Land Rights and Tenure Security of Vulnerable Groups Not Among Reported Data:

2020 CSO Report on Sustainable Development Goal Target 1.4. - Land Rights Protection and Access to Resources in Indonesia
Overview

Land and Sustainable Development Goals

Goal 1 of the Sustainable Development Goals (SDGs) is to eradicate poverty in all its forms. One of the global targets of SDG 1 is that the poor and vulnerable in society have ownership and control over the land. In Target 1.4 of SDG 1, it is stated that:

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

For the poor and vulnerable, ownership and control over land is fundamental, because it is their life and source of livelihood for both men and women, in urban and rural areas, in coastal areas, and small islands. It is related to their place of residence, where they work, have a family, and live their culture.

Land access is a necessity to promote their economy in the fields of agriculture, animal husbandry, and fishery, and in micro, small and medium enterprise (MSME) activities in urban areas. Land access is vital not only in order to achieve the goal of no poverty, but also to achieve other goals, such as zero hunger, gender equality, and, sustainable communities.

Global Methodology Regarding Target 1.4.2 by Monitoring Agencies

The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Land Watch Asia (LWA) have published a Scoping Paper on the Readiness of National Statistical Offices to Report on SDG Indicator 1.4.2 in Eight Asian Countries, compiled by Antonio Quizon, Nathaniel Don Marquez, and Timothy Salomon. This work is useful in order to understand the meaning of the targets of SDG 1.4 and to understand the indicators of these goals, as described: Guaranteed rights such as rights to land, property, and other assets are seen by the SDG as the base of global poverty reduction. This is expressed under Goal 1: “End poverty in all its forms” and Target 1.4. as previously quoted.

The guarantee of land rights and property, especially for poor and vulnerable women and men, is seen as an important element in fighting poverty and social exclusion by ensuring rights to economic resources; while securing land tenure is seen as essential for secure housing and for enabling individuals and families to access the required services. Accordingly, SDG Indicator 1.4.2 was launched to provide a comparable basis for measuring land tenure security globally.

SDG Indicator 1.4.2 is defined as: “Proportion of the total adult population with land security, with legally recognized documentation and perceptions of tenure security, based on sex and type of ownership.”

Related to this Target, land tenure security is also reflected in other SDG objectives:

• Goal 2 - “No Hunger” - Target 2.3 seeks to “double the agricultural productivity and the incomes of small-scale food producers, particularly
women, indigenous peoples, family farmers, pastoralists, and fishers, including through secure and equal access to land, (and) other productive resources and inputs.....”

- Goal 5 - “Gender Equality and Women’s Empowerment” - Target 5a states: “Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.” Indicator 5.a.1 specifically seeks to monitor women’s ownership of agricultural land.

- Goal 11 - “Sustainable Cities and Communities” - Target 11.1 states: “By 2030, ensure access for all to adequate, safe and affordable housing and basic services, and upgrade slums.” Indicator 11.1.1 seeks to monitor the proportion of the urban population living in slums, informal settlements, or inadequate housing.

Land tenure is defined as “relationships, whether legal or customary, between people, as individuals or groups, with respect to land and associated resources” (FAO, 2002). The tenure system determines who can use which resources, for how long, and under what conditions.

Tenurial rights can be owned individually, or collectively which means that ownership and controls can be linked to individuals, pairs, or groups (GLTN, 2017; UN-HABITAT, 2017). When tenure rights are jointly or collectively owned, tenure rights are distributed among the recognized rights stakeholders based on the prevailing tenure system. Tenure over land and resources is held collectively and is carried out in the context of negotiation and consensus among recognized rights holders collectively. For example, when land is jointly owned by a husband and wife, the husband and wife negotiate the land control based on applicable laws and local customs.

A key element of tenure security is the protection and rights enforcement. In this case, the State is the main rights enforcer. Rights enforcement is also applied by the community and customary institutions. At this point, it is confirmed. It is therefore important to document the informal rights when people use their tenurial rights even when there is no legal recognition.

There are three main types of tenure security. First, legal tenurial security refers to tenure protection supported by State authorities. Second, de facto tenurial security refers to the reality of land and property control, regardless of legal status. Third, tenurial security is related to the subjective perception of individuals, couples or communities that they will not lose their land rights through forced evictions (GLTN, 2017; UN-HABITAT, 2017).

According to the custodian agencies, under SDG indicator 1.4.2, land rights can be considered secure if the following conditions are met: a) there is legally recognized documentation, and, b) there is a perception of tenure security. Both are needed to provide a full measure of tenure security (Kumar et al., 2017).

Legally recognized documentation refers to the recording and information publication on the land location, rights holders, and, the rights as recognized officially by the government.

On the other hand, tenurial security perception refers to individuals’, couples’ or communities’ assesment of the possibility of involuntary loss of land rights regardless of legal status. The perception of tenure is considered safe if: a) the landowner does not report their fear of forcibly losing their land rights in the
next five years, and b) reports that the landowner has the right to inherit the land.

**Research Objectives**

This report was prepared by Bina Desa in consultation with CSOs and community organizations in order to:

- contribute in supporting the preparation of government reports on the progress of implementation of the SDGs, particularly in the target areas related to land ownership and control for the poor and vulnerable in society;
- serve as a lobbying document to the Government using the reports of community organizations as material for the preparation of Voluntary National Reports (VNRs) and SDG Country Reports; and,
- optimize policy advocacy work of community organizations by optimizing the SDGs as a space for dialogue with various stakeholders related to land rights.

**Scope and Research Method**

The research scope is based on data since 2018 which is sourced from the government, and reports on monitoring land conflicts of community organizations. Due to the COVID-19 pandemic, which still limits the holding of meetings with the parties concerned, it is difficult to obtain the needed information directly. Therefore, the methodology developed for data collection is through a desk review of existing data, most of which have been published.

Primary data were obtained through focus group discussions (FGDs) with government agencies and community organizations, while secondary data were obtained through literature study (desk review). FGDs were conducted on a limited basis with representatives of government bodies and CSOs. The recent pandemic situation, which has shifted most meetings from in-person to online, has given rise to a high volume of online meetings experienced by the institutions concerned, which, in turn, also creates difficulties in terms of time adjustments. Thus, the FGDs related to this study were also carried out separately based on the available time of the resource persons representing the bodies. The institutions involved in this process include the Central Bureau of Statistics (BPS) as a government agency that focuses on statistical issues and civil society organizations such as the Consortium for Agrarian Reform (KPA).

**Efforts of the State to Achieve SDG Target 1.4**

**National Policy Framework for Achieving SDG Target 1.4**

The target of implementing the achievement of the SDGs is regulated through Presidential Regulation Number 59 of 2017 concerning the Implementation of the Achievement of the Sustainable Development Goals (hereinafter referred to as the Presidential Regulation on the Implementation of the Achievement of SDGs).

The Presidential Regulation states that, in order to fulfill the Government’s commitment to achieving the SDGs, it is necessary to harmonize it with the
National Long-Term Development Plan (RPJPN) and the National Medium-Term Development Plan (RPJMN).

The alignment is in the form of the 2017 to 2019 National Targets in the 2015 to 2019 National Medium-Term Development Plan, which is in line with the SDGs. In the context of achieving the national target, the Minister of National Development Planning/Head of the National Development Planning Agency prepares and stipulates the National Roadmap for SDGs and the RAN SDGs (National Action Plan on SDGs).

It is stated that the National Target of the 2017 to 2019 RPJMN related to SDG Target 1.4 are:

“The number of low-income households that can access decent housing in 2019 will increase to 18.6 million for the lowest 40 percent of the population.”

Note that the said national target is focused on the right to housing, not land rights.

Development Plan and Land Access

In the 2005 to 2025 National Long-Term Development Plan, one of the directions for land management is to improve the control, ownership, use, and utilization of land through the formulation of various regulations for implementing land reform, so that economically weak people can more easily obtain land rights.

Meanwhile, in the 2015 to 2019 RPJPN, it is stated that the land redistribution of nine million hectares is sourced from: a) the forest area that will be released [at least 4.1 million hectares]; b) land rights, including Cultivation Rights that will expire, abandoned land, and, uncertified transmigration land, which has the potential as Land for Agrarian Reform Objects [at least one million hectares]; and, c) community-owned land with agrarian reform recipient criteria for asset legalization [at least 3.9 million hectares].

Comparing the 2015 to 2019 RPJPN and RPJMN documents with the 2017 to 2019 RPJMN National Target documents shows that they are not aligned in accelerating the implementation of the achievement of the SDGs.

Land Access in VNR and Government Reports

The 2019 Voluntary National Review (VNR) of the Republic of Indonesia mentions that land rights issues, namely as a social inclusion problem, can also be extended to other marginalized groups, in particular regarding their access to socioeconomic resources. There are a large number of farmers without access to land; and, there are two parallel programs to deal with this problem. First, land certification under the agrarian reform program; and, secondly, a social forestry program. The former is regulated by the National Land Agency (BPN), while the latter is regulated by the Ministry of Forestry and the Environment and Forestry (KLHK). The ministry has handed over about 40 percent of the 126 million pieces of land certificates to be distributed from 2017 to 2019. At the same time, the KLHK has released one hectare of land each to be distributed to farmers in the social forestry program. Knowing the importance of land for farmers, the President himself is very active in implementing agrarian reform and social forestry programs.

As for the report (Ministry of National Development Planning/BAPPENAS; 2019 Implementation of the Achievement of Sustainable Development Goals
as set out in the National Targets of the 2017 to 2019 RPJMN, it does not mention progress on providing access to and control over land for poor people. What is mentioned is only the progress of occupancy in relation to the percentage of poor households that have proper drinking water, proper sanitation, and electricity services, as well as the percentage of urban slum households.

**Government Efforts in Achieving and Reporting SDG 1.4**

- **Government Institutions for SDG Progress Monitoring**

In the Presidential Regulation on the Implementation of SDG Achievement, it is stated that, in the context of achieving the SDGs, the Minister of National Development Planning/Head of the National Development Planning Agency coordinates the monitoring, evaluation and reporting of the SDG achievements at the national and regional levels. In order to achieve the SDGs, a National Coordination Team was formed consisting of a Steering Committee, an Implementing Team, a Working Group, and an Experts Team.

- **SDG Achievement Report**

The implementation report of the latest TPB/SDG achievements was compiled in 2019—**Voluntary National Review, Empowering People and Ensuring Inclusiveness and Equality, and Implementation of the Achievement of Sustainable Development Goals [TPB/SDGs]**. Unfortunately, the reports did not contain information on the progress of land rights.

**Community Organizations’ Efforts in Achieving and Reporting the SDG achievements**

- **Monitoring and Reporting by Community Organizations**

INFID (International NGO for Indonesia Development) is a community organizations network—in which the Bina Desa Sadajiwa Foundation is involved—that has been monitoring the implementation of SDG achievements. The report has not been substantial, because it has only been monitoring the public’s perception of the SDGs.

Several community organizations, including the Bina Desa Sadajiwa Foundation, have monitored land rights, but not for reporting on SDG achievements.

- **Land Rights Monitoring and Reporting**

There have been no reports from community organizations on the achievement of the SDGs concerning the poor’s access to land. The monitoring reports of community organizations are primarily on the agrarian conflict situation, and the achievements of agrarian reform and social forestry programs.

- **Opportunities in the SDG Monitoring Network**

Opportunities are open for community organizations that carry out monitoring of land rights to involve networks that monitor the implementation of SDG achievements. These could be an entry point for participating in multi-stakeholder dialogues and cooperation in achieving and reporting on SDG achievements.
LEGAL FRAMEWORK FOR LAND RIGHTS OF SMALL HOLDER FARMERS, WOMEN, AND SUPPORT SERVICES

The Constitution of the Republic of Indonesia; the 1945 Constitution, Law 5 Number 1960 concerning the Basic Regulations on Agrarian Principles (UUPA 1960); and, the decisions of the Constitutional Court have provided protection for the land rights of the poor, the protection of the indigenous peoples’ rights, and provided agrarian justice to both men and women.

In addition, there have also been laws and regulations that more specifically regulate land access for the poor in rural areas and the poor in urban areas. So there should be a sufficient legal framework for the implementation of the achievement of SDGs, especially those concerning access to land for the poor.

A legal framework is also available for protection and empowerment services for farmers, women, fishermen, and micro, small and medium enterprises. There are also general services for citizens such as health insurance, food assistance, subsidized food and house prices, and welfare improvement programs.

In relation to Small Farmers

Law Number 19 of 2013, concerning the Protection and Empowerment of Farmers, has provided guarantees for the agricultural land area for small farmers, in the form of ease of use of State land in agricultural areas. The implementation rules are also available through Government Regulation Number 65 of 2019 concerning Agricultural Land Areas Guaranteed. Several provincial and district governments have passed Regional Regulations on the Protection and Empowerment of Farmers.

Plantation farmers, through Law Number 18 of 2014, gain access to land. The Plantation Law obligates the plantation companies to facilitate the development of community gardens in at least 20 percent of the plantation company’s plantation area. This obligation to allocate an area of 20 percent is further regulated through Presidential Regulations, Presidential Instructions, Regulations of the Minister of Agriculture, and Regulations of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency.

Small farmers and planters, through Presidential Regulation Number 86 of 2018, are identified as objects of agrarian reform, being the recipients of the program.

Through the Regulation of the Minister of the Environment Number 18 of 2016 concerning Social Forestry, farmers are given access to use State forests through licensing in community forest and partnership forest schemes.

In relation to Indigenous Peoples

A number of laws related to land and natural resources have provided recognition for the existence of ulayat land, customary land, and customary forest, so that State officials in charge of licensing are prohibited from issuing concessions on ulayat land or customary land without prior discussions with the indigenous peoples residing there. These laws include the following: Law Number 19 of 2004 concerning Stipulation of Government Regulations of Law Number 1 of 2004; Amendments to Law Number 41 of 1999 concerning Forestry; Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007.
concerning Management of Coastal Areas and Small Islands; Law Number 6 of 2014 concerning Villages; and, Law Number 39 of 2014 concerning Plantations.

However, the upholding of land rights requires recognition and stipulation from the Government and local governments on the existence of these indigenous peoples.

**In relation to Women**

The 1960 Basic Agrarian Law (BAL) has guaranteed agrarian justice for women. Article 9 paragraph (2) of the 1960 BAL states, “Every Indonesian citizen, both male and female, has the same opportunity to obtain land rights and benefit from the results, both for herself and her family.”

Article 17 of the 1960 BAL further states that: “Both men and women can be the head of the family.” It also regulates the maximum and minimum limits of land ownership, as well as the redistribution of land that is in excess of the maximum limit to be given to people in need.

Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 regarding Marriage, provides legal opportunities for women who are married to defend their land rights. First, through a marriage agreement based on Article 29, a husband and wife can enter into a written agreement before or during the marriage that may stipulate that the wife’s land rights remain in the control and use of the wife; and, secondly, through the separation of property in marriage based on Article 35 paragraph (2), that the innate assets of the husband and wife and the property obtained by each as a gift or inheritance are under the control of each as long as the parties do not specify otherwise. This arrangement protects the land rights of the wife.

**In relation to Shepherds (Pastoralists)**

Law Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Livestock and Animal Health has provided protection for access to land for smallholder farmers in the form of Public Herding Areas, namely State land or provided by the Government or granted by individuals or companies which is intended for small-scale community livestock grazing so that livestock can freely breed.

**In relation to Water Users**

Based on the decision of the Constitutional Court in the Case of Judicial Review of Law Number 7 of 2004 concerning Water Resources and Law Number 17 of 2019 concerning Water Resources, the State guarantees the people’s rights to water, including the relation of water to land, especially people’s agriculture, as stated in Article 8 of the Water Resources Law. The right to water of communities, which is guaranteed by the State, as referred to in Article 6, is a basic minimum daily need. In addition, the fulfillment of which is guaranteed by the State as referred to in paragraph (1), the State prioritizes the people’s right to water as follows: a) basic daily needs, b) people’s agriculture, and, c) use of water resources for business needs to meet basic daily needs through the Drinking Water Supply System.

The peoples’ right to water as mentioned above is not an ownership right to water, but is only limited to the right to obtain and use a certain water quota.
in accordance with the allocation, the stipulation of which is regulated by a Government Regulation.

However, the Water Resources Law makes exceptions for customary law communities by giving recognition to the rights to water of indigenous peoples, as stated in Article 9 of the Natural Resources Law that states that: a) On the basis of State Control of Water Resources as referred to in Article 5, the Central Government and/or Regional Governments are given the task and authority to regulate and manage water resources; b) Control of Water Resources as referred to in paragraph (1) is carried out by the Central Government and/or Regional Governments while still recognizing the ulayat rights of indigenous peoples and similar rights, as long as they do not conflict with national interests and the provisions of laws and regulations; and, c) The Ulayat Rights of the Indigenous Peoples over the Water Resources as referred to in paragraph (2) shall continue to be recognized as long as in fact they still exist and have been regulated by Regional Regulations.

**In relation to Forest Dwellers**

In the 1960 Basic Agrarian Law (BAL), it is stated that the right of ownership, the right to clear land, and the right to collect forest products could only be enjoyed by Indonesian citizens. Furthermore, based on the decision of the Constitutional Court in the Review of the Forestry Law, it is stated that Customary Forests are not State Forests, meaning that Customary Forests are Private Forests. The concept of private forest also appears in Law Number 6/2014 concerning villages, namely Village Owned Forests.

The use of the word “owned” should be interpreted as not State Forest. However, regulations in forestry have a different meaning. PP Number 6/2007 concerning Forest Management and Formulation of Forest Management Plans, Forest Utilization, calls it Village Forest, without the word “owned.” Village Forests are referred to as State Forests managed by Villages. So through the Minister of Environment and Forestry Regulation P.83/MENLHK/SETJEN/KUM.1/10/2016 concerning Social Forestry, in order to be able to manage Village Forests, villages must apply for Village Forest Management Rights. This is in order to protect forests and protect rights to community land in forest areas, as provided in Law Number 13 of 2018 concerning Protection and Prevention of Forest Destruction (hereinafter abbreviated as UU P3H) and Presidential Regulation Number 88 of 2017 concerning Settlement of Land Tenure in Forest Areas (hereinafter abbreviated as Perpres PPTKH).

The UU P3H Law is intended to prevent forest destruction that is carried out in an organized manner by a structured group. It is not aimed at community groups residing in and/or around forest areas who practice traditional cultivation and/or carry out logging outside conservation and forest areas protected for personal use and not for commercial purposes.

Thus, Article 11 of the UU P3H Law stipulates provisions for acts of forest destruction which include illegal logging activities and/or illegal use of forest areas carried out in an organized manner. What is meant by organized forest destruction is an activity carried out by a structured group, consisting of two or more people, and acting together at a certain time with the aim of destroying the forest.

However, the UU P3H Law requires that communities living in and/or around logging forest areas outside conservation and protected forest areas who
engage in forestry activities for their own purposes and not for commercial purposes must obtain permission for such activities from authorized officials in accordance with the provisions of the legislation. This, however, has become the source of the problem, because engaging in forestry activities “without a permit” is included in the criminal category of forest destruction, as regulated in Articles 12 and 82 of the UU P3H Law. So the UU P3H Law has led to the criminalization of many forest farmers.

The PPTKH Presidential Regulation, meanwhile, is intended to provide legal protection for community rights in forest areas in the form of ownership and control of land, through the release of forest areas to provide land for agrarian reform (TORA), social forestry, and resettlement. It seeks to prevent repressive methods by prohibiting government agencies from carrying out evictions, arrests, closing access to land, and/or actions that can disrupt the implementation of land tenure settlements in forest areas.

The redistribution of land to farmers was mandated in the National Medium-Term Development Plan 2015 to 2019, in the form of agrarian reform with a target of nine million hectares, some of which were to be sourced from forest areas totaling as much as 4.1 million hectares. Furthermore, in Presidential Regulation Number 86 of 2018 concerning agrarian reform, it was stated that one of the objects of land redistribution was to source land from the release of State forest areas and/or changes in forest area boundaries. In addition to releasing forest areas, community access to forests was also opened through Social Forestry, as provided in the Regulation of the Minister of the Environment Number: P.83/MENLHK/SETJEN/KUM.1/10/2016 concerning Social Forestry.

In relation to Fishers and Coastal Rural Communities

The decision of the Constitutional Court in the case of reviewing Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, and Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, has guaranteed the access of fishers and coastal rural communities to coastal areas and small islands.

Based on Law Number 7 of 2016 concerning the Protection and Empowerment of Fishermen, Fish Cultivators and Salt Farmers, the central government and local governments are obliged to provide fishery and salt business infrastructure in the form of land for fish cultivators and salt farmers.

Based on Presidential Decree on Agrarian Reform Number 86/2018, it is stated that among the target lands for agrarian reform is Tanah Timbul, namely land forms that appear in coastal waters (beaches, rivers, and lakes) which are usually close to the location of fishers and coastal rural communities.

In the Presidential Decree on Agrarian Reform, it is stated that social groups of fishers and coastal rural communities that fall into the category of agrarian reform subjects are: a) Fisherman [Small Fisherman, Traditional Fisherman, Labor Fisherman]; b) Fish Cultivator [Small Fish Cultivator, Aqua Land Cultivator]; and, c) Salt Farmer [Small Salt Farmer, Salt Pond Cultivator].

In relation to Urban Poor Communities

The urban poor communities' access to housing and land rights has been guaranteed by the State through agrarian reform.
Based on Law Number 1 of 2011 concerning Housing and Settlement Areas, the Government and/or local governments are required to meet housing needs for low-income communities by providing ease of construction and acquisition of houses through a gradual and sustainable housing development planning program. Ease of building and acquiring houses for low-income people will be facilitated through: a) by providing facilities in the form of financing; b) construction of infrastructure, facilities, and, public utilities; c) relief from licensing fees; d) stimulant assistance; and, e) fiscal incentives.

In the Presidential Regulation on Agrarian Reform, it is also stated that the land for the object of agrarian reform can be distributed for non-agricultural purposes to non-peasant reform subjects.

**MEASUREMENT AND REPORTING OF INDICATOR 1.4.2**

The Government of Indonesia is expected to measure and report on SDG Indicator 1.4.2, i.e., “The proportion of adult population who have land rights based on legal documents and who have land rights according by sex and type of ownership, applying national indicators that are in line with global indicators.”

In order to create a reference document for SDG indicators, the Ministry of National Development Planning/BAPPENAS in 2017 published the book *Metadata for Indicators of Sustainable Development Goals Indonesia.*

Indicator 1.4.2 is included in the *Metadata Book of Indonesia’s Sustainable Development Goals Indicators, Pillar III Social Development* (Ministry of National Development Planning [BAPPENAS]; 2020).

**Disaggregated Data by Gender and Ownership**

The number of households is derived from the results of population projections based on the latest population census data. Adult residents are individuals aged 18 years and above, and those who are under 18 years old but are married.

The scope of the indicator is the use of land for housing and shelter, namely housing that provides secure tenure, consisting of: a) self-owned, b) lease/contract, c) service, d) free of rent, and, e) others.

Data for these may be generated from the Population Census, National Socio-Economic Survey, and the Indonesian Demographic and Health Survey. Such data may be disaggregated by location (national, provincial, district/city), urbanity/rurality, and sex of head of household.

Based on the Classification of Residence Ownership Status issued by the Central Bureau of Statistics (BPS), the classifications are defined as follows:

- **Owned**, if the residence at the time of enumeration really belongs to the head of the household (KRT) or one of the household members (ART). Houses purchased in installments through bank loans or houses with lease-purchase status are considered as own homes.
- **Contract**, if the residence is rented by the head of household for a certain period of time based on a contract agreement between the owner and the user, for example, one or two years. The method of payment is usually at
once in advance or can be paid in installments according to the agreement of both parties.

- **Rent**, if the residence is rented by the head of household or one of the household members with regular and continuous rental payments without a certain time limit.

- **Free of rent owned by others**, if the residence is obtained from another party (not family/parents) and is occupied by the household without issuing any payment.

- **Free of rent owned by parents/relatives/siblings**, if the residence is not owned by yourself but belongs to parents/relatives/siblings, and does not issue any payment to occupy the residence.

- **Official house**, if the residence is obtained from another party (not family/parents) and is occupied by the household without issuing any payment.

- **Others**, if the residence cannot be classified into one of the categories above, for example a jointly owned residence, traditional house.

### Perceptions of Tenurial Guarantee

The right to guaranteed shelter includes two sub-components: a) the right of ownership is recognized as a legal document and provides certainty of residence; and, b) the perception of it as a guaranteed shelter, because the type of ownership of the dwelling is considered to be supported by legal documents, both of which need to be shown as dwellings guarantees.

### Available Data

- **On Legally Recognized Documentation**

For data on farmers and small farmers, documentation can be obtained based on the results of the 2013 Agricultural Census and the 2018 Inter-Census Agricultural Survey (SUTAS).

Based on data from the Inter-Census Agricultural Survey (SUTAS, 2018), the number of Agricultural Business Households (RTUP) is 27,682,117 households and the average land area controlled by each household is 0.78 of a hectare, with as many as 15,890,427 RTUP controlling less than half of a hectare of land each.

According to BPS data (2018), there are 33,487,806 Indonesian farmers, consisting of 25,436,478 men and 8,051,328 women. Based on the type of business/sub-sector operated by the Agricultural Business Households, farmers who operate the livestock sub-sector occupy the largest number (13.56 million), followed by the rice sub-sector (13.15 million), plantation (12.07 million), horticulture sub-sector (10.10 million), secondary crops (7.13 million), forestry (5.41 million), fish cultivation (0.86 million), fishing (0.78 million), and other forestry (0.20 million).

As per the National Action Plan for Family Farming 2020 to 2024 of the Ministry of Agriculture in 2019, the livestock and rice crop sub-sectors dominate family farming businesses spread throughout Indonesia.

- **On Perceptions of Tenurial Security**

Tenurial Security is in the form of land use by agricultural households. A household is categorized as an agricultural business household if the household performs at least one of the following activities: a) Land user [rice and or secondary crops,
horticultural crops, plantation crops, forestry plants, livestock/poultry, fish in fresh water, fish in brackish water ponds, managing wild animals in captivity; or b) Non-land user [cultivating fish in the sea, fish in public waters, catching fish in the sea, catching fish in public waters, collecting forest products and or catching wild animals, doing business in the field of agricultural services].

Small farmer households are agricultural households using land less than half of a hectare in area.

**Comments on Methodology and Data**

The methodology and available data do not reflect/cover tenure security under Target 1.4 as recognized in the Metadata Indikator Tujuan Pembangunan Berkelanjutan/Sustainable Development Goals Indonesia, Pilar III Pembangunan Sosial (Ministry of National Development Planning [BAPPENAS]; 2020). Furthermore, data collection which includes land use for business, agriculture, forestry, and, grazing purposes was intentionally not covered due to the unavailability of specific data according to the required calculating indicators.

- **On Legally Recognized Documentation**

In addition to sourcing data from reports by the Statistical Institute, it is also necessary to refer to the report documents on government work achievements, especially in the land sector. One of these is the Directorate of Spatial Planning and Land Affairs of the BAPPENAS, *Laporan Akhir Kegiatan Koordinasi Strategis Reforma Agraria Nasional*, 2018, which contains the failure to achieve land redistribution targets until 2019, based on the Final Report of Strategic Coordination Activities of National Agrarian Reform Directorate of Spatial Planning and Land Affairs (BAPPENAS), as quoted below:

> Land redistribution achievement until 2018 was 3,571,281 hectares, including Expired HGU/Cultivation Rights and 270,237 hectares of Abandoned Land; and the release (land redistribution) of 994,761 hectares of forest areas, with a note that the land released from the forest area is currently only in the inventory process and is expected to be immediately determined through a Decree of the Minister of Environment and Forestry so that it can be followed up with land redistribution activities. It will be difficult to complete by the end of 2019. This is due to the too large burden of the government’s 2019 target to complete the agrarian reform target, which is around 5,428,719 hectares in 2019 of the total 2015 to 2019 RPJMN (national mid-term development plan) target of nine million hectares.

- **On Perceptions of Tenurial Security**

Tenurial security should not be limited to housing rights with proof of ownership in the form of land rights certificates. Even decent housing must also be developed in the rural areas. Along with access to land in order to overcome poverty in rural and urban areas, it is necessary to guarantee access for the poor to land for agriculture, animal husbandry, fishery, and MSME activities.

Tenure security means that there must be the acknowledgment of the existence of the recipients or subjects of agrarian reform program, and the recognition of the rights of indigenous peoples with regard to land and water.
METHODOLOGY AND DATA ON TENURE SECURITY: ISSUES AND RECOMMENDATIONS

Informal and Customary Recognition of Land Rights

The main problem of indigenous peoples’ land rights is the overlap between forests and State lands with customary forests and lands, and the form of State recognition of indigenous peoples. This results in weak or inadequate data held by the government regarding the land rights of indigenous peoples.

In order to improve the methodology and data, it is recommended for the government to compare data held by ministries, local governments, indigenous communities, and community organizations, to see how much recognition of land rights has been given by the government and how much is claimed by the community. The discussion of the draft Law on Indigenous Peoples, for example, should be able to yield data on customary land rights of communities so that the text of the draft law can be used as a reference.

Tenurial Security for Women

The insecurity of land ownership by women occurs due to the fact that women are not recognized as the head of the family, and therefore women are excluded from the list of subjects for agrarian reform. The absence of separation of assets in the practice of marriage has an impact on the loss of women’s land rights.

Land Conflicts and Defenders of Land Rights

The problem with data on land conflicts is the absence of the same data on agrarian conflicts – not only differences in data between community organizations and government agencies, but also differences in data among government agencies. There are differences regarding land tenure conflicts between those reported by the government and data from civil society organizations as stated in the KPA report. Based on KPA data, there are 987 cases, while the Government (Ministry of Agrarian Affairs and Spatial Planning/State Land Agency [ATR/BPN]) reports 8,500 cases. Among the reasons for the differences in the data is the use of varied monitoring tools and different perspectives in viewing agrarian issues.

The establishment of a typology of disputes, cases, and land conflicts by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency further confuses data collection on land conflicts.

Criminalization in agrarian conflicts likewise raises the government’s reluctance to include those criminalized in the category of defenders of land rights, especially in land conflicts between the community and the government.

Transparency and Enforcement of Land Management

The laws and regulations in Indonesia have in fact guaranteed access to public information. However, in land management, transparency is still an obstacle, as in the case of the controversy over the disclosure of data and information on land use rights (HGU), protracted land conflicts, and, the emergence of the issue of the land mafia that perpetrates land grabbing by manipulating land data and information.
Disclosure of data and information is, however, required from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency regarding guarantees of land redistribution for the poor, resolving land conflicts, and, integrating data on agricultural land and customary with residential data within the framework of reporting on SDG targets.

**Impact of COVID-19 on land rights**

Recommendations for the Government to produce more honest and accurate reports on land tenure security for the poor, also taking into account the impact of COVID-19 on land rights, are to change regulations and policies related to national targets, indicator metadata, and the involvement of community organizations working in land rights advocacy.

Although there is no direct impact on the communities, based on KPA data, agrarian conflicts are still ongoing, and even tend to set new precedents. The potential for exploiting the situation while the attention of the State and society in general is on the COVID-19 crisis means that agrarian conflicts that are occurring do not receive adequate attention from the media and the public.

Agrarian conflicts in the pandemic era have not been specifically reported by the government. Therefore, from the government’s perspective, there was no data on conflicts that occurred during the pandemic and previous periods.

Economic recovery amidst COVID-19 in rural and urban areas can be done by providing access to land, proper settlements, and, access to other agrarian resources. One of the impacts of the COVID-19 pandemic is the obstruction of people’s economic activities, mainly due to the weak access to agrarian resources particularly in rural areas. Thus, the fulfillment of people’s rights to land and access to agrarian resources is a necessity to support the economy of farmer households and improve the economy in the long term.

National targets and indicator metadata need to be improved so that they are in line with the SDG targets or indicators that have been formulated by the United Nations, including documents that will be the basis for the preparation of the SDG achievement reports. For example, the Integrated Agricultural Survey Results published by the Central Bureau of Statistics pointed out that the Agricultural SDGs Indicator 2020 in West Java, East Java, and West Nusa Tenggara can be improved, as farmers’ access to land is based only on the following indicators: a) ownership of legal documents; b) existence of the right to sell agricultural land; and, c) existence of the right to inherit agricultural land. It should also include the amount of land that was redistributed to small farmers through agrarian reform policies, and the number of agrarian conflicts involving farmers that were resolved.

Access to agrarian resources as well as efforts to solve the problem of inequality in the agrarian structure cannot be adequately addressed through a certification program alone. Beyond that, it is about access to land by the poor in the context of genuine agrarian reform which will result in increased access and fulfilled rights of the people (farmers, indigenous peoples, and women) to land and agrarian resources holistically.

Community organizations that advocate for land rights are often not involved in coordinating the implementation of the SDGs. It is important to foster multi-stakeholder cooperation, not only in the context of reporting and measuring SDG targets, but also in the context of achieving the SDGs themselves —
especially, in this case, in terms of access to and guarantee of the control and use of land by the poor communities, in terms of land for work, as well as land for living.

Acronyms

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<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ANGOC</td>
<td>Asian NGO Coalition for Agrarian Reform and Rural Development</td>
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<tr>
<td>BAL</td>
<td>Basic Agrarian Law</td>
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<tr>
<td>BD</td>
<td>Bina Desa</td>
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<td>BPN</td>
<td>National Land Agency</td>
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<td>BPS</td>
<td>Central Bureau of Statistics</td>
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<td>FGD</td>
<td>focus group discussion</td>
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<td>HGU</td>
<td>land use rights</td>
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<td>ILC</td>
<td>International Land Coalition</td>
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<td>INFID</td>
<td>International NGO for Indonesia Development</td>
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<tr>
<td>KLHK</td>
<td>Ministry of Forestry and the Environment and Forestry</td>
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<td>KPA</td>
<td>Consortium for Agrarian Reform</td>
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<td>LWA</td>
<td>Land Watch Asia</td>
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<tr>
<td>MSME</td>
<td>micro, small and medium enterprises</td>
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<td>PPTKH</td>
<td>Settlement of Land Tenure in Forest Areas</td>
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<td>RAN</td>
<td>National Action Plan</td>
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<td>RPJMN</td>
<td>National Medium-Term Development Plan</td>
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<td>RPJPN</td>
<td>National Long-Term Development Plan</td>
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<td>RTUP</td>
<td>Agricultural Business Households</td>
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<td>SDG</td>
<td>Sustainable Development Goal</td>
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<td>SUTAS</td>
<td>Inter-Census Agricultural Survey</td>
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<td>TORA</td>
<td>Land for Agrarian Reform Objects</td>
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<td>UU P3H</td>
<td>Protection and Prevention of Forest Destruction</td>
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<td>VNR</td>
<td>Voluntary National Review</td>
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