this discussion. Land tenure defines how property rights of land are allocated within societies, how access is granted for the right to use, control, and transfer land, as well as associated responsibilities and restraints (FAO 1999). As such, it affects all forms of fundamental human relationships and human interaction with land as a form of property. Such relations, especially in rural areas, cannot only be economically defined; rather they play a defining role in social and cultural life of people.

Thus, land tenure contains property rights and resulting social/ emotional links (institutions). Yet, research in land tenure still seems not enough sensitive to these social/ emotional links, which the present paper identifies as an important area for further investigation. However, the following two sections (section 3.2 and 3.3) are dedicated for further investigating the land tenure system in its main functions in order to better identify its behaviors and effects upon socio cultural values and relationships.

3.2 Property rights

Property rights is a major component of a land tenure system and such rights need to assure efficient use of the land resource with well defined social and natural resource access rules that paves way to social justice.

The concept of property rights is an extremely sensitive and acquires different meanings in varying contexts. The judicial approach is concerned with ensuring the rights which have been already established, while sociological and economical approaches take the relations between and among the individuals who are bearing rights over property as their focal point (Kirk 1999, p. 16). New institutional economic literature of property rights is also well in line with social aspects and will be referred intensively in the following literature discussion.

Adam Smith argued in his *Wealth of Nations* (1776) that within a large system of natural rights, the institutions of property and government were self-reinforcing. The role of government in this process is to define and stimulate the creation of new property (Anderson & Huggins 2003, p. 5–6). Elaborating further on this Smithsonian argument, which was seminal to the development of neoclassical theories of economics, de Soto (2000, p.15) asserts that property rights simply provide the rules of the game; who owns what and who must compensate whom if damage occur. Conversely, Cole & Grossman (2002, p. 325) argue that a property claim becomes a property right not only when it is legally recognized but also when it is socially recognized. As long as the potential competitors accept and agree to enforce the concomitant duties of noninterference, property rights remain safe.

Economic theories dealing with property rights define the evolution of property rights as a process of internalization of externalities. “Internalization” is a process which converts the harmful or beneficial effects of externalities to bear on the decision of one or more interactive persons involved in a deal. “This includes usually a change in property right, that enables these effects to bear (to a greater degree) on all the interacting persons. A primary function of property rights is to guide incentives to achieve a greater internalization of externalities

(Demsetz 1967, p.348). New property rights are asserted in response to the desires of interacting persons for adjustment to new benefit-cost possibilities. Hence, when land becomes scarce due to technological development and resource endowments, the benefit from land has to be derived from more precise and secure land rights. “When land was abundant and labor was scarce, property rights in labour were defined with much greater precision than land rights” (Egnerman in Feder & Feeny 1991, p. 138).

However, there are some obstacles to overcome when identifying new property rights. First of these obstacles is that property right holders’ **bundle of rights** is **fragmented** into a series of characteristics such as landlord and tenant rights, lease hold rights, free hold rights, etc. These rights specify what use can be made from the parcel of land on which he/ she holds rights. On the other hand, these rights are limited or enhanced upon the refusal or recognition by others. This endows him/ her legitimacy or non legitimacy over the land parcel to which he/ she claims rights. Accordingly, there are an infinite number of means that can be bundled up into one person’s rights to a particular land parcel (Scott 1983, p. 558). However, beneath rule of law only a few of those rights are recognized, while others remain marginal or unrecognized.

Second, this institutional arrangement, in most developing countries, is largely incapable of removing the distortion of property rights from **asymmetric information** that hinders the efficient resource allocation and consequently, the optimal usage of land. However, within a small community information is fairly symmetric.

The third, due to the above factors, there exists a **lack of congruence**, especially in developing countries, between all the three **institutions**, namely, constitutional order, institutional arrangement, and normative behavior codes (customs) (Feder & Feeny 1991, p. 136). Formal institutional arrangement has not developed to an extent to accommodate all the rights that a person can hold for a particular parcel of land. This results in a conflict between formal ways of dealing with land parcels and informal and customary ways of land holding. As such, the study of the institutional behavior becomes a must for any measure in land tenure reforms.

3.3 Understanding the meaning of institutions and organizations

According to North (1986, p.231), institutions arise as a product of interaction of individuals acting and interacting to satisfy their needs. At the bottom of civilization lie the conditions for the need of interaction among those who share it, thereby forming restraints and constrains in human interactions as a form of curbing otherwise unavoidable clashes of interest between people. These constrains can be formal (conventions, laws of property rights) or informal (sanctions, taboos, customs, traditions and codes of conduct). They reduce the uncertainty in exchange (North 1991, p. 97). They entail enforcement either self-enforcing through the codes of behavior, or by third party policing and monitoring (North 1986, p.231). Institutions are universal characteristics of human coexistence and they are responsible for establishing the power structure. They opened up the social

chances for freedom while limiting the freedom of individuals. Hence institutions become rules in our head that were constituted at some times and are compulsory and mandatory (Waschkuhn in Kirk 1999, p. 24)

Schotter (1981, p.155) argues that institutions are not the rules of the game but rather should be seen as standards of behavior. According him, institutions emerge from a set of rules and contracts in that they examine which rules lead to which types of behavioral regulations. For Schotter, institutions are a positive analysis of the regularities in behavior (Ostrom 1986a, p. 4).

On a conclusive note to the above discussion we observe that, rules and contracts that North and others highlight, come to exist due to the demand of control of the human interactions for satisfaction of human urges. However, all human interactions are not only controlled by those rules and contracts. As Schotter and North highlighted there are some interactions which are controlled by standard behaviors (e.g. culturally accepted behaviors). Thus the rise of the context in which both, formal institutions, consisting of rules and contracts and informal institutions constituting standard behaviors come to be.

The institutions create organization (Bromely 1989, p. 43) such as State, households and interest groups, through which individuals are enforced to conduct their social, political and economical activities, more efficiently than would be possible for them to do alone by saving transaction costs (Bromley in Kirk 1999, p. 24–25).

3.4 Classification of institutions

The formal and informal institutions identified above can further be classified in three groups in terms of their functionality. According to Feder and Feeny (1991, p.136) formal institutions consist of constitutional order and institutional arrangement while informal institutions consist normative behavioral codes. First, the constitutional order refers to the fundamental rules and how a society's core principles are formalized. Second, Institutional arrangements are created within the rules specified by that constitutional order. These arrangements include laws, regulations, associations, contracts and also the property rights of land. The third category, normative behavioral codes, refers to the cultural values that legitimize the arrangements and constrain behaviors. The constitutional order and normative behavioral codes evolve slowly: institutional arrangements may more readily be modified to suit the needs of the times.

For a study of land tenure systems in Asian, African continents and a few countries in other parts of the world, the informal institutions need to be differentiated further. Within these countries informal institutions consist of customary and other institutions deemed legitimate. Customary institutions are distinct from other legitimate institutions as the rights of it are expressed through standard organizations while other legitimate institutions may or may not be organized. If latter has organizations then they are common only for a few groups of people (e.g. a small community). Hence, for the purpose of this study four types of institutions are identified; namely, constitutional order, institutional arrangement, customary institutions and other legitimate (or informal) institutions.

4 Conceptual framework building

In the light of the above literary survey, the requirement to develop an appropriate model for the study of institutional behavior within a land tenure system arises. This section is dedicated for this very purpose.

4.1 Human relations and formation of institutions of land tenure

Individual interest and ideological imperatives over land gives rise to a human to land interaction. However, different interests and ideological imperatives over land and demand for property rights may emanate from the individual and communities that do not share the same ideology, interests, or behaviors. The need to regulate such human to humans interactions, based on their relationship to land, form organizations which are often instituted either at the level of constitutional order or informal institutions. However, once established, they become separate bodies with their own interests/ objectives over the land and its resources (e.g. forest department).

Any individual with an interest to land need to interact with these organizations, a process in which three kinds of interactions (or relations) are manifest from the side of the **individual: individual to land, individual to individuals and individual to organizations** (see figure 1). The institutions governing these interactions define not only rights and restrictions but also responsibilities, values, and norms. As we discussed in the theoretical background, these institutions can broadly be classified into constitutional order, formal, customary, and informal. Individual to land and

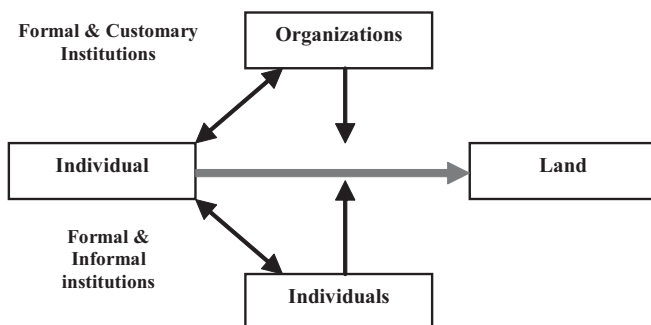


Figure 1: Individual to land interests and resulting relations.

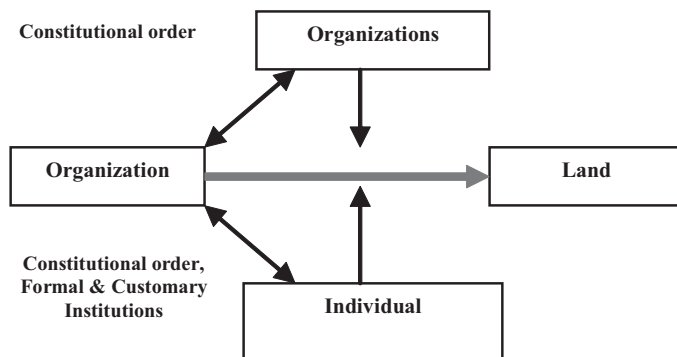


Figure 2: Organization to land interests and resulting relations.

individual to individual relations consist of formal and informal institutions while individual to organizations relations consist of formal and customary institutions.

Formal and customary institutions can be differentiated from the informal institutions, as they exist to represent not only the interests of individuals or of a small community but more or less of the society as a whole. Contrarily, in practice, some institutions may not be called to life as a result of the interest of the whole society, rather to the influence/ interest of an individual. However, formal and customary institutions can be treated as different as they entertain own interests over land and therefore endowed with rights mandated through organizations. These interests are either negotiated or strengthened by the interests of other such organizations and individuals who also demand property rights over land. These intersections of relations bring about another three types of relations; **organization to land, organization to individuals and organization to organizations** (see figure 2). Organizations to land and organization to organizations relations are controlled by the institution of constitutional order, which is formed by the parliament, in the case of a democratic country, while the other relation is controlled by formal and customary institutions apart from the constitutional order.

In this apparent web of interests and patterns of their representation, total relations created within a land tenure system can be represented in the following diagram.

As illustrated above, land tenure system consist of six complex relations

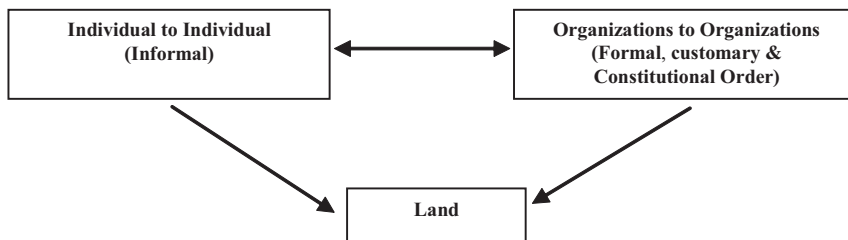


Figure 3: Land tenure system.

controlled by institutions endowed and trimmed with rights, restrictions, responsibilities, values and norms.

4.2 Formation and evolution of land tenure system

Land policy under the constitutional order specifies the rights and thus the restrictions and responsibilities that state, organizations, and citizens are imposed with in respect to land. These specified land rights (often analogous to property rights), in most cases, are absorbed by society through various informal institutions in spheres of cultural, social, economic, and political activities. Sensitive to external factors such as technological development, changes in natural or economic conditions, etc., these informal institutions evolve and thereby set forth dynamisms for change in existing land rights (thus restrictions and responsibilities), which need to be recognized at the constitutional order and rearranged if required (see figure 4).

Further, new rights are also created when existing institutions fail to satisfy the growing and evolving demand for distribution of land (e.g. collapse of communal property regimes in most countries).

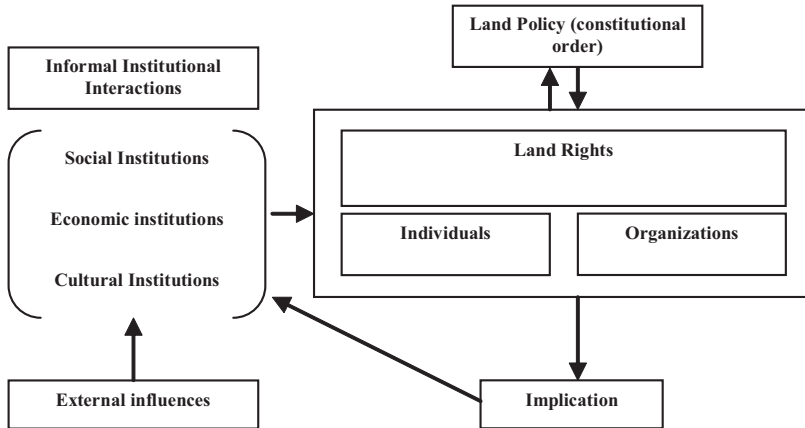


Figure 4: Formation and evolution of land tenure system.

5 The case study, outcomes analysis and discussion

The models developed in section 4 were applied in a study of the land tenure system in rural areas of Sri Lanka. Five interviews with experts at national level and an intensive literature search helped identify four regions where social, economic, and environmental diversity among each region is high so that the research outcomes could be better generalized. However, as mentioned earlier, urban areas were not included in this study for the patterns of land tenure manifest in them add greater complexity than this developed model could possibly address. Accordingly, case study areas were selected from the following areas of the country with representation of diversity in focus (see figure 5):

1. Rural areas in the Dry Zone
2. Rural areas in the Wet Zone
3. Upcountry Plantation areas
4. Irrigation settlement schemes.

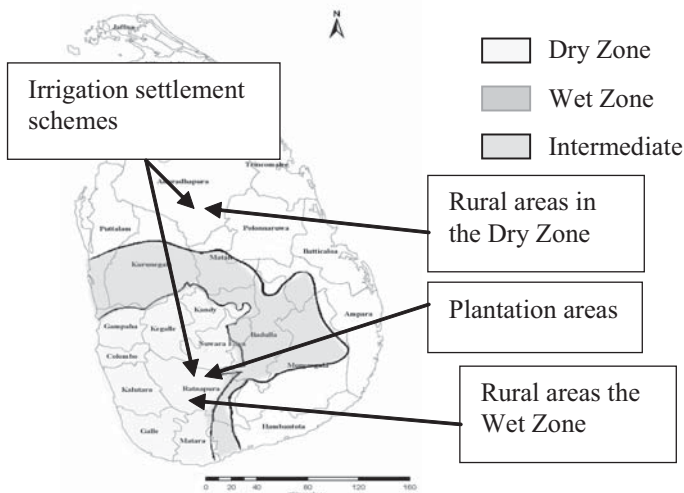


Figure 5: Case study areas.

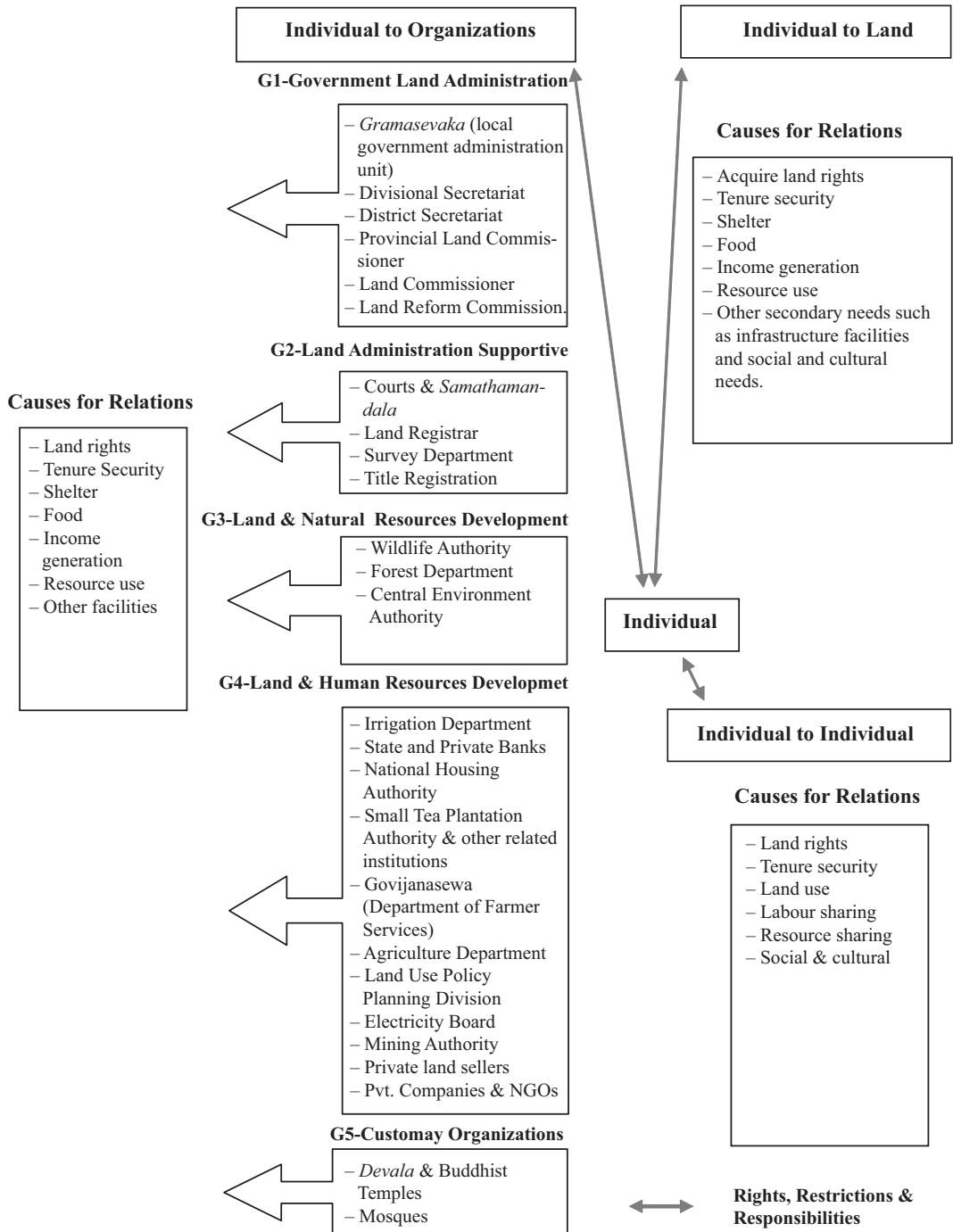


Figure 6: Tenure relations from the side of the individual.

Representation of collected data was carried out using the models presented earlier, and the resultant relations from the side of the individuals could be illustrated in figure 6. For the ease of the study the organizations have been classified into five categories namely, G1-Government land administrative, G2-Land administrative supportive, G3-Land and natural resource development, G4-Land and human resource development, and G5-Customary organizations.

The relations charted in the diagram above seem to outcomes of human action for satisfaction of seven elements of *need satisfaction*: namely, access to land, tenure security, shelter, access to food, access to income generation, access to resource use, access to labor use, and access to other social and cultural needs. Through these relations, rights, restrictions and responsibilities with regard to land are manifest.

Interviews with experts at local levels as well as randomly selected sample of villagers within identified groups, helped gain insight into the negative and positive outcomes from the above mentioned relations in each case study areas. The table below shows the number of semi-structured questionnaires and structured questionnaires conducted at each case study areas as well as different tenure types within the each case study areas.

Table 1: Number of structured and semi-structured questionnaires conducted at each case study area.

Rural Areas in Dry Zone				
No. of Samples	Case Study: Kasamaduwa Gramasewake Division (Administrative Division)			
	Experts interviewed at local level: 02			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	14	12	–	–
	Land tenure types: – LDO – LRC – Short term lease – Labor tenure – Informal – Encroached	Land tenure types: – Private sole owned – Co-ownership – Labor tenure permanent – Labor tenure temporary	–	–
	Case Study: Seppukulam Gramasewake Division (Administrative Division)			
	Experts interviewed at local level: 03			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	–	–	5	–
	–	–	Land tenure types: – Tax paying – Duty based – Encroached – Labor tenure permanent – Labor tenure temporary	–

Rural Areas in Wet Zone				
No of Samples	Case Study: <i>Aluth Nuwara Gramasewake Division (Administrative Division)</i>			
	Experts interviewed at local level: 02			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	–	–	8	–
	–	–	Land tenure types: – Tax paying – Duty based – Encroached – Labor tenure permanent – Labor tenure temporary	–
	Case Study: <i>Mutthetuwigama Gramasewake Division (Administrative Division)</i>			
	Experts interviewed at local level: 03			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	6	10	6	–
	Land tenure types: – LDO – LGSPA – Short term lease – SLO – Labor tenure – Informal	Land tenure types: – Private sole owned – Co-ownership – Labor tenure permanent – Labor tenure temporary	Land tenure types: – Tax paying – Duty based – Encroached – Labor tenure permanent – Labor tenure temporary	–
	Case Study: <i>Bolthube Gramasewake Division (Administrative Division)</i>			
	Experts interviewed at local level: 02			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	–	–	10	–
			Land tenure types: – Tax paying – Duty based – Encroached – Labor tenure permanent – Labor tenure temporary	
Case Study: <i>Dehigasthalawa Gramasewake Division (Administrative Division)</i>				
Experts interviewed at local level: 03				
State Lands	Private Lands	Temple Lands	Mosque Lands	
			7	
–	–	–	Land tenure types: – Tax based formal – Tax based informal	

Plantation Areas				
No of Samples	Case Study: Nonpareil Tea Estate in Ratnapura District			
	Experts interviewed at local level: 02			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	–	12	–	–
	Land tenure types: – Estate			
Irrigation Settlement Schemes				
No. of Samples	Case Study: Kalthota Colony in Ratnapura District			
	Experts interviewed at local level: 04			
	State Lands	Private Lands	Temple Lands	Mosque Lands
	15	–	–	–
	Land tenure types: – LDO – Short term lease – Labor tenure – Informal – Encroached			

Note (LRC – Land Reform Commission, LDO – Land Development Ordinance, LGSPA – Land Grant Special Provision Act, SLO – State Land Ordinance)

The interviews with experts and responses to the structured questionnaires by villagers helped to reach a more reasonable weight for the outcomes. The weighting scale used for negative and positive land tenure outcomes is listed below.

- Expert and villagers considered highly important 6
- Either experts or villagers considered highly important 5
- Either experts or villagers considered highly important while others say not so important 4
- Experts and villagers considered fairly important 3
- Either experts or villagers considered fairly important while others say not so important 2
- Relate to very few villagers 1
- Experts and villagers considered not so important 0

Most of the above outcomes result from one or a combination of relations mentioned below. Accordingly, the outcomes were categorized according to different relations or their combinations. This categorization helps to identify the main institutional cause/s as well as other non institutional causes behind each of the outcomes. The models developed in section 4 figure 1 have been used for this purpose.

- O1-** outcomes that are only brought about by the individual's relations to land
- O2-** outcomes that are only brought about by the individual's relation to organizations
- O3-** outcomes that are only brought about by individual to individuals relations

- O1,O2-** outcomes that are only brought about by individual to land and individual to organizations relations
- O1, O3-** outcomes that are only brought about by individual to land and individual to individuals relations
- O2, O3-** outcomes that are only brought about by individual to organizations and individual to individuals relations
- O1, O2, O3-** outcomes that are only brought about by individual to land, individual to organizations, and individual to individuals relations.

Negative and positive outcomes from the side of individuals were then tabularized under each need satisfaction element. Weight obtained from the field investigation and manifest relation/s behind each outcome were also included in the table. This representation helped reach the most likely institutional and non-institutional cause/s behind each outcome with the help of developed models. It was noted further, that the same outcome (e.g. land scarcity) could result from different need satisfaction elements with different manifest relations or a combination of them with different weight. Charting these relations by tabulating them under each need satisfaction element was helpful to take all relations into consideration in a final analysis. Given below are the total negative and positive outcomes from the side of the individual identified in the final analysis.

- Total Negative Outcomes from the side of the individual = 668
- Total Positive Outcomes from the side of the individual = 293

The tenure relations emanating from the side of organizations could also be represented as in the chart below using the model developed in section 4, (see figure 2). Within this web of relations, individuals mainly have rights and responsibilities towards the organizations in order to fulfill their various interests and, in turn, organizations imposing restrictions upon the individuals in order to protect the resources or equally distribute the benefits among them. The relations between organizations, in general, are attributed with one organization having rights and responsibilities, while the other has restrictions. However, there can also be rights, restrictions, and responsibilities for both organizations.

The above relations are outcomes of six in concentric *development objectives*, namely, development of access to land, development of shelter and food capacity, support in income generation, resource protection, provision of tenure security, development of infrastructure facilities.

The negative and positive outcomes from the above relations were identified after interviews with 46 representatives of respective organizations mentioned in figure 7. The outcomes emerging from interviews were subsequently given weight as per the scale below:

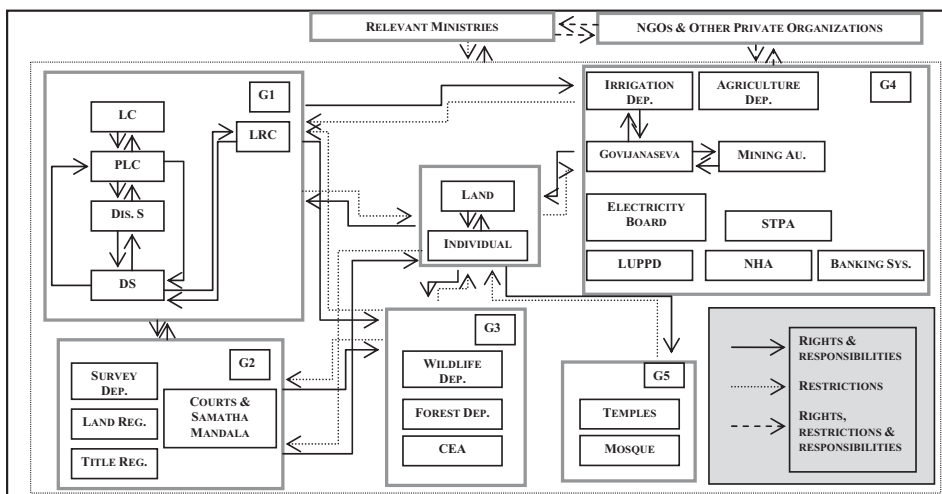
- All representatives considered highly important (almost 100%) 6
- Most of the representatives considered highly important (more than 80%) 5
- Some considered highly important while some considered not so important (around 50% each) 4
- All representatives considered fairly important (almost 100%) 3

- Some considered fairly important while other say not so important (around 50% each) 2
- Relevant only to a few organizations 1
- All representatives considered not so important (almost 100%) 0

Most of the above outcomes are resulting from one or more relations mentioned in below:

- O4-** outcomes that are only brought about by organization's relation to land,
- O5-** outcomes that are only brought about by organization's relation to individuals,
- O6-** outcomes that are only brought about by organization's relation to other organizations,
- O4, O5-** outcomes that are only brought about by organization to land and organization to individuals relations,
- O4, O6-** outcomes that are only brought about by organization to land and organization to organizations relations,
- O5, O6-** outcomes that are only brought about by organization to individuals and organization to organizations relations,
- O4, O5, O6-** outcomes that are only brought about by the organization to land, organization to individuals and organization to organizations relations.

Similar to the outcomes from the individuals' side, the negative and positive outcomes from organizational side were also tabulated under *development objectives* of the organizations. These tables also represent weights obtained from field investigation. Further, relations emanating from each outcome were also



Note: Au. – Authority, CEA- Central Environment Authority DEP- Department, DS- Divisional Secretariat, Dis. S- District Secretariat, LC- Land Commission, LRC- Land Reform Commission, LUPPD- Land Use Policy Planning Division, NHA- National Housing Authority, NGO- Non Governmental Organization, PLC- Provincial Land Commissioner, STPA – Small Tea Plantation Authority, Reg.- Registration, Sys.- System

Figure 7: Organizations dealing with matters related to land in Sri Lanka.

tabulated in order to find out most likely cause/s behind each of the outcomes in the light of the developed models. Further, as observed in relation to outcomes from the individuals' side, different *development objectives* with different weight could bring about the same outcomes. Given below are the total negative and positive outcomes from the side of the organizations identified in the final analysis.

- Total Negative outcomes from the Organizational Side = 213
- Total Positive outcomes from the Organizational Side = 158

The relational models in Figure 1 and 2 with above mentioned tables which elaborate tenure relations on the ground has been used to identify the institutional causes behind the outcomes, while other causes such as natural conditions, demographic change, economic conditions etc. were merely identified through an analysis of the contents of the tables. Accordingly, causes behind land tenure relations in Sri Lanka can be identified in following categories:

- Caused by constitutional order
- Caused by formal institutions
- Caused by informal institutions
- Caused by customary institutions
- Caused by other reasons (e.g. natural, financial limitations etc.).

Contribution of each cause to the final outcomes (from individuals' and organizational side) was calculated by summation of the respective weights mentioned in the tables. Causes for negative outcomes were emphasized from the following analysis in order to initiate appropriate policy measures to overcome them. Figures 8 and 9 represent the contribution of different institutional and non institutional causes for negative outcomes from land tenure relations from the individuals' and organizational sides respectively.

From these figures, it becomes obvious that bulk of these negative outcomes are caused by institutional inefficiency, while other limiting factors such as demographic, economic, and natural conditions also considerably contributing to the situation.

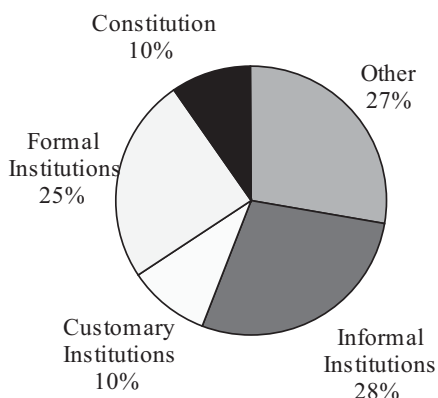


Figure 8: Causes for negative outcomes from individuals' side.

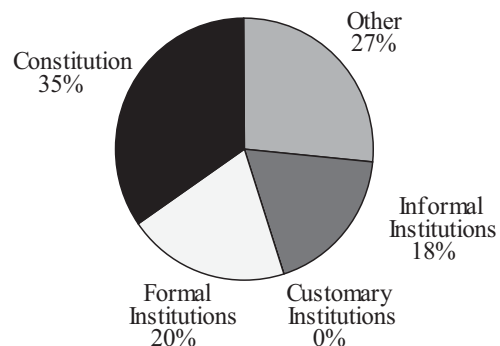


Figure 9: Causes for negative outcomes from organizational side.

In the case of individuals', formal and informal institutions are inefficient than the customary institutions and constitutional order. One of the main reasons for this inefficiency is the taking over of the previously held rights, restrictions and responsibilities of the villagers by the recently introduced (during and after the colonial era) organizations such as the Irrigation Department, the Agriculture Department, and the like. These organizations, however, do not function in the same efficiency as the previous customary institutions and thus, also forms informal institutions. These formal and informal institutions, in generally, do not respect rights, restrictions and responsibilities attributed to each other.

On the contrary, in the case of the organizational side, constitutional order is comparatively more inefficient than the others. This inefficiency in organizational structure and distribution of rights, restrictions and responsibilities among organizations, in turn, motivate them to act under minimum monitoring with least responsibilities towards individuals (clients) as well as other organizations, leading to more uncoordinated informal institutions.

One of the main characteristics of the above institutions is the inability to recognize the change at the grassroots of one such institute by another when such change is materialized at the ground level. Hence, this institutional failure contributes, mainly, to the following;

- Hindering the recognition of new property rights emerging within the informal institutional setup.
- The gap between intention of the formal system and their social absorption/ adaptation in regard to property rights.
- Inability of the formal system to fulfill the objectives (interests) in land tenure relations.

Thus, lack of knowledge of these institutional behaviors contributes destructively in the land policy making process, while further burdening the development of the country.

6 Conclusion and recommendations

6.1 Conclusion

Land tenure interactions (relations) can principally be approached from individuals' side and from organizational side. The case study revealed that interactions originating from the side of the individual are driven by seven *need satisfaction elements* of people while the interactions from the organizational side are a result of six *development objectives*. These interactions bring about six types of relations (see pages 8 and 9) within a land tenure system which are controlled by four types of institutions, namely; constitutional order, institutional arrangement, customary and other informal (legitimate) institutions. Land tenure system develops mainly due to institutional failures, technological and changes in social, political and economic conditions, which reshape the rights defined by constitutional order (or formal institutions), thereby making room for institutional inconsistencies. Tracing such institutional inconsistencies and bring forth effective policy reforms has become a vital need today.

The present paper has developed models to represent complex land tenure interactions from organizational side as well as individuals' side in order to chart and identify such institutional inconsistencies, and their involvement with different institutions mentioned above (see figure 1 and 2).

Application of the developed model to the Sri Lankan context reveals that inability of the present land tenure system in Sri Lanka to stratify the interests of its stakeholders. Accordingly, the paper has mainly discovered causes for the negative outcomes emerging from the tenure system. It became clear that institutional inefficiencies are responsible for the bulk of the identified negative outcomes. It was clear from figures 8 and 9, that the contribution by informal institutions and formal institutions to negative outcomes from individuals' relations are proportionally larger. Contrarily, in the case of organizational relations, the bulk of the institutional causes for negative outcomes originate from the constitutional order itself. On the other hand, the role played by customary institutions in organizational relations seemed marginal.

The institutional inefficiencies discussed above also reflect the incapacity of institutions to recognize land rights and associated relations (rights, restrictions and responsibilities) of one another. This would also tend to neglect the emerging new property rights (analogous to land rights) within another institutional setup which leads to further institutional conflicts. The following recommendations can be useful in reduction of these institutional inefficiencies.

7 Recommendations and future works

In order to craft better land tenure reforms a thorough study of informal institutional behavior is imperative. Solutions at the level of individual title to land are not sufficient to solve problems caused by the complications in the land tenure system; especially the informal institutions (see section 4). This will further increase the gap between formal and informal institutions.

Less developed (negative) informal institutions cause high transaction costs in the process of implementing the objectives of constitutional order and formal institutions, as they reshape the rights defined by constitutional order in a way that they incorporate negative/unexpected influences (negative informal institutions). Objectives of the constitutional order and formal institutions can easily be integrated into the society (upon the acceptance by the society) through well developed informal institutions (positive informal institutions). The challenge of the land tenure reforms is to motivate informal institutions for positive change. However, informal institutions are, to a greater degree, sensitive to the local conditions. Hence, locally identified and adopted land tenure systems which are able to highly motivate positive informal institutions through a well arranged formal institutional setup (see recommendations below) is of greater importance for the county to ensure efficient and sustainable use of scarce land resource.

However, population growth, selfish economic desires reinforced by globalization that impacts directly on rural poverty can be seen as major obstacles for improving positive informal institutions, having to negotiate with the cultural and ritual habitus of the rural poor. The villagers suffering abject poverty do not

care about the culture and rituals (positive informal institutions) but satisfying their desires for basic needs. This has, in turn, further confined them into the poverty trap. This is the vicious circle of poverty. Hence intensive anthropological research is highly important to identify or create and motivate these informal institutions (especially culture and rituals). Improving these institutions, if carefully designed guidelines for organizational setup were put in place and sustained regularly, could be achieved over several decades.

The institutional analytical framework can contribute to model the tenure relations and identify the positive and negative consequences of constitutional order, formal, informal and customary institutions. This, in turn, helps reshape the rights, restrictions and responsibilities attached to those institutions as well as restructure the organizational setup in order to minimize the conflicts between the institutions or even to have collaboration with each other. The framework can be more effectively used in future to model land tenure relations within a specific tenure type such as duty based customary tenure system, which in turn brings specific institutional matters into focus. However, these can only be incorporated into the development measures through an effective policy making process as well as sound anthropological research focused on positive informal and customary institutional development.

Further, a vision for human to land relationship can be a useful tool in drafting a conceptual land tenure system. However, such visions necessitate the development of active participation of representatives from all the stakeholders in homogeneous areas. Hence, the vision does not need to be unique for the whole country, if accentuated in contingent local administration units (e.g. Provincial Council). This helps develop formal institutions and constitutional order to address local demands more efficiently.

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