



# Empowering the poor and marginalized through land reform

## CSO Land Reform Monitoring Report in Bangladesh 2018<sup>1</sup>

*An initiative of the Land Watch Asia Campaign*

**A**n estimated 66 percent of the citizens of Bangladesh live in poverty, the highest level in South Asia (The Borgen Project, 2017). And because they are poor, they are also powerless; thus, severely restricting their ability to use and own land to live and work in.

In an agrarian country like Bangladesh, poverty can be considered a direct consequence of the lack of access to or ownership of land. The less land one possesses or has access to, the poorer he or she is and also the more powerless he or she becomes.

This lack of power and influence, and indeed also of education, hampers the ability of the poor – usually coming from marginalized groups such as religious minorities, indigenous peoples, women, and small farmers – to fight for their rights to land. Thus, even if they are legally entitled to some land, they invariably fail to secure the property.

More often than not, those lands have already been secured by politically-powerful and influential people. And so the cycle of poverty continues through generations.

There are other key issues and development trends over the past 10 years that impact on the rural poor's access to land. One of these is the development of commercial

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plantations, or large tracts of land used for commercial agricultural production. Poor farmers lose their access to land to commercial plantations in two ways. First, they directly lose their access to land, as their lands are grabbed to set up the plantation. Second, they indirectly lose their access to land, as they cannot lease in lands in the plantation area. The Chittagong Hill Tracts (CHT) is a textbook example.

From 1979, the Government of Bangladesh (GoB) started to lease out large tracts of lands to private entrepreneurs for setting up plantations. These lands traditionally belonged to the indigenous peoples, and were distributed and cultivated according to their customary laws.

However, their customary rights over these lands were not recognized and the lands were leased out as *khas* (State-owned) lands to politically well-connected influential Bengali and Pahari elites.

There are other examples, such as the tea estates that now span a total land area of 708,890 acres or 276,878 hectares (Barkat, 2016a).

There is also the phenomenon of contract farming, another proof of the commercialization of agricultural land in Bangladesh that hinders the access of the poor and marginalized farmers to the precious resource.

Around 10 percent rural households are engaged in contract farming (Barkat, Suhrawardy, and Osman, 2015). In the process of this sort of farming, the poor peasants are forced to lease out their land to others, including corporate agri-business entities.


Due to the absence of crop rotation and excessive use of Green Revolution (GR) technologies, the peasants find their land less productive and fetch lesser prices after successive years of contract farming. As a result, they are bound to sell their land and give up crop farming.

More than half of the contract-farming households (56.4 percent) think that they have already lost control over their land from this type of arrangement due to the uneven relationship between contract farmers and contract farming company.

Aggravating the situation is the complicated and weak land registration system that prevents the poor and marginalized from securing their land rights.

Problems include extortion by the *Dalil Lekhok Samity or Deed Writers' Society*, who work in land registration, sale of fake documentary stamps, forgery of documents and bribery.

Another issue is the development of economic zones to attract investors.



The Bangladesh Economic Zone Authority (BEZA), after acquiring 75,000 acres (30,351 hectares) of land and giving licenses for six economic zones to the private sector, has targeted the acquisition of an additional 100,000 acres (40,469 hectares) of land to establish 100 Special Economic Zones across the country by 2030. They acquired 110 acres (44.52 hectares) land for Mongla Economic Zone in Bagerhat, 496 acres (201 hectares) for Bheramara Zone in Kushtia and 500 acres (202 hectares) for the Mirsharai Zone in Chattogram.

The Forest Department of Bangladesh has set up nine Eco Parks on 20,991 acres (8,495 hectares) of land. These parks have been set up on the lands of the indigenous peoples, threatening their lives and livelihoods.

## **LEGAL AND POLICY ENVIRONMENT ON ACCESS TO LAND**

Land policies are central to the implementation of rights and access to land for the marginalized people. They determine who get the access to land and who do not.


The East Bengal State Acquisition and Tenancy Act of 1950 (EBSATA 1950) is considered the main law covering access to land in Bangladesh. It aimed to make peasants direct tenants of the government without any intermediary. It endowed them with rights to transfer, inherit, and cultivate their land.

In the succeeding years, there have been attempts at re-distributive reform through the establishment of land ceilings. “But whilst ostensibly designed to place land in the hands of the tiller and to return water bodies to those who fish them, these have largely been circumvented by the wealthy and powerful” (Raihan, Fatehin & Haque, 2009).

After independence of 1971, the ceiling of 33.3 acres (13.47 hectares) per family was restored by the first government of Bangladesh, through Land Reform Policy 1972. The policy also mandated the government to acquire surplus land and redistribute it to the landless peasants. This Land Reform Policy 1972 sustained the pro-poor spirit of EBSATA.

In 2001, the government formulated the National Land Use Policy, which aimed to, among others, establish a data bank for *khas*, fallow, *char* lands (lands lost due to erosion during flooding); introduce a Certificate of Land Ownership (CLO), and distribute agricultural and non-agricultural *khas* lands.

Unfortunately, most of these have remained unimplemented.



A new National Land Policy 2016 was recently drafted. The vision is to provide guidance on developing a legal and institutional framework that is necessary (a) to provide every citizen access to land; (b) to promote equitable and efficient land allocation and land use planning systems; (c) to promote an efficient land administration and management system; and, (d) to promote land tenure security for all citizens.

There is no single law that covers the rights of all sections of poor and marginalized people, although there are specific laws that apply to particular people.

In Bangladesh, for example, women's rights of and access to land are determined by the conventional laws of their religion — *Sharia* for Muslim women and *Daibhag* for Hindu women. *Sharia* grants the women limited rights to inherit land and property, but even this limited entitlement is often just in paper, they are discouraged to claim their rights due to the patriarchal nature of society. The condition of Hindu women is worse; they have no formal right to inherit land and property under *Daibhag* (Barkat et al., 2015b).

The indigenous peoples (IPs) living in both the plains and the south-eastern hilly region of Bangladesh — Chittagong Hill Tracts (CHT) — have customary laws of their own, which differ from the land laws of the so-called mainstream people, in its focus on collective rights instead of individual rights over land.

## **STATUS OF ACCESS TO LAND BY THE RURAL POOR SECTORS**

Bangladesh has a huge population but with limited land. It has 37.4 million acres (15.1 million hectares) of land, of which 60 percent are used for agriculture. About 43 percent or 16 million acres (6.47 million hectares) of land are privately owned and 13 percent or five million acres (two million hectares) are under litigation. Around 27 percent or 10 million acres (four million hectares) of land are under government use. Total *khas* land (agricultural and non-agricultural) and water bodies is five million acres (two million hectares). Around one-sixth of all lands are forests. The government became the custodian of 2.6 million acres (1.05 million hectares) under the Vested Property Act (VPA) and one million acres (404,686 hectares) under the Abandoned Property Act (Barkat et al. Eds., 2017d).

### **Small-scale Farmers and Rural Producers**

The distribution of agricultural land in Bangladesh is highly skewed. Marginal and small farmers, who own nothing to a very small amount of land, account for 88 percent of the total farming community. Medium and large farmers, who own medium to large tracts of land, are only 12 percent of the total farming community.

**Table 1: Basic Features of Land and Population in Bangladesh, 2014**

Land/population	Amount
Total land (million acres/hectares)	37.4/15.1
Population (in million)	150.0
Household (in million)	30.0
Land under agriculture (million acres/hectares)	22.2/8.98
Privately owned (rural-urban, disputed, non-identified <i>khas</i> land including community forestry) (million acres/hectares)	21.0/8.5
Land under government use (rail, port, road, office, industry, educational institutions, health, utility service, etc.) (million acres/hectares)	10.0/4.05
<i>Khas</i> land and <i>khas</i> water-bodies (million acres/hectares), of which:	5.0/2.02
Agricultural <i>khas</i> land	1.2/0.49
Water bodies (closed and open)	1.2/0.49
Non-agricultural land	2.6/1.05
EPA/VPA (government as custodian) (million acres/hectares)	2.7/1.09
Abandoned (government as custodian) (million acres/hectares)	1.0/0.40

Source: Barkat et al. Eds. (2017)

**Table 2: Distribution of Land by Farm Size**

Size of Holdings	1960	1983 to 1984	1996 rural	2005
% of holdings owning no land or absolute landless	—	8.67	10.18	14.03
% of marginal farmers (0.02-0.19 of a hectare)	24.3	24.06	28.45	38.63
% of small farm holdings (0.20-1.00 hectare)	27.3	46.28	51.42	49.86
% of medium farm holdings (1.01-3.03 hectares)	37.68	24.72	17.61	10.34
% of large farm holdings (3.04 hectares and above)	10.69	4.94	2.52	1.17

Source: Agricultural Sample Survey of Bangladesh, 2005

Family farming in Bangladesh is recently under serious threat due to the increasing trend of land grabbing, which usually comes in the form of large 'land deals' for projects in fields such as tourism and industry.

This leads to the mass displacement and gross human rights violations of the family farmers, as they often lack any credible deed or certificate that would have secured their land tenure. This is often justified in the name of ensuring food security for all.



## Indigenous Peoples

Indigenous peoples account for approximately 1.7 percent of the total population of Bangladesh of 150 million. Most of them are economically backward and inadequate measures have been taken to improve their condition.

As a result, while the national rate of absolute poverty is 39.5 percent, it is 65 percent in case of IPs living in the CHT, and 60 percent in case of the IPs living in the Plains (Barkat, 2016b).

The land rights of the CHT are based on traditional occupations, with the land and its resources providing the enabling environment for subsistence activities (Roy, 2000). The IPs are historically accustomed to use their land as ‘common property’, which was hindered by the concept of ‘the Doctrine of *terra nullius*’ in the British colonial era. In some cases, custom-based rights have been transformed into customary written laws or have been formally acknowledged by executive orders.

There is no distinct legal framework for the IPs of the Plain districts. However, there are some national land laws applicable to IPs from both the Plains and the Hills. They include Article 97 of EBSATA 1950 and Land Reform Ordinance of 1984. These laws do not directly discriminate against the IPs, but they are very limited in scope to ensure their access to land and land rights.

## Rural Women

In Bangladesh, women are generally treated as second-class citizens. They are routinely denied rights to inherit land, for example, and this contributes to their continuing poverty and social subjugation.

In the rural areas, only men have the right to make decisions on how to use and exploit the land. Women rarely have their names on land titles, certificates, leases, and contracts. While the Constitution of Bangladesh grants equal rights to women and men, the reality is that women do not enjoy the same rights.

Only 15.8 percent of the total land in the rural areas is owned by women, who comprise 53.1 percent of the rural population. Further, men own an average of 46.2 decimals (0.19 hectares) of agricultural land (including water bodies) in the rural area; while women only own an average of 7.2 decimals (0.03 hectares) (Barkat et al Eds., 2017).

The land registration system in Bangladesh – being complex, expensive and time consuming – is also not friendly to women, most of whom are illiterate.

## Fisherfolk

About 10.32 million people are related to professions concerning water bodies. Sixty-one percent of them live in poverty. The main reason behind this poverty, as well as the marginalization of fisherfolk, is their lack of legal rights over land and water bodies. They have no secure access to these resources.

Of the 12 lakh acres (48,562 hectares) of *khas* water bodies, only five percent have been leased out to poor fisherfolk, which means that 95 percent of water bodies are in the hands of rent-seeking water elites (Barkat, 2016a).

### RESOLUTION OF LAND CONFLICTS AND PROTECTION OF LAND RIGHTS WORKERS

Due to the large population and scarcity of land, conflict has been inevitable in Bangladesh. Indeed, almost 60 percent of legal disputes in Bangladesh have to do with land (TIB, 2015).

The most common causes of land disputes are distribution of *khas* land to ineligible households, possession of government-allocated land by ineligible persons, and encroachment by the politically powerful and by local elites on public land inhabited by landless people.

Demand for non-agricultural land is on a rise given unabated urbanization. At the same time, agricultural land is shrinking, thus increasing the intensity of ongoing land conflicts (Herrera, 2016; Hossain, 2015).

**Table 3. Causes of Land Conflicts in the last 10 Years in Bangladesh**

Causes	Examples
Political	<ul style="list-style-type: none"> <li>● Lack of political stability</li> <li>● Rising fundamentalism</li> <li>● Political corruption</li> <li>● State capture and land grabbing</li> </ul>
Economic	<ul style="list-style-type: none"> <li>● Evolution of land markets</li> <li>● Increasing land prices</li> <li>● Increasing rent of land</li> <li>● Limited capital markets</li> </ul>
Socio-economic	<ul style="list-style-type: none"> <li>● Poverty</li> <li>● Poverty-related marginalization and exclusion</li> <li>● Unequal distribution of resources</li> <li>● Unequal distribution of power</li> <li>● Inadequate financing options for the extreme poor</li> </ul>

Causes	Examples
Socio-cultural	<ul style="list-style-type: none"> <li>● Deteriorated traditional values and structures</li> <li>● Lack of information on institutions and mechanisms of land markets</li> <li>● Abuse of power</li> <li>● Helplessness of the disadvantaged</li> <li>● Unregistered land transactions</li> <li>● Fraud by land officials</li> <li>● Patronage system</li> <li>● Hierarchical structure of society</li> </ul>
Demographic	<ul style="list-style-type: none"> <li>● Population growth and rural exodus</li> <li>● New refugees (Rohingya)</li> </ul>
Legal and Judicial	<ul style="list-style-type: none"> <li>● Legislative loopholes</li> <li>● Traditional land law without written records</li> <li>● Lack of clearly defined plot and village boundaries</li> <li>● Formal law which is not sufficiently disseminated or known</li> <li>● Limited access to law enforcement and jurisdiction by the disadvantaged</li> <li>● Inadequate implementation of legislation</li> </ul>
Administrative	<ul style="list-style-type: none"> <li>● Partial implementation of formal regulations</li> <li>● Administrative corruption</li> <li>● Insufficient control over State land</li> <li>● Lack of communication, co-operation and co-ordination within and between different government agencies as well as between public and private sector</li> <li>● Lack of accountability</li> <li>● Limited access to land administration, especially for the poor and rural population (distance, illiteracy, costs etc.)</li> <li>● Limited public participation, especially in land use planning and demarcation of concession land</li> <li>● Insufficient staff and technical/financial equipment at public agencies</li> <li>● Lack of transparency</li> </ul>
Technical	<ul style="list-style-type: none"> <li>● Inaccurate surveying</li> <li>● Missing land register</li> <li>● Missing land use planning</li> </ul>
Ecological	<ul style="list-style-type: none"> <li>● Erosion/drought/floods leading to urban migration</li> </ul>
Psychological	<ul style="list-style-type: none"> <li>● Loss of identity</li> <li>● Collective suffering</li> <li>● Desire for revenge</li> <li>● Thirst for power</li> </ul>


**Source:** Prepared on the basis of pertinent literature review following the structure of Wehrmann (2008)

## Mechanisms for Resolving Land Conflicts

Land conflicts are resolved in Bangladesh either through the formal system, where the dispute is brought to court before a judge, or through other systems of conflict resolution. In rural areas, for example, land conflict resolution is often based on *Sharia* or the Islamic Civil Code, since Bangladesh is a Muslim-majority country. No lawyer is needed under this system.

Indigenous people, on the other hand, resort to customary conflict resolution, where a strong conciliatory character, usually a respected elder, is called for arbitration. His/her words are





considered law. There is usually a panel of elders whose main objective is to resolve conflicts and reestablish harmony. This system, however, is not recognized under the Constitution of Bangladesh.

### **Effectiveness of Legal and Institutional Frameworks**

The legal and institutional frameworks have a very limited capacity in respecting, protecting, and resolving land conflicts, and preventing violence. One reason is that land-related laws are often unclear and unnecessarily complicated, which is a legacy from the colonial period. Another reason is the institutional bias towards the rich and the powerful.

There are other factors like institutional inefficiency. In 43 land survey tribunals of the country, there is a backlog of about 250,000 cases related to land conflict, partly due to the dire lack of judges.

Then there are the contradictions within the law that limit the institutional capacity to resolve land conflict and avoid escalation of violence. In the case of the CHT Land Conflict Resolution Law of 2001, the law has been amended, but no rules and regulations to guide the implementation have been passed.


As of the latest count, there are 22,000 conflict resolution applications waiting to be reviewed. Indeed, in 16 years (2001 to 2017), the Commission has not decided on a single case of land dispute (The Daily New Age, 2015).

### **Prevention of Land Conflict**

Measures have been taken to prevent land conflict and protect land rights defenders. The draft National Land Policy 2016 stipulates, for instance, that the government will establish specialized land courts that will help provide speedy, just, and affordable action on land matters. The government is also expected to issue procedural rules to be applied by specialized land divisions and facilitate the use of Alternative Dispute Resolution (ADR) mechanisms for the quick resolution of conflict.

## **TRANSPARENCY IN LAND GOVERNANCE AND ADMINISTRATION**

Land governance refers to the practices and rules of land tenure, land ownership, and land use. These determine who will have access to land and when and how this access is provided. Besides ownership and tenure, land governance also covers land administration, conflict resolution, and land redistribution or land reform (ILC-UNDP/DCC, 2008). The land governance and administration system of Bangladesh is – to a larger extent – worthless, inefficient, ineffective



and non-transparent, thus leading to such problems as dual ownership and land grabbing (Barkat, 2016a).

Making the system more transparent will go a long way in making the system work, especially for the poor and marginalized. This is where civil society and non-government organizations working on land rights can come in. Bangladesh has the largest number of NGOs in the world, with over 2,000 registered with the NGO Affairs Bureau (local and international) and there are ways for some of them to get involved in improving land governance, for example by being part of committees related to land and through policy and advocacy work.

It should be noted that CSOs have been campaigning for improved access to land by the poor and marginalized for years. The CSOs are also getting engaged in government projects and initiatives. The Association for Land Reform and Development (ALRD), for example, provided technical assistance to the Directorate of Land Records and Survey (DLRS) in preparing the *Citizens' Charter*. CSOs like the Human Development Research Centre (HDRC) have also been doing evidence-based research on land and agrarian issues. The findings are widely used in mass campaigns and policy advocacy programs.

### **Access to Land and Tenure-related Data and Information**


Information and data on land and tenure-related issues are available. In this regard, the Right to Information Act 2009 is seen as a significant breakthrough in terms of accountability and transparency of land administration and management.

However, updated information is not widely available as the system is yet to be digitalized.

## **SUMMARY OF FINDINGS**

### **Land Rights and Land Access in Bangladesh**

- Bangladeshi rural poor are powerless and marginalized; they include the hungry, unemployed, disabled, and handicapped people from the historically impoverished Northern region of the country, victims of ecological disasters, religious and ethnic minorities, lower castes, and *dalits*, and also inhabitants of ecologically challenged areas like *char-haor-baor*.
- In rural Bangladesh, there still exists a strong causal relationship between land ownership and poverty; the same goes for land ownership and human development. The more land one owns the more chances that he can escape from the shackles of poverty and develop his life in a better way.
- Over the past 10 years, the key issues and development trends that have adversely affected the access to land of the rural poor are commercial use of land and grabbing of land. Commercial plantations, contract farming, fixed rent leasing, encroachment of IP lands,



problems associated with land registration systems, development projects like the SEZs and Eco Parks, among others, have curtailed the access to land of the poor and marginalized rural people.

### **Legal and Policy Environment on Access to Land**

- The EBSATA 1950, Land Reform Ordinance 1984, National Land Use Policy 2001, National Land Policy 2016 (Draft), among other laws and policies, have set the legal framework that defines ownership, control, and access to land. Some sections of these laws and policies acknowledge the rights of some marginalized groups over land, though there is serious lack of implementation to ensure and safeguard those rights.
- Existing land laws do not recognize and protect customary rights, informal rights, and equal land rights for women as required.
- There have been limited efforts at land redistribution and tenure reform, mostly through land ownership ceilings. Land Reform Ordinance 1984 and Agriculture *Khas* Land Management and Settlement Policy 1997 are two major legal instruments that are aimed at improving the poor's access to land and tenurial security.
- The draft National Land Policy 2016 recognizes the three PCLG Commitments: Secure Tenure Rights, Locally-managed Ecosystems, and Diverse Tenure Systems.

### **Status of Access to Land by the Rural Poor Sectors**

- More than 76 percent of the country's farmers are small and marginal who own 150 to 249 decimal (0.60 to 1.00 hectare) land on average.
- Rural Bangladesh abounds with family farming households. It safeguards food security for marginalized peasants and poor households. It also creates jobs for women, men, and young people, both within their family farms and in related enterprises along food and agricultural value chains.
- Policies (like draft National Agriculture Policy 2018) and development strategies (like 7<sup>th</sup> Five Year Plan) are supportive of family farms and small-scale producers. In reality however, support services, capacity building, rural infrastructure, financing for small farmers and producers are not adequate.
- Land distribution is very unequal in Bangladesh. Functionally landless households account for almost 60 percent of the total households, owning only 4.2 percent of lands; while 6.2 percent of total households are rich landowners, owning at least 40 to 45 percent of lands.
- Contract farming, land grabbing, and migration of the rural youth seem to be major threats to family farming and small-scale production.
- There are about five million indigenous peoples in Bangladesh who belong to at least 49 different groups speaking 40 different languages.
- IPs are treated as second-class citizens lacking Constitutional recognition of their nationhood and guarantee of their land rights. Compared to the national absolute poverty rate, the rate



is 25 percentage points higher for the Hill IPs and 20 percentage points higher for the Plain IPs.

- There is partial legal recognition and protection of the Hill IPs' lands. Traditional land use and customary laws of the IPs through laws dating back to the colonial era are recognized. There is no such legal recognition for the Plain IPs.
- In reality, IPs of the Hill and Plain do not exercise their land rights on the basis of self-governance; the very limited rights they have, by and large, are governed by the State institutions.
- The main threats to IP rights over land include the construction of eco parks and initiation of so-called social forestry and land grabbing by declaring their land *khas*.
- The opportunities for securing IPs rights over land are limited because of rent-seekers' control over government and politics.
- The Constitution of Bangladesh makes no discrimination between the sexes over land rights and access. Moreover, Bangladesh ratified the UN CEDAW in 2000, which is against all forms of discrimination against women, though with reservations about articles that include women's inheritance rights. Despite these developments, the existing legal framework does little to protect women's rights over land.
- Only 15.8 percent of land is owned by rural women and only 7.2 percent of agricultural land (including water bodies) in rural areas is owned by women.
- Women's land rights are impeded by discriminatory religious and customary laws. Apart from religious traditions and cultural beliefs, the patriarchal mindset of society impedes women's equal rights to land. Government land registration system is also complex, expensive, and time consuming.
- The PCLG commitments regarding land rights and access of small-scale rural producers, women, and indigenous peoples are yet to be translated into reality.

### **Resolution of Land Conflicts and Protection of Land Rights Workers**

- In 2011, the absolute number of land-related new cases increased to 65,215 from 63,158 in 2009; with an annual increase of 1.63 percent. However, the actual number of incidents of land conflicts is much higher.
- To redress grievances and resolve conflicts, besides the formal judicial system, there are some consensual (facilitation, moderation, consultation, mediation, and conciliation) and non-consensual (arbitration) mechanisms in place; but they are not sufficient.
- The National Land Policy 2016 is yet to be finalized. The country's legal and institutional framework is not that effective in respecting, protecting, and resolving land conflicts.
- However, due to pressure from vibrant land rights CSOs, among others, measures have been taken to prevent land conflict and protect land rights defenders; but they are unfortunately insufficient most of the time.
- Regarding PCLG commitments, effective actions against land grabbing are grossly absent and the grabbers in this rent-seeking society offer limited space for the protection of land rights defenders.



## Transparency in Land Governance and Administration

- There are some mechanisms like community monitoring, community scoring, community advocacy, social auditing, public hearing, policy advocacy, and mass campaigns – whereby land rights CSOs, and through them, rural women and indigenous people, are able to participate in land governance. However, the effectivity of these mechanisms has been limited.
- Information and data on land and tenure-related issues are available to some extent, for which the Right to Information Act 2009 deserves credit. However, there is a need to update the data and make these more accessible – one way to do this is to complete the on-going digitization process.
- There is limited space for CSOs to participate in land governance. Despite this, CSOs are exerting effort to be part of the discussions given the lobby coming from vested interest groups.
- Decision-making in land governance is rarely inclusive and information accessibility is not up to expectations; hence, there is much to do to put in place a transparent land governance and administration.

## OPPORTUNITIES FOR ADVANCING LAND RIGHTS


The land rights situation in Bangladesh has proven to be dire for the poor and powerless citizens who face both legal and cultural barriers to their access to land. Hence the government and CSOs have to exert extra effort to implement reforms to tilt the balance of power in favor of the poor and the marginalized.

For example, all *khas* lands including the *char* lands ought to be held by landless farmers, but that is not the case. Most of them are grabbed by the rich and powerful. Still there is opportunity to retain a considerable portion of the grabbed lands and distribute them among the landless.

Family farms are one of the building blocks of the rural economy. A department should be established under the Ministry of Land to solely supervise family farms. CSOs working on this issue can form a National Coalition to Ensure Land Rights (NCELR) to coordinate their efforts.

To help women, a National Policy of Equal Rights for Women (NPERW) can also be formed, which will legally ensure equal rights for women, including their ownership of land. NGOs dedicated to the betterment of women's lives and ensuring their land and property rights can form a National Coalition for Advancing Land Rights of Women (NCALRW).

For IPs, a National Adivashi Commission (NAC) should be formed, which will exclusively work on IPs rights. A National Coalition of NGOs working on IP land issues can be formed to coordinate their efforts and make them stronger.



The Enemy Property Act (EPA) is a legacy from the communal State of Pakistan. It is a disgrace that this continues to exist under independent Bangladesh in the form of the Vested Property Act (VPA) that contradicts constitutional policies. However, with the enactment of the Vested Property Return Act (VPRA), there is opportunity to return the remaining vested properties to their rightful owners.

There is likewise scope to form a National Water Use Policy (NWUP) exclusively for ensuring access to and rights over land of the fisherfolk. A National Committee for Water Rights of the Fishermen (NCWRF) can be formed to look after the issues of water rights of the fishermen, and this committee should be endowed with enough power so that it can take bold actions against the water body grabbers.

## **ADDITIONAL RECOMMENDATIONS**

### **On Policy and Programs:**

#### ***Secure Tenure Rights***

- National Land Use Policy 2001 and National Land Policy 2016 should be finalized and implemented as soon as possible so that the land rights of women and men living in poverty can be respected, protected, and strengthened.
- Effective mechanisms need to be devised to ensure successful retention of *khas* land by the landless poor.
- To ensure empowerment of the tenancy rights, all sharecroppers must be provided with a legal deed.
- The Vested Property Repeal Act (Amendment) 2011 should be implemented immediately.
- A uniform system of Certificate of Land Ownership (CLO) should be instituted. Under this reform, the three Land Offices, namely the Union Land Office, Sub-register's Office, and Settlement Office shall be merged under one ministry to ensure proper recording of land.
- Attempts should be made to identify the real owners or the successor(s) of the land. Prior to registration of a piece of land, the sub-register or land office should investigate to determine, for example, if the seller is the real owner. The registration system should be modernized so that forgery can be stopped.

#### ***Strong Small-scale Farming Systems***

- Immediately distribute all agricultural *khas* land to the poor and landless.
- A support system needs to be instituted to provide assets (cattle, plough, irrigation machineries, and equipment) and inputs (seed, fertilizer, water, pesticide, etc.) to the landless and small-scale rural producers.
- Organize cooperatives for input, credit, marketing, and other productive purposes.



### ***Diverse Tenure Systems***

- Recognize tenure-related customary laws and practices of forest dwelling people, pastoralists, and IPs of Hills and Plains by formulating a new and vibrant policy framework.

### ***Equal Land Rights for Women***

- Law of inheritance should be enforced with adequate provisioning for women's inheritance. If the male heirs of the property are absent and the female(s) are permanently residing in Bangladesh, the property should be leased-out to them until final settlement is made.
- A national policy framework should be formed to formalize equal land rights of women, abolishing the existing discriminatory traditional laws.

### ***Secure Territorial Rights for Indigenous Peoples***

- All necessary legislative and administrative measures should be taken by the government to formally institute the land rights of the indigenous people which are partially acknowledged in the CHT Regulation of 1900, e.g. their collective and common land rights on forests and Swidden cultivation areas.
- The government should fully activate the Land Commission to enable it to operate effectively in the manner stipulated in the Peace Accord.
- Lands given to non-local individuals for rubber and other plantations should be cancelled if these have not been properly used for more than 10 years.
- Establish a transparent and pro-active Land Reform Commission for the Plain land indigenous peoples.

### ***Locally-managed Ecosystems***

- The draft National Land Policy 2016 should include a policy directive to formalize the role of local land users in territorial and ecosystem management, recognizing that sustainable development and the stewardship of ecosystems are best achieved through participatory decision-making and management at the territorial level.

### ***Inclusive Decision-making***

- The committee that identifies *khas* land should be reorganized to include civil society representatives.
- A “watchdog” mechanism (e.g., citizens committee) needs to be developed to check on the identification, distribution, and post-distribution situations.
- A committee should be formed under the leadership of the Union Parishad to resolve land-related disputes at the local level. The committee should include representatives



from key sectors such as landless groups, NGOs, and law enforcement agencies. Parties should try to resolve disputes at the Union Parishad before going to the district courts.

- Other recommendations include bringing land registration offices under the Ministry of Land and digitization of the entire process of land registration.

### ***Transparent and Accessible Information***

- The government should establish a “Land Data Bank.” This Bank shall have a computerized database containing detailed information about the following: a) records on *khas* land and water bodies by types, locations, distribution status, disputes, and conflicts; b) account of all vested land by types, location, lease status, and other variables; and, c) data on illegal takeover of indigenous people’s land by force, fraud and manipulation, as well as subsequent disputes and conflicts. The information should be suitably classified and organized, so that it can be retrieved quickly, in forms suitable for specific purposes.

### ***Effective Actions against Land Grabbing***

- All *khas* land illegally occupied by the land grabbers should be recovered, as soon as possible.
- Measures should be taken to minimize the influence of powerful interests such as politicians and local officials in the committee that determines *khas* land.
- All those who fake land documents should be punished severely to deter others from following suit. The government should also punish those who resort to forgery and terrorism to grab land.
- A moratorium should be imposed on further acquisition of the private and common lands of the *Paharis*.

### ***Protection for Land Rights Defenders***

- The draft National Land Policy should include a directive protecting the land rights defenders.
- The land rights defenders should be provided with training facilities, online courses, and other relevant resources to build their capacity.
- Government should provide the land rights defenders with urgent medical support in case of injuries in a conflict, legal assistance in case of litigation, and financial support for their families in case of death.

### **Recommendations for CSOs:**

- Many land-water-forest related laws have been analyzed using a rights-based approach and accordingly, new laws/amendments have been devised. The CSOs can now take these to Parliament so that relevant laws can be passed.



- The local and sub-district level civil society organizations should call for the free and fair distribution of relevant land and water bodies to the landless rural producers.
- All the peasants' organizations should be united on the issue of poor people's rights over *khas* land, and launch a movement against corrupt practices and inefficiencies of the government, to ensure poor people's legal and justiciable rights over land and water bodies.
- Organize pro-active advocacy towards recognition of customary ownership of indigenous peoples.
- The government must establish Alternative Dispute Resolution (ADR) mechanisms where land rights related CSOs may play a pivotal role.
- CSOs can initiate research on new land-rights issues (like individual tenurial security, gender sensitive land governance mechanisms, etc.) as well as lingering ones (*khas* land, land litigation, etc.). ■

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## LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
ALRD	Association for Land Reform and Development
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
APA	American Psychological Association
BDT	Bangladesh Taka
BEZA	Bangladesh Economic Zone Authority
BIHS	Bangladesh Integrated Household Survey
BLRMR	Bangladesh Land Reform Monitoring Report
CBO	community-based organization
CEDAW	Convention on the Elimination of All Forms of Discriminations Against Women
CHT	Chittagong Hill Tracts
CHTDB	Chittagong Hill Tracts Development Board
CLO	Certificate of Land Ownership
COHRE	Centre on Housing Rights and Evictions

CSO	civil society organization
DLRS	Directorate of Land Records and Survey
EBSATA	East Bengal State Acquisition and Tenancy Act
EPA	Enemy Property Act
FAO	Food and Agriculture Organization of the United Nations
FDI	Foreign Direct Investment
GDP	Gross Development Product
GED	General Economic Division
GoB	Government of Bangladesh
GR	Green Revolution
HDRC	Human Development Research Centre
HYV	High Yielding Variety
ILC	International Land Coalition
ILO	International Labour Organization
IP	Indigenous Peoples
LT	Land Transfer
LWA	Land Watch Asia
MoA	Ministry of Agriculture
MoL	Ministry of Land
NAC	National Adivashi Commission
NAP	National Agriculture Policy
NCALRW	National Coalition for Advancing Land Rights of Women
NCELR	National Coalition to Ensure Land Right
NCWRF	National Committee for Water Rights of the Fishermen
NGO	Non-Government Organization
NPERW	National Policy of Equal Rights for Women
NWUP	National Water Use Policy
OHCHR	Office of the United Nations High Commissioner for Human Rights
PCLG	People-Centered Land Governance
PPP	Public Private Partnership
SEZ	Special Economic Zone
SR	Sub-Registrar
TIB	Transparency International Bangladesh
UN	United Nations
UNDP	United Nations Development Programme
VPA	Vested Property Act
VPRA	Vested Property Return Act

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