CSOs Need to Push for Land Tenure and Security Data:
2020 CSO Report on Sustainable Development Goal Target 1.4 - Secure Rights to Land and Resources in Bangladesh

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ALRD
Association for Land Reform and Development
Overview of the Study

Land and the SDGs

In 2015, members of the United Nations agreed to pursue the Sustainable Development Goals (SDGs), a set of 17 global goals that countries aim to achieve by 2030. The SDGs embody a more holistic approach to development and presents enhancements to the targets of the Millennium Development Goals (MDGs). It is therefore not surprising that access to productive land – a resource vital to the survival of rural and urban communities – has been integrated into targets and indicators of the SDGs, most notably in the global goals on eradicating poverty (SDG 1 – No Poverty) and hunger (SDG 2 – Zero Hunger). Land-related targets and indicators are also embedded in goals on Gender Equality (SDG 5), Sustainable Cities and Communities (SDG 11), and Life on Land (SDG 15). This represents the global recognition that land issues are directly linked to national and global issues – increasing migration, the rising flow of internally displaced persons and refugees across borders, environmental degradation and climate change due to land use and tenure systems, and the growing incidence of land and resource conflicts.

As CSOs have been an integral part of formulating the SDGs, it is but logical that CSOs are involved in monitoring and reporting the status of achieving these global goals. Of particular interest to CSOs working on land tenure rights, is Target 1.4. It is the sole target among land-related SDG targets that specifies the need to provide vulnerable populations with control and ownership of land and natural resources. The target also aims to ensure that men and women have equal rights to such resources. With the target being included under SDG 1, land rights are now seen as a central strategy – and a global commitment – towards ending poverty in all forms.

**SDG Target 1.4: By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.**

Under Target 1.4, the indicator on secure tenure rights (Indicator 1.4.2) and the related indicator on secure rights to agricultural land (Indicator 5.a.1) are both classified by the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs) as belonging to Tier II as of March 2021. This means that, while there are internationally-recognized methodologies to produce information for these indicators, UN member-countries do not regularly produce such data.

This may be one reason why the land agenda has not been prominent in recent SDG reporting processes of governments. In most cases, States do not report on land in their SDG Country Reports and Voluntary National Reviews (VNRs).

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1. Proportion of total adult population with secure tenure rights to land, (a) with legally recognized documentation, and (b) who perceive their rights to land as secure, by sex and type of tenure.
2. a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and, b) share of women among owners or rights bearers of agricultural land, by type of tenure.
3. Such as the methodology for gathering globally comparable national data on 1.4.2 and 5.a.1, developed by custodian agencies UN Habitat, World Bank, and FAO: https://gltn.net/2019/08/27/measuring-individuals-rights-to-land/
In situations where State parties include land in their SDG reports, the contents mostly contain descriptions of their programs on land, with little or no discussion on the issues and challenges faced by the rural poor, thus not providing a complete picture of the situation. CSOs are therefore well positioned to analyze available data independently and highlight gaps and ways forward in achieving SDG Target 1.4.

This report is an initiative of the Land Watch Asia Land Monitoring Working Group (LWA LMWG) on Sustainable, Reliable, and Transparent Information towards Responsible Land Governance, implemented in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, and the Philippines.

Objectives

From a CSO perspective, the report has offered a clearer picture of land rights and tenure security of rural populations, to assess the performance of the country in relation to meeting SDG Target 1.4. This writeup also covers data available for SDG indicators on land rights, which provide direct information on progress towards Target 1.4. Aside from the official indicators, this report has also discussed other qualifiers of land rights and tenure security that may not be captured by the SDG indicators at first glance (e.g. land conflicts, informal and customary tenure, transparency, and implementation issues in land governance). Finally, this paper also contains recommendations on how government should report on land rights and recommendations on land rights policies and programs.

In particular, this report is being prepared to:

- contribute in sustaining the reporting processes of governments on SDGs, with emphasis on land-related targets;
- lobby governments to use the CSO report as inputs to their Voluntary National Reviews (VNRs) and SDG Country Reports; and,
- pursue the policy work of CSOs on land rights by optimizing the SDGs as a space for dialogue with various stakeholders.

Methodology

This report uses secondary land-related data from official or government as well as civil society organizations and other sources. Primary data from interviews and group discussions have been incorporated into this report as well.

A focus group discussion (FGD) was conducted with CSOs on the draft report in order to collect some additional information and validate the existing ones. Similarly, key informant interviews were conducted with land rights activists on tenure security to generate more information on access to secured land tenureship.

A validation workshop with representatives of the Directorate of Land Record and Survey (DLRS) of Government of Bangladesh (GoB) and civil society organizations has been conducted to validate the findings and solidify or refine the recommendations included in this report.
Country Efforts to Pursue SDG Target 1.4

National policy framework reflecting land targets

In Bangladesh, some mid- (8th Five-Year Plan) and long-term (Perspective Plan 2041 and Delta Plan 2100) development plans reflect the land-related SDG targets and indicators.

- **8th Five-Year Plan:** The 8th FYP (2020 to 2025) says the government khās land needs to be distributed among the landless and the marginal farmers (MoL, 2021A). The Plan hopes that the Ministry of Land (MoL) will give priority to allotting khās land to people of Dalit communities for settlement under the Asrayan⁴ type housing project. For tea garden workers, planters, or owners will be encouraged to earmark land within the estates so that the workers can build their own dwellings. The Plan also emphasizes the importance of the Delta Plan 2100, land use, land zoning, housing, reclamation of new land in the coastal zone, etc.

- **Perspective Plan 2041:** “Making Vision 2041 a Reality: Perspective Plan of Bangladesh 2021 to 2041” (PP2041) highlights the importance of land management (MoL, 2021B), while it says, “To create the supportive environment for markets to function efficiently, the following goals will be pursued: “Effective land governance and administration, ... Securing property rights including intellectual property...” The Plan also states, “An efficient land market with effective property rights is a key institution for longer-term development...” Increasing the efficiency and effectiveness of the “Institutions for land management” as one of the “Capacity Building Institutions” is also mentioned in the PP2041. In addition to the associated strategies for flood control, water storage, irrigation, agriculture, forestry resource management, and ecological balance, land management has also been identified as a major element of the policy package for reducing poverty and improving environmental management during PP2041. Among other things in agriculture and rural development, there is a proposal for recovering lost government land, particularly khās land including already filled-in riverbanks and canals. Included, too, are plans to introduce sound regulations to restrict improper use of agricultural land and to undertake the digitalization of agricultural land records.

- **Delta Plan 2100:** The government has adopted a major long-term initiative called the Bangladesh Delta Plan 2100 (BDP2100) to improve the management of water, land, ecology, environment, and climate change through strategies, policies, investment programs, and institutions. By implementing and strengthening land management, one of the components of the BDP2100, it is possible to carry through the constitutional commitment to establish economic and social justice, which is one of the factors of achieving the SDGs.

Government’s efforts in SDG reporting of land targets

The GoB has so far submitted two progress reports or Voluntary National Reviews (VNRs) on SDG implementation to the High Level Political Forum (HLPF): the first in 2017 titled as “Eradicating poverty and promoting prosperity

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⁴ A development project of the Government of Bangladesh under the Prime Minister’s Office tasked with building homes for homeless and displaced people.
in a changing world” (GoB, 2017); and the second in 2020 titled as “Accelerated action and transformative pathways: Realizing the decade of action and delivery for sustainable development” (GoB, 2020). The government did not report on land-related targets and indicators in either of these reports. In the first VNR, the government reported that metadata related to indicators 1.4.1 and 1.4.2 were yet to be finalized by the United Nations Statistical Commission (UNSC) (p.13). In the second one, they kept fully silent on the status of peoples’ ownership and control over land and other forms of property, inheritance, natural resources; and, reported population living in households with access to basic services (p.36).

Efforts of CSOs in SDG reporting of land targets

In 2020, through the Citizen’s Platform for SDGs, Bangladesh published an alternative SDG report titled as “Four years of SDGs in Bangladesh: Measuring progress and charting the path forward” (Khatun et al., 2020). Like the government reports, this report also failed to report the status of SDG land targets.

Another CSO report has been put forward by the Association for Land Reform and Development (ALRD) titled as “Towards Sustainable Shared Prosperity: SDGs through the Lens of Access to Land and Natural Resources.” This report, although complementary to the Citizen’s Platform’s report, is more focused on a number of areas on which there is, regrettably, still little focus publicly (Suhrawardy et al., 2020). The report focused on 12 SDG indicators which pertain to land rights and access to and control over natural resources (SDG indicators 1.4.2, 2.3.2, 2.4.1, 5.a.1, 5.a.2, 6.3.2, 6.6.1, 6.a.1, 11.3.1, 11.7.1, 15.1.1, and 15.3.1).

LEGAL FRAMEWORK ON LAND RIGHTS FOR SMALLHOLDERS AND WOMEN AND POLICIES ON SUPPORT SERVICES

Land policies are central to the implementation of rights and access to land for marginalized people (Barkat and Suhrawardy, 2019). 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 were 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 rent-seeker groups. After independence was gained in 1971, the ceiling of 33.3 acres (13.47 hectares) per family was restored by the first government of Bangladesh, through the Bangladesh Land Holding (Limitation) Order, 1972 (President Order No. 98 of 1972). The ordinance also mandated the government to acquire surplus land and redistribute it to the landless peasants, thereby sustaining 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, and 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 drafted (MoL, 2016), the vision of which, among others, is to provide guidance on developing a legal and institutional framework that is necessary to provide every citizen access to land; and, to promote land tenure security for all citizens. There is no single law that covers the rights of all segments of poor and marginalized people, although there are specific laws that apply to particular people. However, a uniform land law (Bangladesh Land Act 2020) has been drafted recently to accommodate all the necessary land laws under a single umbrella, drawing much criticism from land rights activists (Prothom Alo, 2021).

In the Chattogram Hill Tracts (CHT) region – the principal home of one third of the country’s indigenous people – a separate legal regime that blends customary and formal law exists and differs from the rest of the country. Land governance is mostly regulated here based on CHT Regulation 1900 that recognizes the customary land management system, including several customary practices of indigenous people living there.

• **Farmers and Smallholders:** Land Reforms Ordinance 1984 placed a 20-acre (eight hectares) ceiling on acquisition or holding of agricultural land and invalidated benami transactions, in which a person purchases land in the name of another so as to evade the land ceiling. The ordinance provided greater tenure security to sharecroppers (bargadars) in sharecropping contracts with landowners. Agricultural households already occupying farmlands obtained rights to their homestead land through an anti-eviction provision.

The Agricultural Khas Land Management and Settlement Policy 1997 aims for programs of socio-economic development. Hence, it is an administrative law which seeks to give effect to fundamental principles of State policy of the Constitution of Bangladesh. The khas land management committees established under the policy play a crucial role in the performance of their responsibilities. They have the power to identify khas land for the purpose of allocation, to select recipients from the eligible candidates, and to grant settlement of khas land. Families having no homestead or agricultural land but depending on agriculture; or families depending on agriculture and having up to 10 decimals of homestead but no agricultural land are considered landless families who have the right to be granted khas land. The priority list of landless families includes indigent freedom-fighters’ families; families displaced by river erosion; widows with competent sons or families left by the husband; agricultural landless or homesteadless families; families who have become landless as a result of acquisition; and, families depending on agriculture and having up to 10 decimals (0.04 of a hectare) of homestead but no agricultural land.

• **Indigenous Peoples:** The indigenous people are historically accustomed to use their land as “common property.” However, this 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 indigenous people of the plain districts. However, there are some national land laws applicable to indigenous people from both the plain and the hill. They include Article 97 of EBSATA 1950 and the Land Reform Ordinance of 1984. These laws do not directly discriminate against the indigenous people, but they are very limited in scope to ensure
their access to land and land rights. As mentioned, the indigenous peoples (IPs) living in both the plains and the south-eastern hilly region of Bangladesh – Chattogram Hill Tracts (CHT) – have customary laws of their own, which differ from the land laws of the so-called mainstream people, as the former focus on collective rights instead of individual rights over land. 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).

CHT (Land Acquisition) Regulation 1958 was to provide for the acquisition of land in the CHT. When any land is acquired under Section 3, the Government shall pay compensation therefor as may be determined by the Deputy Commissioner (DC) and, in determining the amount of such compensation, the DC shall take into consideration the market value of the land on the date of the order of acquisition.

Land Record (CHT) Ordinance 1984 was issued to provide for the preparation of land records in the CHT. The ordinance provides that the GoB may order a Revenue Officer to survey the whole, or any part of, the CHT in accordance with the provisions of this Ordinance and to prepare or amend a bhumi-khatian.

The CHT Land Dispute Resolution Commission Act 2001 defines the functions of the Land Dispute Resolution Commission (LDRC) as follows: to resolve the land dispute of repatriated refugees according to the prevailing laws and customs of Chattogram Hill; to determine the title or other rights of the applicant or opponent party to the land mentioned in the application according to the prevailing laws and customs of CHT districts and if necessary restore the possession; and, to cancel the settlement of land which has been done violating the existing law of CHT districts and, if for that reason, any real owner was dispossessed, to restore his possession.

- **Women:** In Bangladesh, women legally have equal rights to own land by purchase, lease, gift, etc. However, they face discrimination through inheritance laws, customs, and practices. Women’s inheritance or succession rights to land are determined by the conventional laws of their religion – Sharia for Muslim women and Daibhag for Hindu women. Sharia grants women limited rights to inherit land and property, but even this limited entitlement is often just on paper, as they are discouraged from claiming their rights due to the patriarchal nature of society. Hindu women, on the other hand, have no formal right to inherit land and property under Daibhag. Christian women are in a better position with regard to inheritance law compared to Hindu and Muslim women, but are still subject to some discriminatory provisions, too. For non-indigenous Buddhist women, Hindu inheritance law is applicable; hence they are subject to the same discrimination that Hindu women face. Customary inheritance provisions practiced by indigenous communities vary from community to community are mostly discriminatory to women as well — with the exception of a few matrilineal communities like Garo (Mandi).

- **Water-users and Fisher folk:** The Government Jalmohal Management Policy 2009 was formulated on the basis of the previous policies. It appears to be more pro-fisher since issues such as registration, entry of real fisherman into the Jalmohal, imposition of restrictions on sub-lease, etc., have been addressed. The Policy’s provisions give priority to the lease of the country’s khas ponds and Jalmohals to real fishermen, increase revenue, protect fish, and to preserve variety of animal life. Management of all the State-
owned closed Jalmohals of up to 20 acres (approximately eight hectares) which were previously transferred to the Ministry of Youth and Sports for the purpose of a lease to create employment shall not continue under the present policy. To develop the fishery sector, reduce the poverty of real fishermen, and develop their socio-economic condition, a limited number of closed Jalmohals of over 20 acres under the development project, subject to the permission of the MoL, can be leased for six years to registered as well as real fishermen’s societies. Jalmohals on lease cannot be sub-leased under any condition. If a sub-lease is detected in any Jalmohal, then that Jalmohal’s lease shall be cancelled by the DC/UNO and the deposited security money shall be forfeited in favor of the GoB. According to the present fishery law, Mobile Courts may be used by the DC to see whether any condition is violated in the leased Jalmohals. If any violation by a lessee is found, necessary legal steps may be taken against them.

- **Forest dwellers:** The Forest Act 1927 was enacted to consolidate the law relating to forests, the transit of forest-produce, and the duty-leviable on timber and other forest-produce. For any land to be constituted as reserved forest, it must be the property of the GoB, or the GoB has proprietary rights over it, or the whole or any part of the forest produce of which the government is entitled. The GoB is empowered to constitutionalize any land other than reserved forests as protected forests over which the GoB has proprietary rights.

Numerous policies on support services are in place. However, the problems lie in the implementation of these policies. The support service polices include, among others, the following:

- National Agriculture Policy 2018;
- National Food Policy 2006;
- National Livestock Development Policy 2007;
- Bio-Safety Rules 2012;
- Safe Food Act 2013;
- National Nutrition Policy 2015;
- Fertilizer Management Act 2006 (Amended in 2018);
- Integrated Small Cultivation Act 2017;
- Organic Farming Policy 2018;
- Balai Nashak (Pesticide) Act 2017; and,
- Ground Water Management Act 2018.

**GOVERNMENT REPORTING OR MEASURING OF INDICATOR 1.4.2**

**Gathering and reporting official land data**

There is a death of data, especially of land data, in Bangladesh. The Bangladesh Bureau of Statistics (BBS), under the National Statistical Office (NSO), does not conduct an exclusive survey on land tenure, access, rights, and/or other land issues (Barkat et al., 2018). However, the government produces some particular, partial, discrete land data through official surveys (household surveys, censuses, agricultural surveys, etc.). The data and the related analysis and information are presented mainly in the Census of Agriculture 2019, the Population and Housing Census 2011, the Multiple Indicator Cluster Survey 2019, the Census of Slum Areas and Floating Population 2014, the Household Income and Expenditure Survey 2016, and the Labour Force Survey 2016 to 2017, among others.
Standard methodologies have been followed in data collection in the surveys and censuses conducted by the BBS. For example, in the last Census of Agriculture 2019, international comparability was maintained, the full-count of all households in both rural and urban areas was adopted, a short standardized questionnaire was used before a long questionnaire devised to obtain much detailed data, etc.

As mentioned, land data are available in various surveys and censuses conducted by the BBS. The sources and frequency of land data collection are displayed in Table 1.

Table 1. Collected land data: Sources and frequency of collection

<table>
<thead>
<tr>
<th>Sources</th>
<th>Collected Land Data</th>
<th>Frequency of Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Census of Agriculture 2019</td>
<td>Area of land under operation and cultivation</td>
<td>10 years</td>
</tr>
<tr>
<td></td>
<td>Cropped/Cultivated area (by various disaggregation)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Crop area (acres) of farm holdings by area size</td>
<td></td>
</tr>
<tr>
<td>Population and Housing Census 2011</td>
<td>Tenancy of house (owned, rented, rent free)</td>
<td>10 years</td>
</tr>
<tr>
<td></td>
<td>Any member of household owns a house/land</td>
<td></td>
</tr>
<tr>
<td>Multiple Indicator Cluster Survey 2019</td>
<td>Household ownership of dwelling</td>
<td>Three years</td>
</tr>
<tr>
<td></td>
<td>Percentage of households that own agricultural land</td>
<td></td>
</tr>
<tr>
<td>Census of Slum Areas and Floating Population 2014</td>
<td>Ownership of slum land</td>
<td>17 years</td>
</tr>
<tr>
<td></td>
<td>Tenure of household</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ownership of agricultural land</td>
<td></td>
</tr>
<tr>
<td>Household Income and Expenditure Survey 2016</td>
<td>Household land ownership (cultivable land, homestead land)</td>
<td>Five years</td>
</tr>
<tr>
<td></td>
<td>Household operated land (owned plus net leased-in land)</td>
<td></td>
</tr>
<tr>
<td>Labour Force Survey 2016 to 2017</td>
<td>Tenure of dwelling houses by area</td>
<td>Three years</td>
</tr>
</tbody>
</table>

Source: Prepared by the authors

Available land data

- On legally recognized documentation

Access to land or securing tenure rights to land is important for the land-dependent vulnerable communities in Bangladesh to overcome poverty (Suhrawardy et al., 2020). In the absence of any official data, an estimate is extrapolated in a CSO report (see Box 1), which indicates that about 66.5 percent of the total adult population having land under their ownership may have legally recognized documents of ownership.

Farmers and Smallholders: 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 farming community. A significant proportion of the total agricultural population does not have any ownership or tenurial rights over agricultural land (BBS, 2019b). Out of the 35,533, around 180 households in the country, 11.33 percent (4,024,189) do not have any land. Also, most of the 25.60 percent of the agricultural labor households do not have any land.
Box 1: Extrapolating the number of adult household members having some type of owned land; and the percentage of the total adult population having land with legally recognized documentation

According to the Preliminary Report on Agriculture Census 2019, the number of dwelling households in Bangladesh is 35,533,180; most of which (87.37 percent) are in rural areas. 11.33 percent of total households (4,024,189) do not have any type of owned land; with the percentage of no owned-land households in urban areas being significantly higher than that in rural areas. 88.67 percent of total households (31,508,991) have some type of owned land.

The average household size in Bangladesh is 4.2. Thus, the number of household members having some type of owned land is 132,337,763 (31,508,991 x 4.2). In Bangladesh, 64.4 percent of total household members are adult (aged more than 17 years) (BBS & UNICEF, 2019).

The number of adult members of households having some type of owned land is estimated at 85,225,520 (132,337,763 x 0.644).

The number of adult household members of Bangladesh having some type of owned land is estimated at more than 8.5 crore (85,225,520). A portion of these, not all, have land with legally recognized documentation. Usually, the household head occupies a major portion of the household-owned land. 88.67 percent of total households, having 31,508,991 household heads, have some type of owned land. Now, in the case of agricultural land, 68.63 percent of household heads have legal documentation of ownership (BBS, 2019a). Besides the household head, one or two members of the household own some land. Considering the household head and others having owned land, around 75 percent of the adult population (or 56,677,101 adults) having some type of owned land, may have legally recognized documentation of their land. This percentage gets lower in the case of the total adult population, as some adults do not have any land and some others have land without legally recognized documentation.

Therefore, about 66.5 percent of the total adult population may have land with legally recognized documentation.

Source: Suhrawardy et al. (2020)

More than two-thirds (68.63 percent) of household heads having agricultural land possess legal documents of their land (BBS, 2019a). However, 8.7 percent of household heads, despite claiming to have agricultural land, lack the necessary legal documentation of their land ownership. Interestingly, more than one-fifth (22.67 percent) of household heads do not seem to be aware of this lack. Variations also exist in this respect on the basis of religion (see Table 2).

Table 2. Number and percentage of heads of households possessing legal document of agricultural land by religion, 2018

<table>
<thead>
<tr>
<th>Religion</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>18,052,233</td>
<td>12,388,914</td>
<td>1,571,412</td>
<td>4,091,907</td>
<td>100.00</td>
<td>68.63</td>
<td>8.70</td>
<td>22.67</td>
</tr>
<tr>
<td>Muslim</td>
<td>16,258,668</td>
<td>11,210,957</td>
<td>1,390,623</td>
<td>3,657,088</td>
<td>100.00</td>
<td>68.95</td>
<td>8.55</td>
<td>22.49</td>
</tr>
<tr>
<td>Hindu &amp; Others</td>
<td>1,793,565</td>
<td>1,177,957</td>
<td>180,789</td>
<td>434,819</td>
<td>100.00</td>
<td>65.68</td>
<td>10.08</td>
<td>24.24</td>
</tr>
</tbody>
</table>

Source: BBS (2019a)

Indigenous People: Indigenous people account for approximately two percent of the total population of Bangladesh. A maximum of 30 percent of plain land indigenous households have some land, while a maximum of 33 percent of CHT indigenous households have some land (Barkat, 2016).

Women: In Bangladesh, women are routinely denied rights to inherit land, and this contributes to their continuing poverty, social subjugation, and landlessness. 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 (in public spheres only, not in private matters), the reality is that women do not enjoy the same rights. The land registration system in Bangladesh – being complex, expensive, and time consuming – is also not friendly to women, most of whom are illiterate.

The share of women owners or rights-bearers of agricultural land in Bangladesh is insignificant. The strong social, cultural, and religious traditions further enforce the patriarchal mindset of the people. Women have an inferior position in the family as well as in society that determines their lack of ownership rights, control, transfer, and possession of land or other properties (Barkat et al., 2015). Table 3 illustrates the situation and also shows the wide differences between religious groups.

Table 3. Number and percentage of female household members possessing ownership of land by religion, 2018

<table>
<thead>
<tr>
<th>Religion</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>Number</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Total</td>
<td>27,436,920</td>
<td>8,790,973</td>
<td>18,286,644</td>
<td>359,303</td>
<td>100.00</td>
<td>32.04</td>
<td>66.65</td>
<td>1.31</td>
</tr>
<tr>
<td>Muslim</td>
<td>24,742,123</td>
<td>8,477,320</td>
<td>15,941,747</td>
<td>323,056</td>
<td>100.00</td>
<td>34.26</td>
<td>64.43</td>
<td>1.31</td>
</tr>
<tr>
<td>Hindu &amp; Others</td>
<td>2,694,797</td>
<td>313,653</td>
<td>2,344,897</td>
<td>36,247</td>
<td>100.00</td>
<td>11.64</td>
<td>87.02</td>
<td>1.35</td>
</tr>
</tbody>
</table>

Source: BBS (2019a)

Independent studies provide complementary data in this regard. According to Barkat et al. (2017), only 15.8 percent of land at the household level in rural areas is owned by women. Another study has shown that the effective ownership of land of women is even smaller; a maximum of four percent of rural land is “effectively’ owned” by women (Barkat et al., 2015). The average amount of agricultural land (including water-bodies) owned by men in the rural area is 46.2 decimal, while it is only 7.2 decimal among the women (Barkat et al., 2017).

**Water users:** About 10.32 million of Bangladesh’s people are in professions related to or 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 natural resources. Of the 12 lakh acres (48,562 hectares) of khas water bodies, only five percent have been leased out to poor fisher folk, which means that 95 percent of water bodies are in the hands of rent-seeking water elites (Barkat, 2016).

- **On perception of tenure security**

A small segment of Bangladeshi people perceives their rights to land as secure (Suhrawardy et al., 2020). From the above estimation of the total adult population having land with legally recognized documentation, it is found that 33.5 percent of the total adult population either do not have any land (so no question of perceiving their rights to land as secure) or have land without any legally recognized documentation (arguably do not or cannot perceive their rights to land as secure). Only a small portion of the 66.5 percent of the total adult population (who have land with legally recognized documents) may perceive

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5 Effective ownership means having legal documents like a deed of land, decision-making ability over land use or sale, and spending ability of earnings from land.
their rights to land as secure—and, in all likelihood, belong to the socially, economically, and politically powerful elite. Whereas, the people in the common middle or lower-middle income groups, as well as the marginalized groups (indigenous or small ethnic communities, religious minorities, occupational minorities, poor rural women, peasants, fisher folk, char-haor-baor dwellers), although possibly owning some land, may in fact not perceive their rights to land as secure even if they possess legally recognized documents, given the widespread land grabbing in a rent-seeking society. All in all, only a maximum of ten percent of the total adult population may perceive their rights to land as secure.

Methodology and data reflecting tenure security

The methodology and data available do not reflect or capture tenure security under Target 1.4. The prime reason is that those methodologies were not aimed at collecting exclusive data on access to land and tenure security.

OTHER CONSIDERATIONS IN MEASURING TENURE SECURITY

Informal and customary recognition of land rights

“Informal land tenure” is an umbrella term for tenure systems that are not formally recognized by the State within the legal system (IGC, 2018). This can range from de facto rights obtained by long-term occupancy, to well-established customary systems of tenure. Informal recognition of land rights is applicable for both indigenous peoples (IPs) and non-indigenous peoples (Non-IPs). Non-IPs living in squatter settlements or in public land require recognition of their informal land rights.

Customary land rights – distinct from informal land rights – are mostly applicable to the IPs in Bangladesh. Some common issues with regard to tenure security of indigenous people in both plain and hill areas and CHT (Chattagram Hill Tracts) should be considered in the methodologies for data collection under SDG 1.4.2. Securing IP rights over land is limited because of rent-seekers’ control over government and politics. The main threats to the land rights of IPs include politically-motivated population transfer, construction of eco-parks and initiation of so-called social forestry, land grabbing by declaring IP land as khas, harassment by eviction notices and false cases, forgery of documents, corruption, etc. (Barkat & Suhrawardy, 2019).

Partial legal recognition and protection of the hill lands of IPs exist, recognizing traditional land use and customary laws of the IPs through laws dating back to the colonial era (CHT Regulation Act 1900). There is no such thing for IPs in plain lands. In reality, IPs of the hills and plains do not exercise their land rights on the basis of self-governance; the very limited rights they have, by and large, are governed by State institutions.

Women’s tenure security

Different articles of the Constitution of Bangladesh make no discrimination between the sexes over land rights and access. Moreover, Bangladesh ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2000 which is against all forms of discrimination against
womem, though with reservations about articles which include women’s inheritance rights. Despite these developments, the existing legal framework does little to protect whatever rights women have over land (Moni et al., 2019).

The land rights of Bangladesh’s women are impeded by religious and customary laws (whether Hindu, Muslim, Indigenous, etc.) that overly discriminate against them. Apart from religious traditions and cultural beliefs, the patriarchal mindset of society impedes women’s equal rights to land. The Government’s land registration system is also complex, expensive, time-consuming, and not women-friendly at all.

The factors that contribute to women’s landlessness are: systematic marginalization since the agricultural revolution; discriminatory policies or laws and lack of enforcement; the prevalence of outdated religious laws; non-compliance of constitutional obligations; a patriarchal mind-set and gender discrimination; women’s unawareness; uncoordinated efforts both by government and CSOs; lack of strong women’s rights organizations; lack of government’s priority setting for mainstreaming gender; insufficient budgetary allocations; and, finally lack of political will to address the root causes of gender discriminations (Moni et al., 2019). The hindrances behind women’s non-access to land and the factors behind their tenure insecurity should be addressed in the methodologies under SDG target 1.4.2.

**Land conflicts and land rights defenders**

In Bangladesh, the annual increase in the number of land-related new cases (law suits) is about two percent (Barkat & Suhrawardy, 2019). The major drivers of land conflicts in Bangladesh include disputes over private property (intra-family, boundary disputes, sales, rent and leases); conflicts over property rights arising from non-registration of land parcels, missing or inaccurate records, falsification of deeds; agrarian conflicts, including landowner-tenant disputes, evictions by landowners; commercialization of agricultural land, contract farming, agribusiness investments with political interests; indigenous peoples’ rights versus statutory laws (Bengali settlers vs. indigenous peoples in the plains and the CHT); unsettled “Vested Property” and “Abandoned Property”; undistributed khas lands, grabbing of khas lands; favored State concessions and grabbing of waterbodies; urbanization, rising land prices, and property markets; land grabs, often involving political corruption; State land acquisitions or expropriations for infrastructure (e.g., power projects, eco-parks); and, investment areas (i.e., special economic zones) (ANGOC, 2019).

The country’s legal and institutional framework is not that effective in respecting and protecting land rights, and in resolving land conflicts. 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. On account of pressure from vibrant land rights CSOs, among others, measures are being taken to prevent land conflict and to protect land rights defenders; but most of the time, these measures prove to be inadequate.
Transparency and enforceability of land governance

Transparency and enforceability of land governance⁶ in Bangladesh is poor. Corruption in the country’s land sector is institutionalized, which jeopardizes livelihoods, security, and the welfare of ordinary people (TIB, 2015). In this regard, the methodologies of data collection for SDG 1.4.2 should take into account the following issues:

- Coordination gaps in land management and administration;
- Deficits in accountability;
- Limitations in different service systems and provisions;
- Lack of digitalization in land management and service provisions; and,
- Influence of vested interest groups or rent seekers.

Some other governance failure issues which hinder peoples’ access to land and tenure security include lack of adequate political will, lack of adequate manpower in land administration, inadequate participation of other stakeholders in the land governance system, etc. (TIB, 2015). All these result in corruption and irregularities in different tiers of land administration and management. This failure of governance also gives rise to, among others, the following:

- Harassment of service recipients in different service provisions;
- Monetary and time loss of service recipients;
- Grabbing and usurpation of private and State land; and,
- Increase of land disputes and litigations.

Towards a More Truthful and Accurate Report on Tenure Security

In order to present a more truthful and accurate report on land tenure security, the official report should contain the real land rights situation, not merely a description of the initiatives or programs taken by the Government. In this regard, the report must include:

- Information on women’s land ownership, such as what percentage of the total female population owns land, the number (separately mentioned) of women who have permanently settled in *khas* land individually and jointly (with husband), etc.;
- Information on land ownership of indigenous peoples (including their accurate population count) on their *khas* land settlement, on forest land use, etc. – segregated and community-specific data of their land titles in CHT and in the rest of the country;
- Information on land ownership and receipt of *khas* land settlement of other minority households;
- Information on land ownership and land use of Dalits, Harijans, and other marginalized, socially excluded communities;

⁶ Land governance refers to the practices and rules of land tenure, land ownership, and land use which decide who have access to land and when and how this access is materialized. In other words, it is about access to and rights over land and all the natural resources associated with it. Besides ownership and tenure, land governance also covers themes of land administration, conflict resolution, and land redistribution or land reform (ILC-UNDP/DCC, 2008).
• Actual number, receipt of khas land settlement (permanent and temporary recorded separately), and statistics of actual possession (retention) of the landless households and follow-up statistics of the government through an observation of the audit or monitoring report;

• National statistics on land disputes, such as: number of disputes; disputes by nature; deaths, injuries, etc. due to disputes; disputed lands (total amount of disputed lands; nature of use such as agriculture, forest, wetlands, etc.); dispute resolution, assessment of the concerned population relating to dispute resolution; and,

• The results of surveys on perceived land ownership.

In this regard, immediate steps should be taken by the BBS to conduct surveys for generating data regarding SDG indicators on land and natural resources at five-year intervals.

**COVID-19 AND VIOLATION OF LAND RIGHTS**

Over-engagement of administration and law enforcement agencies on the COVID-19 pandemic and lockdown situation, as well as closure of regular Court proceedings, allowed land grabbers or occupiers — in some cases government agencies, especially the Forest Department (e.g., in the case of Madhupur Garh and several Khasi villages in Moulavibazar district, Rakhine villages in Patuakhali district) — to grab the opportunity for conducting their misdeeds. News, information, and allegations of forcible occupation or attempted forcible occupation of land (threats, physical assaults, forgery, harassment, false cases/charges, etc.) have been increasing at a higher rate.

Land rights have been curtailed through debt burden, distressed sale, and deprivation of fair price among poor and marginalized land- and natural resources-dependent communities. Rising prices of agricultural inputs during the lockdown have disrupted farmers’ production, increased production costs, and in many cases deprived them of fair prices for their products. As a result, their debt burden has increased, causing many of them to mortgage their land, and some to even sell their land.

**SUSTAINING THE LAND AGENDA THROUGH SDGs: THE ROLE OF CSOs**

Bangladeshi civil society organizations (CSOs) have the experience and expertise of raising pro-people issues which government ignores (like the MDGs, CEDAW, etc.). In the case of the SDGs, the government report is still missing the land issues, thus paving the way for CSOs to play a significant role. To address the huge deficit in the pertinent land data and information, CSOs can do research for generating and validating the needed data and information. In fact, CSOs can sustain the land agenda through SDGs — from data or information generation to dissemination, from campaigning to lobbying or advocacy on pertinent land-related SDG issues. In this regard, they can do the following specific activities:

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7 Both the government and CSOs have no national or local statistics in this regard and they do not have any comprehensive system for storing such information.
- Doing surveys on land rights, tenureship, land conflict; storing the survey data and information (gender-segregated), disseminating the survey outcomes;
- Doing advocacy for accessing official data and information;
- Disseminating related research observations (especially on indicator 1.4.2 and 5.a.2) through mass media and other fora;
- Presenting periodical (quarterly, annual, etc.) reports on the land rights situation to the mass media, government, and other stakeholders;
- Getting actively involved in the government reporting process (in the VNR or other SDG reports) with due preparation so that, upon noting any procedural limitations and irregularities, reactions and criticisms can immediately be relayed to the media and sent to the concerned government authorities;
- Assessing the government reports and disseminating structural reactions in relevant fora; and,
- Conducting joint (research, dissemination, campaign, lobbying) events among CSOs and GO-NGOs to raise the status of land-related SDG targets and indicators.

**Acronyms**

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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ALRD</td>
<td>Association for Land Reform and Development</td>
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<td>ANGOC</td>
<td>Asian NGO Coalition for Agrarian Reform and Rural Development</td>
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<td>BBS</td>
<td>Bangladesh Bureau of Statistics</td>
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<td>BDP</td>
<td>Bangladesh Delta Plan 2100</td>
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<td>BWDB</td>
<td>Bangladesh Water Development Board</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination Against Women</td>
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<td>CHT</td>
<td>Chattogram Hill Tracts</td>
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<td>CLO</td>
<td>Certificate of Land Ownership</td>
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<tr>
<td>CSO</td>
<td>civil society organization</td>
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<td>DC</td>
<td>Deputy Commissioner</td>
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<td>DLRSC</td>
<td>Directorate of Land Record and Survey</td>
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<td>EBSATA</td>
<td>East Bengal State Acquisition and Tenancy Act</td>
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<td>FGD</td>
<td>focus group discussion</td>
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<td>FYP</td>
<td>Five-Year Plan</td>
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<td>GoB</td>
<td>Government of Bangladesh</td>
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<td>HLPF</td>
<td>High Level Political Forum</td>
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<td>IAEG-SDG</td>
<td>Inter-Agency and Expert Group on SDG Indicator</td>
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<td>IGO</td>
<td>intergovernmental organization</td>
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<td>IPs</td>
<td>indigenous peoples</td>
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<td>LA</td>
<td>Land Acquisition</td>
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<td>Land Dispute Resolution Commission</td>
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<td>LRO</td>
<td>Land Reform Ordinance</td>
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<td>LRP</td>
<td>Land Reform Policy (1972)</td>
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<td>LWA</td>
<td>Land Watch Asia</td>
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<td>LMWG</td>
<td>Land Monitoring Working Group</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<td>MoL</td>
<td>Ministry of Land</td>
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<td>NGO</td>
<td>non-governmental organization</td>
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<td>National Statistical Office</td>
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<td>PP</td>
<td>Perspective Plan</td>
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<td>Roads and Highways</td>
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<td>Sustainable Development Goal</td>
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<td>Upazila Nirbahi Officer</td>
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<td>UNSC</td>
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<td>VNR</td>
<td>Voluntary National Review</td>
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Executive Director, ALRD

Citation


Disclaimer

The views of this study do not necessarily reflect those of ILC.

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