

Getting a Clearer Picture:

Civil Society Reports on Progress Towards
SDG Target 1.4 in Seven Asian Countries,
2020





Founded in 1979, the **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)** is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in promoting food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC member networks and partners work in 10 Asian countries together with some 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

The complexity of Asian realities and diversity of CSOs highlight the need for a development leadership to service the poor of Asia – providing a forum for articulation of their needs and aspirations as well as expression of Asian values and perspectives. Thus, the ANGOC network shall advocate and promote land and resource rights, smallholder agriculture, and human rights and civic participation, by serving as a platform for Asian CSOs to generate knowledge, share tools, and conduct constructive policy dialogues.

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium, and the International Land Coalition (ILC).



Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. The campaign involves civil society organizations in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, Pakistan and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and, encourage the sharing of experiences on coalition-building and actions on land rights issues.

ANGOC is the regional convenor of LWA.

ANGOC can be reached at:
 33 Mapagsangguni Street
 Sikatuna Village, Diliman
 1101 Quezon City, Philippines
 P.O. Box 3107, QCCPO 1101, Quezon City, Philippines
 Tel: +63-2 8351 0581 Fax: +63-2 8351 0011
 Email: angoc@angoc.org
 Website: www.angoc.org
 Facebook: www.facebook.com/AsianNGOCcoalition

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Production team: Nathaniel Don Marquez, Denise Hyacinth Joy Musni, Marianne Jane Naungayan, Melissa Moran, Ma. Cristina Dumlao, Eisen Villanueva, Gerard Jerome Dumlao, Maria Azel Cabello Gorne, Joseph Onesa, Lennie Rose Cahusay, Joy Dumalanta

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Antonio B. Quizon
Nathaniel Don Marquez, Denise Hyacinth Joy Musni

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Land Watch Asia Land Monitoring Working Group



Trustable land information systems are fundamental for responsible land governance. There is a need for sustainable, transparent, reliable data on land rights to empower people and communities to defend their land rights. Thus, the Land Watch Asia Land Monitoring Working Group (LWA LMWG) provides a platform for civil society organizations from seven countries in Asia to discuss, enhance each other's capacities, and develop tools towards monitoring global commitments as well as governments' policies and programs on land and resource tenure.

BANGLADESH



Association for Land Reform and Development (ALRD) was established in January 1991 as single-focused rights based national networking organization, mandated to facilitate the land and agrarian reform advocacy, mobilization and capacity building of its partners and allies in enabling access to and control over natural resources of the poor, landless and marginalized communities in Bangladesh. In the subsequent decades, ALRD emerged as a professionally trained knowledge network in the land sector to amplify the collective voice of the marginalized communities in Bangladesh.

ALRD has a network of 200+ NGOs and civil society organizations all across the country.

1/3 Block-F; Lalmatia
Dhaka-1207
Phone: +88 02 9114660
Fax: +88 02 8141810
Email: alrd@agni.com
Website: www.alrd.org

CAMBODIA



STAR Kampuchea (SK) is a Cambodian non-profit and non-partisan organization established in 1997 dedicated to building democracy through the strengthening of civil society. SK also provides direct support to communities suffering from resource conflicts like land grabbing and land rights abuses through capacity building and legal services.

No. 71, Street 123, Sangkat Toul Tompoung 1
Khan Chamkar Morn, Phnom Penh
Phone: (855) 23 211 612
Fax: (855) 23 211 812
Email: star@starkampuchea.org.kh
Website: starkampuchea.org.kh

INDIA



The **Foundation for Ecological Security (FES)** works towards conservation of nature and natural resources through collective action of local communities. In India, FES has played a pioneering role in furthering the concept of *commons* as an effective instrument of local governance, as economic assets for the poor and for the viability of adjoining farmlands.

Post Box No. 29 At-Jahangirpura
PO-Gopalpura Vadod-388 370 Hadgud
District-Anand Gujarat
Phone: +91 261238-39
Email: ed@fes.org.in
Website: www.fes.org.in



Founded in 1984, the **South Asia Rural Reconstruction Association (SARRA)** has the mandate to strengthen grassroot democracies in the South Asia region. SARRA has functioned as the regional partner of ANGOC in building the capabilities of the NGO sector, CSOs and academic institutions to contribute in their empowerment and to enable them to actively participate in development processes. SARRA emphasizes the importance of traditional knowledge by blending with modern development techniques for the empowerment of the poor and powerless communities for their sustainable development.

LUMDINI, 2ND CROSS, 1ST MAIN
Veerabhadra Nagar, Marathahalli Post
Bengaluru-560035
Landline: 00-91-80-25232227
Mobile: 00-91-9985947003
Email: kodirohini@gmail.com/
sarraindia@gmail.com
Website: www.cgnfindia.org

INDONESIA



Established in 1994, the **Consortium for Agrarian Reform (KPA)** currently consists of 153 people's organizations (peasants, indigenous peoples, rural women, fisherfolk, urban poor) and NGOs in 23 provinces in Indonesia. KPA fights for agrarian reform in Indonesia through advocacy and the strengthening of people's organizations. KPA's focus on land reform and tenurial security, and sustained policy advocacy initiatives on these issues have put the coalition at the forefront of the land rights struggles of Indonesia's landless rural poor, and indigenous peoples in several areas in Outer Java. KPA encourages a participatory and pluralistic approach that recognizes the development of different systems of land use and tenure to ensure land rights. KPA is a people's movement that has an open and independent character.

Komplek Liga Mas, Jl. Pancoran Indah I
No.1 Block E3
Pancoran, South Jakarta 12760
Phone: (021) 7984540
Fax: (021) 7993834
Email: kpa.seknas@gmail.com
Website: www.kpa.or.id



Bina Desa is a Non-Governmental Organization (NGO) in the field of rural human resource empowerment. Established on 20 June 1975, Bina Desa focused on community empowerment by implementing community-based organizing and empowering the rural people rights issues, including land rights, food and agriculture-fisheries, natural farming and gender justice.

Komplek Liga Mas, Jl. Pancoran Indah I
No.1 Block E3
Pancoran, South Jakarta 12760
Phone: (021) 8199749, 8519611
Fax: (021) 8500052
Email: redaksi@binadesa.org
Website: www.binadesa.org

KYRGYZSTAN



The **National Union of Water Users Association (NUWUA)** is a non-profit organization formed on the basis of voluntary participation, self-government, legality, publicity, openness, acting in the public interest with a view to coordinating and facilitating the activities and development of water user associations of Kyrgyzstan. The main objectives of the NUWUA are to: a) promote the development of WUAs; b) coordination of their activities; c) settlement of WUA relations with other economic entities and State bodies; and, d) attraction of loans, grants and other funds from donor organizations to provide technical assistance and improve the irrigation infrastructure of the viable water users' associations that have entered the Union.

6 Kamskaya Street, Bishkek
Tel/Fax: +996 312 564586
E-mail: wua.union.kg@mail.ru
Website: www.wuaunion.kg



Community Self Reliance Centre (CSRC) has been at the forefront of land and agrarian rights campaign in Nepal. CSRC educates, organizes, and empowers people deprived of their basic rights to land to attain free, secure, and dignified lives. The organization's programs focus on strengthening community organizations, developing human rights defenders, improving livelihoods, and promoting land and agrarian reform among land-poor farmers. Since its establishment, CSRC has constantly worked to transform discriminatory and unjust social relations by organizing landless, land poor and marginalized communities to claim and exercise their rights.

Dhapasi, Kathmandu
Phone: 0977 01 4360486 / 0977 01 4357005
Fax: 0977 01 4357033
Email: landrights@csrcnepal.org
Website: csrcnepal.org

PHILIPPINES



People's Campaign for Agrarian Reform Network, Inc. (AR Now!) is an advocacy and campaign center for the promotion of agrarian reform and sustainable development. Its vision is to achieve peasant empowerment, agrarian and aquatic reform, sustainable agriculture and rural development.

38-B Mapagsanguni St., Sikatuna Village
Diliman, 1101 Quezon City
Phone: +63-2-84330760
Fax: +63-2-89215436
Email: arnow.inc@gmail.com



Center for Agrarian Reform and Rural Development (CARRD) is a non-stock, non-profit organization working for agrarian reform and rural development. CARRD believes in an inclusive rural development that is based on equitable access to and ownership of productive resources.

No. 22 Matipid St., Sikatuna Village
Quezon City 1101
Phone: +63-2-87382651
Fax: +63-2-89267397
Email: carrdinc@gmail.com
Website: www.carrd.org.ph



Philippine Association For Intercultural Development (PAFID) is a social development organization which has been assisting Philippine indigenous communities to secure or recover traditional lands and waters since 1967. It forms institutional partnerships with indigenous communities to secure legal ownership over ancestral domains and to shape government policy over indigenous peoples' issues.

71 Malakas Street, Quezon City
Phone: +63-2-89274580
Fax: +63-2-8435406
Email: pafid@skybroadband.com.ph/
pafid@yahoo.com
Website: www.pafid.org.ph



Xavier Science Foundation, Inc. (XSF) is a non-political, non-stock, non-profit organization established and designed to encourage, support, assist, and finance projects and programs dedicated to the pursuit of social and educational development of the people in Mindanao. It is a legal and financial mechanism generating and managing resources to support such socially- concerned and development-oriented projects and programs.

Manresa Complex, Masterson Avenue
Upper Balulang, Cagayan de Oro City
Phone: +63-88-8516887
Website: www.xsfoundationinc.org

CONVENOR



Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), founded in 1979, is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC network members and partners work in 10 Asian countries together with 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs) and international financial institutions (IFIs).

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium and the International Land Coalition (ILC).

33 Mapagsanguni Street, Sikatuna Village
Diliman, 1101 Quezon City, Philippines
Phone: +63-2-83510581
Fax: +63-2-83510011
Email: angoc@angoc.org
Website: www.angoc.org
Facebook: www.facebook.com/AsianNGOCoalition

Foreword

The transition from the Millennium Development Goals (MDGs, 2000 to 2015) to the Sustainable Development Goals (SDGs, 2016-2030) signaled a shift to a more holistic approach to ending global poverty and hunger, and ensuring a more equitable and environmentally sustainable future for all. All 17 SDGs are intertwined, meaning that the success in one Goal is seen to impact on all the others. In addition, all 17 of the SDGs, cast a spotlight on the need to address the needs of poor and disadvantaged populations worldwide.

In terms of land rights, **Target 1.4** under **SDG 1: “to end poverty in all its forms”** signifies a new global recognition that secure land tenure and access to natural resources and basic services, *especially for poor and vulnerable women and men*, should be central in the global strategy to fight poverty and social exclusion.

SDG Indicator 1.4.2 specifies the parameters of land rights and measure of the progress in achieving Target 1.4: **“Proportion of total adult population with secure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure.”**

As such, SDG indicator 1.4.2 is key to monitoring each country’s progress in achieving *secure land and property rights as an enabling condition for poverty reduction*. Globally, land rights is recognized as essential to the enjoyment of other fundamental human rights -- shelter, food, freedom, human dignity and security.

This report hopes to bring focus and attention to the land agenda which has not been prominently addressed in recent SDG reporting processes of governments. In most cases, States do not report on land-related goals and indicators in their SDG Country Reports and Voluntary National Reviews (VNRs). It is important to understand the centrality of land rights and land tenure, and the progress of achieving SDG 1.4, in eradicating hunger and poverty.

This publication “*Getting a Clearer Picture: Civil Society Reports on Progress Towards SDG Target 1.4 in Seven Asian Countries, 2020*” presents six country reports on SDG monitoring and one case study which were conducted by Land Watch Asia (LWA) partners in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, and the Philippines. This report builds on LWA’s two publications in 2018 – the “*State of Land Rights and Land Governance in Eight Asian Countries*” and “*Scoping Paper on the Readiness of National Statistical Offices to Report on SDG Indicator 1.4.2 in Eight Asian Countries*” – which analyzed land issues related to SDG 1.4.2 such transparency in land governance, and land and resource conflicts.¹

The country reviews and case study used both primary data and secondary data, which include reports and documents from National Statistics Offices (NSOs)

¹ See <https://angoc.org/portal/land-rights-and-land-governance-portal-asian-ngo-coalition/> and <https://angoc.org/portal/nso-report-on-sdg-indicator-portal-asian-ngo-coalition/>

and National Planning Agencies, UN agencies, CSOs and partner communities. Other materials reviewed were the VNRs, statistical data on land, government regulatory frameworks and policies on land tenure. Multi-stakeholder workshops were held to discuss the initial draft reports and findings within countries, engaging NSOs, government land and planning agencies, international organizations, representatives of community groups and sectors, and CSOs working on land issues. Such processes bring to fore the need to strengthen in-country partnerships for enhanced data generation on the SDGs.

All the seven country reports revealed that the SDGs have been incorporated into the medium- and long-term plans of governments. National development planning entities have been designated as the lead agencies for coordinating work on the SDGs, along with National Statistical Offices (NSOs). However, most NSOs are still currently in the process of developing and further refining the methodologies and measurements of SDG 1.4.2. At the same time, the poor state of land records and land administration, the multiple agencies and sources of data on land tenure security, and the diversity of land tenure systems within each country – all pose major challenges to the development of specific indicators and methodologies for gathering, consolidating, and reporting on SDG 1.4.2.

Further, *none of the countries collect or report perception data on tenure rights*, as stipulated under SDG 1.4.2. This is an important matter, in view of the fact that having some legal rights does not automatically guarantee security of tenure, if people perceive that their legitimate tenure rights are not adequately protected.

Meanwhile, many CSOs have begun to conduct community-level focus group discussions and consultations about local-level perceptions of security of land tenure. These have led CSOs to realize the multiple threats local people face in the enjoyment of land tenure rights – including land grabbing, land disputes, development aggression, State expropriation, armed conflict, natural disasters and climate change.

Hence, CSOs are called to continue their advocacy for policy agendas and reforms both within and beyond the SDGs. They should likewise continually scale-up their research to inform their advocacy as well as to find effective ways to share knowledge and lessons with policymakers and the public.

Towards this end, the LWA campaign shall continue to **optimize SDGs as a platform for joint learning**, and **monitor the actions, data, and methodologies of governments in implementing SDG 1.4**.

Finally, we acknowledge the Land Watch Asia Land Monitoring Working Group and researchers for preparing the CSO Reports on SDG 1.4. These are: Association for Land Reform and Development (Bangladesh), STAR Kampuchea (Cambodia), Foundation for Ecological Security (India), Bina Desa (Indonesia), National Union of Water Users Associations of the Kyrgyz Republic and Kyrgyz Association of Forest and Land Users (Kyrgyzstan), Community Self Reliance Centre (Nepal), and People’s Campaign for Agrarian Reform Network, Inc., Philippine Association For Intercultural Development, and NGOs for Fisheries Reform (Philippines). Our appreciation also to Tony Quizon and Denise Musni for weaving together the Regional Summary Report and the production team for assembling this publication.

Nathaniel Don E. Marquez
Executive Director, ANGOC

REGIONAL SUMMARY

**Monitoring Progress on Land Rights
under SDG 1.4:
Are We on the Right Track?**

THE SOCIAL DEVELOPMENT GOALS (SDGs)

The Sustainable Development Goals (SDGs) were born at the United Nations Conference on Sustainable Development in Rio de Janeiro in 2012 with the objective of producing a set of universal goals to address the urgent environmental, political, and economic challenges facing our world.

On 25 September 2015, the UN's 193 Member States adopted new global goals for the next 15 years (2016 to 2030) at the UN Sustainable Development Summit in New York. Also known as "The 2030 Agenda," the Declaration "Transforming our World: The 2030 Agenda for Sustainable Development" includes 17 Sustainable Development Goals.

The SDGs replace the Millennium Development Goals (MDGs, 2000 to 2015), which started a global effort to tackle the indignity of poverty. The MDGs earlier established measurable, universally agreed objectives for tackling extreme poverty and hunger, preventing deadly diseases, and expanding primary education to all children, among other development priorities.

But while the MDGs focused on developing countries, the SDGs are "universally applicable to all countries while taking into account different national realities, capacities and levels of development and respecting national policies and priorities."

The SDGs mark a major step forward compared to the earlier MDGs. They reflect a wider global commitment to end poverty and hunger everywhere, and to move towards a more equitable and environmentally sustainable path. All 17 SDG Goals interconnect, meaning success in one Goal affects success for others. Dealing with the threat of climate change impacts how we manage our fragile natural resources, achieving gender equality or better health helps eradicate poverty, and fostering peace and inclusive societies will reduce inequalities and help economies prosper. The SDGs seek to make sure "no one is left behind."

SDG 1 and Land Rights. SDG 1: "to end poverty in all its forms" – includes targets related to social protection, land rights and resilience. More specifically, Target 1.4 signifies a new global recognition that secure land tenure and access to natural resources, especially for poor and vulnerable women and men, should be a central strategy in global actions to combat poverty and social exclusion. Land tenure security is also seen as essential to ensure shelter and to enable people and families to access needed services.

As stated in SDG target 1.4: "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 land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.**" *[emphasis added]*

The importance of land rights is made more explicit in SDG Indicator 1.4.2, which will measure the progress made towards Target 1.4: "**Proportion of total adult population with secure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure.**" This indicator also provides a globally comparable basis to measure tenure security over land.

Other land-related SDGs and Targets. Other SDG Goals (i.e., Goals 2, 5, 11, and 15) also recognize the role of land in sustaining human development. The need for

secure land rights is specifically mentioned under SDG Goals 2, 5, and 11, and is reflected in their associated targets and indicators:

- Under **Goal 2** – “Zero Hunger” – Target 2.3 seeks to “double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, (and) other productive resources.”
- Under **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 particularly seeks to monitor women’s ownership of agricultural land.
- Under **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 urban populations living in slums, informal settlements or inadequate housing.

Overall importance of Indicator 1.4.2. Target 1.4 is the sole focus among land related SDG objectives that specifies the need to provide *vulnerable populations* with control and ownership of land and natural resources. As such, Indicator 1.4.2 remains as the key to monitoring country progress in the achievement of secure land and property rights as an enabling condition for poverty reduction. The data collected for SDG indicator 1.4.2 will likewise be directly relevant to other SDG objectives – specifically to Targets 2.3, 5a, and 11.1, as cited above.

Land tenure security is particularly relevant to Asia, where poverty is largely rural and agricultural. It is home to 70 percent of the world’s indigenous people, and accounts for an estimated 87 percent of the world’s small farms that depend on household labor and cover less than two hectares of land.

Monitoring the SDGs. In 2015, the United Nations Statistical Commission (UNSC) created the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs) composed of Member States and including regional and international agencies as observers. The IAEG-SDGs was tasked to develop and implement the global indicator framework for the Goals and targets of the 2030 Agenda.

All SDG indicators are classified into *three tiers* according to the availability of suitable data sources and methodologies for data collection and analysis, and the extent to which countries are able to track progress against the indicator. As of the UNSC 51st Session in March 2020, the global indicator framework does not contain any Tier III indicators.

As of March 2021, Indicator 1.4.2. is under Tier II status, meaning that it has an internationally established methodology, but such data are not regularly produced by countries.

Box 1. Classification of SDG Indicators

- *Tier I:* Indicator is conceptually clear, has an internationally established methodology and standards are available, and data are regularly produced by countries for at least 50 percent of countries and of the population in every region where the indicator is relevant.
- *Tier II:* Indicator is conceptually clear, has an internationally established methodology and standards are available, but data are not regularly produced by countries.
- *Tier III:* No internationally established methodology or standards are yet available for the indicator, but methodology/standards are being (or will be) developed or tested.

At the global level, the United Nations Human Settlement Programme (UN-Habitat) and the World Bank (WB) are the **custodian agencies** for SDG Indicator 1.4.2. The main task of the custodian agencies is to develop the methodology for monitoring this indicator. Given that Indicator 1.4.2 is linked to other Targets and Indicators, partner agencies are the UN Statistics Division (UNSD), Food and Agriculture Organization (FAO), UN Women, United Nations Environmental Programme (UNEP), and the International Fund for Agricultural Development (IFAD). FAO is the custodian for Indicator 5.a.1, that focuses on agricultural land for women and 5.a.2 that monitors women’s equal rights to land under a country’s legal (and customary) framework.

At country level, National Statistical Offices (NSOs) are mandated to lead in the collection of data requirements of national governments, including data on land. NSOs are also tasked to report on country progress in the achievement of the SDGs.

CSOs and the SDGs. A range of civil society organizations (CSOs) had influenced the development of the new Agenda 2030, which led to a rights-based agenda for development that goes far beyond the ambitions of the earlier MDGs.

Through SDG 17 – “*Global Partnership for Development*” – the 2030 Agenda recognizes that strong global partnerships and cooperation with all stakeholders are key to the realization of the SDGs. This includes the involvement of civil society organizations (CSOs), due to their direct connection with poor, vulnerable and marginalized communities.

The role of CSOs is often expressed in terms of “*localizing the global goals, and monitoring progress.*” CSOs can support implementation through their on-ground development work, as well as offer advice on concrete SDG implementation based on their field experiences. Monitoring work on the SDGs can spur government action through advocacy and by CSOs acting as watchdogs to hold governments accountable to their commitments. Moreover, through their linkages with local communities, CSOs can contribute to bottom-up SDG monitoring as part of national reporting processes.

INTRODUCTION TO THE STUDY

This document sets out the findings of a multi-country study undertaken in 2020. It seeks to identify potential gaps in national reporting on land under the SDGs. It gauges the progress made by governments towards addressing land rights

under SDG 1.4, not only through the lens of official data and global indicators, but also through studies and feedback from CSOs and rural communities.

Objectives of the CSO Reports

- Contribute to sustaining the SDG reporting processes of governments, with emphasis on land-related targets (primarily SDG Indicators 1.4.1 and 5.a.1);
- Lobby governments to use the CSO reports 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 in the land sector.

Process. Six country reviews on monitoring SDG 1.4 were conducted in 2020 by CSOs in Bangladesh, Cambodia, Indonesia, Kyrgyzstan, Nepal, and the Philippines. As in the case of India, the report contains perceptions of community representatives in 12 villages in the States of Jharkhand and Odisha.

The overall research process involved:

- Convened a regional planning meeting in March 2020;
- Country reviews and a case study prepared in seven (7) countries in 2020;
- Multi-stakeholder workshops convened in Bangladesh, Cambodia, Nepal, and the Philippines to discuss the respective study findings;
- Conducted focus group discussions in 12 villages in two States in India to validate findings;
- Organized an online regional workshop in October 2021 to present and discuss highlights from the country review studies; and,
- A regional summary report as reviewed and finalized.

Figure 1. Process in the preparation of the study



Methodology. The country reviews and case study used both secondary data and primary data. The main reference materials used and updated by the researchers were the two studies prepared by LWA LMWG in 2018: a) State of Land Rights and Land Governance in Eight Asian Countries, and b) Scoping Paper on the Readiness of National Statistical Offices to Report on SDG Indicator 1.4.2 in Eight Asian Countries.

Secondary sources included reports and documents from National Statistics Offices (NSOs) and other government agencies, UN agencies, CSOs and partner communities. The reviewed materials included Voluntary National Reviews (VNRs), statistical data on land, government regulatory frameworks and policies on land tenure, and reports on the progress of SDGs.

Primary sources included focus group discussions (FGDs) with CSOs and community organizations to obtain perspectives on the meaning and status of “tenure security” in local contexts, as well as key informant interviews (KIIs) and semi-structured interviews (SSIs) to assess progress made on monitoring SDG Indicator 1.4.2.

At country level, participants of multi-stakeholder workshops discussed the initial draft reports and formulated recommendations in response to the findings. At various degrees, these processes involved NSOs, government land and planning agencies, international organizations, representatives of community groups and sectors, and CSOs working on land issues.

With regard to India, through FGDs and KIIs, the perceptions of the villagers in the two States and analysis of specific contexts (Scheduled Castes and Scheduled Tribes) were used to show the kind of challenges faced in documenting land tenure security (1.4.2) in the country’s context. The case study is supplemented by the status of land data – national context and background of Jharkhand and Odisha States.

Face-to-face meetings were limited due to prevailing restrictions in each country related to the COVID-19 pandemic. Many of the meetings were organized through online and exchanges made through telephone and email. In a few cases, community-level consultation meetings were organized.

Table 1. CSO researchers and reports

Country	CSO Researcher(s)	Title of Report
Bangladesh	Association for Land Reform and Development	CSOs Need to Push for Land Tenure and Security Data
Cambodia	STAR Kampuchea	A Call for Land Tenure Security Inclusion in Cambodia Sustainable Development Goals
India	Foundation for Ecological Security	A look into village-level perceptions on “land tenure security” amidst India’s land data challenges
Indonesia	Bina Desa	Land Rights and Tenure Security of Vulnerable Groups Not Among Reported Data
Kyrgyzstan	National Union of Water Users Associations of the Kyrgyz Republic Kyrgyz Association of Forest and Land Users	Working towards a True and Accurate Land and Resources Tenure Security Report
Nepal	Community Self Reliance Centre	CSOs Have Yet to Make Nepal’s Land Agenda SDG-Accountable
Philippines	Asian NGO Coalition for Agrarian Reform and Rural Development People’s Campaign for Agrarian Reform Network, Inc. Philippine Association For Intercultural Development NGOs for Fisheries Reform	Getting a Fuller Picture

Organization of the report. This report provides a summary of the key findings and recommendations of the country studies. It focuses on five main topics:

- Government efforts at pursuing the SDGs, in particular SDG 1.4;
- CSO initiatives at monitoring the SDGs, with focus on SDG 1.4;
- Monitoring of SDG Indicator 1.4.2;
- Summary of Findings; and,
- Key areas to address for pursuing land tenure security under SDG Target 1.4.

GOVERNMENT EFFORTS AT PURSUING THE SDGs, IN PARTICULAR SDG 1.4

Country efforts at pursuing the SDGs are summarized below:

Bangladesh. Land-related SDG Targets and Indicators are reflected in the country’s mid-term plan (8th Five Year Plan), long-term plan (Perspective Plan 2041) and in its longer-term plan (Delta Plan 2100).

- The *Eight Five-Year Plan* (2020 to 2025) provides for the distribution of government *khas* land to the landless and marginal farmers and encourages owners of tea gardens to earmark land in their estates where workers can build their own dwellings. It gives importance to land use, zoning, housing reclamation of new land in the coastal zone, and others.
- *Perspective Plan 2041* highlights the need for effective land governance and administration as one of the goals “[in creating] the supportive environment for markets to function efficiently.” Along with approaches to flood control, water storage, irrigation, agriculture, forest resource management, etc., land management is cited as a major element in the policy package for reducing poverty and improving environmental management. The Plan includes proposals to recover lost government *khas* lands, to introduce regulations on the use of agricultural lands, and to digitize land records.
- *Delta Plan 2100* focuses on the management of water, land, ecology, environment, and enhanced resilience to climate change in a country that features the world’s largest river delta. It is a comprehensive plan that seeks to eliminate extreme poverty, create more jobs, sustain GDP growth, and reduce river and delta out-migration.

The government has thus far submitted two VNRs (2017 and 2020) on SDG implementation. However, land-related targets and indicators are not reported in both reports. In the 2017 VNR, the government mentioned that metadata related to Indicators 1.4.1 and 1.4.2 were yet to be finalized by the United Nations Statistical Commission (UNSC). In the 2020 VNR, the government kept silent on the status of people’s ownership and control over land and property, inheritance, and natural resources.

Cambodia. In 2015, Cambodia adopted all 17 SDGs, and added Goal 18 related to the “clearance of land mines and of explosive remnants of war (ERW).” Thus, the Cambodian SDGs (CSDGs) version has 18 Goals, 88 nationally relevant Targets and 148 (global and locally-defined) indicators under the *CSDG Framework, 2016 to 2030*.

Under the Ministry of Planning (MoP), the National Institute of Statistics (NIS) has been responsible for localizing the SDG Indicators in the CSDGs and in developing the indicators. The CSDGs were approved in 2018.

However, SDG Indicator 1.4.2 is not found in the document “CSDG Framework, 2016 to 2030.” Instead, there is a CSDG Indicator 1.4.1: “Percentage of total members of registered community fisheries and forestry with tenure rights to fishery and forestry resource management through effective community registration and management.” This is different from global SDG Indicator 1.4.1 which states: “Proportion of population living in households with access to basic services.”

Meanwhile, in 2017, the MoP conducted a feasibility study on how to integrate SDG Indicator 1.4.2 into the CSDGs, in alignment with the SDGs. The MoP plans to add this land indicator into the CSDGs in 2023.

The MoP has overall responsibility for monitoring and evaluation and maintains the CSDG Indicator database. It is tasked to submit annual updates and five-year milestone reports on the CSDGs. Meanwhile, the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) and the Ministry of Agriculture, Forestry and Fisheries (MAFF) are responsible for data gathering and preparing reports related to land.

Cambodia’s VNR 2019 reported on the country’s performance on the CSDGs with in-depth reviews of six SDGs (Education, Decent Work and Growth, Reduced Inequality, Climate Action, Peace and Institutions, and SDG Partnerships). CSOs and other sectors were involved in consultative meetings in preparation of the VNR. However, the VNR did not include land-related SDG targets and indicators.

India. The NITI Aayog (Policy Commission, or National Institution for Transforming India) is the agency mandated to oversee the adoption and monitoring of the SDGs in the country. It prepares frameworks for reporting various indicators, compiles the data from various agencies and prepares annual and periodic reports on achievement of various SDGs. SDG India Index and Dashboard measures progress against various goals by various States and Union Territories. Since its launching in 2018, the index has been comprehensively documenting and ranking the progress made by States and Union Territories towards achieving the SDGs. The third edition of the SDG India Index 2020 to 2021 was released in June 2021. From covering 13 Goals with 62 indicators in the first edition in 2018, the third edition in 2021 covers 16 Goals on 115 quantitative indicators, with a qualitative assessment on Goal 17.

India has completed two VNRs, issued in 2017 and in 2020.

Land and land revenue are State subjects under the Constitution of India. State legislatures make laws on all matters pertaining to land, land records, settlement and distribution of lands. Revenue Departments of State governments are the nodal departments for administration and management of lands.

Indonesia. The National Development Planning Agency (or BAPPENAS) is responsible for preparing the roadmap and national action plans for implementing the SDGs. This agency is responsible for coordinating the monitoring, evaluation and reporting of SDG achievements at national and sub-national (region) levels. Two VNRs have been prepared (in 2017 and 2019).

BAPPENAS also has a webpage called “SDGs Dashboard” dedicated to reporting available data for SDG official and proxy-indicators, that may be disaggregated into provincial and city/district levels.

The Presidential Regulation 59 of 2017 stipulates that the National Medium-Term and Long-Term Development Plans should be aligned with the SDGs. However, under the 2017 to 2019 Medium-Term Development Plan (or RPJMN) the national target related to SDG Target 1.4 is defined as: “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.” It is noted that the national target is focused on housing, not land rights or security of land tenure.

Under the existing 2005 to 2025 Long-Term Development Plan (RPJPN), one direction for land management is the formulation of regulations for implementing land reform, so that the economically weak can more easily obtain land rights. For RPJPN 2015 to 2019, the target was land redistribution of nine million hectares, sourced from: a) the release of forest areas [4.1 million hectares]; b) granting of land rights on land with cultivation rights that will expire, abandoned land and uncertified transmigration land [about one million hectares]; and, c) asset legalization of community-owned land with agrarian reform recipient criteria [3.9 million hectares].

Comparing the 2017 to 2019 RPJMN and the 2015 to 2019 RPJPN documents, the targets do not appear to be aligned with each other in terms of implementing the SDGs.

The Indonesia VNR of 2019 mentions land rights issues as a problem of social inclusion, and that a large number of farmers are without land. Thus, there are two parallel programs: a) land certification under agrarian reform which means giving certificates over land that is already possessed and without dispute; and, b) social forestry program. Thus far, about 40 percent of the 126 million land certificates have been distributed from 2017 to 2019, while one hectare of land has been distributed to each farmer under the social forestry program.

However, the VNR of 2019 does not report on progress on access to and control over land for poor people, especially women and farmers facing land conflicts. Rather, it mentions progress made in relation to the percentage of households that have access to proper drinking water, sanitation, and electricity services, as well as the percentage of urban slum households. A number of CSOs have pointed out that such reports do not fully present the actual situation as the government tends to simplify agrarian reform as a matter of legality and land titling, which in certain cases can actually have an impact on depriving the rights of small people and excluding them from their rights.

Kyrgyzstan. In terms of the national policy framework, the SDGs have been incorporated into the country’s long-term National Development Strategy (2018 to 2040) as well as in its medium-term Program of the Government on “Unity, Confidence, Creation” (2018 to 2022).

The National Development Strategy places the quality and standard of living, and the rights and obligations of persons, at the center of State policy. It adheres to the global commitment to “leave no one behind,” with priority focus on vulnerable sectors of the population. It guarantees equal rights and full participation of women at all levels of decision-making.

Land rights are secured through a strategic direction in Public Administration, i.e., the Rule of Law — that describes that the State justice system. By 2040, an independent justice system will be built in Kyrgyzstan, which will comprehensively ensure the protection of a person and his/ her legal rights, guarantee the inviolability of property, and create the best conditions in the region for business development.

Under the Program for 2018 to 2022, land rights are not directly reflected. Instead, the program is focused on providing guarantees of security and justice for all citizens, including landowners and land users. The concept is to protect persons and citizens, which should prevail over protecting the system of power. This requires the continued restructuring of the law enforcement system, despite possible internal resistance.

In 2015, a Coordination Committee for Adaptation, Implementation and Monitoring of the SDGs until 2030 was created under Government Resolution No. 867. This is an advisory body that coordinates the activities of State bodies, regions and local self-government bodies, and CSOs involved in implementing and monitoring the SDGs. The Committee is composed of representatives of State executive authorities, Parliament, the National Council for Sustainable Development, and international organizations. The Committee is chaired by the Prime Minister.

The working body of the Committee (or Secretariat) is the Department of Economics and Investments. Meanwhile, the National Statistical Committee (NSC) is the agency responsible for monitoring the achievement of the SDGs. Kyrgyzstan issued its first VNR in 2020.

Nepal. A progressive new Constitution of 2015 has provided the broad framework for instituting policy reforms and for pursuing the SDGs. The 2015 Constitution provides for equal inheritance and property rights for women and men, housing rights, the right to food, and land rights for landless *Dalits*. Nepal has adopted key policies, such as the Rights to Food and Food Sovereignty Act of 2018, the Right to Housing Act of 2018, the National Land Policy of 2015, the Land Use Act of 2019, the 8th Amendment to the Land Related Act of 1964, and the 18th Amendment to the Land Related Regulation of 1964 (Joshi, Gautam, and Basnet, 2021). In 2020, a Land Issues Resolving Commission (LIRC) was formed to provide land to the landless, including to *Dalits*, and to facilitate land ownership for informal settlers.

The government has also mainstreamed SDG Targets into its 15th Plan (2019/20 to 2023/24) and addresses land-related SDGs through sectoral strategies such as the Agriculture Development Strategy (ADS 2015 to 2035).

Under the 15th Plan and the ADS, the government has made several political commitments on land rights and tenure security, i.e., reducing the proportion of landless farmers to zero in 2030, from 26 percent in 2015; increasing women's ownership over property/tangible assets to 40 percent by 2030, from 19.7 percent in 2015; and, increasing the percentage of agricultural land owned by women or in joint ownership to 50 percent by 2030, from 10 percent in 2010.

The Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLMCPA) reports on SDG progress on land to the National Planning Commission (NPC). The NPC is the national body that facilitates the monitoring and evaluation of provincial SDG targets to track progress, identify problems and issues, and to help solve problems of implementation. The NPC also chairs the SDG Implementation and Monitoring Committee that provides guidance to federal ministries, and provincial and local government units on how to mainstream the SDGs in their respective plans and policies. It prepares periodic national SDG reports for submission to the Steering Committee for Implementation and Monitoring of the SDGs – a national policy body established with the Prime Minister as Chair.

Meanwhile, the Central Bureau Statistics (CBS) is the apex body that collects, standardizes, and assures the quality of national data, including those related to the SDGs. Nepal released its second VNR in June 2020.

A critical problem has been the localization of the SDGs at sub-national levels, considering weak institutional structures and problems related to data availability and quality. The VNR 2020 notes that provinces have not followed the guidelines for localization of SDGs in their medium and long-term plans.

Philippines. The SDGs were identified as a key consideration in the formulation of the Philippine Development Plan (PDP 2017 to 2022), founded on three pillars of: a) enhancing the social fabric; b) increasing the growth potential; and, c) inequality-reducing transformation. The PDP was updated in 2021 to reflect strategies for coping with, and overcoming disruptions brought about by the COVID-19 pandemic.

The area of agriculture, forestry and fisheries identifies three sector outcomes: a) sustainable and resilient production; b) increased access to markets of small farmers and fisherfolk; and, c) improved access of consumers to nutritious, affordable and safe food.

The National Economic and Development Authority (NEDA), the country's socioeconomic planning agency monitors the achievement of SDG targets and oversees the implementation of the SDGs. In 2019, NEDA launched a website called SDG Watch (<https://psa.gov.ph/tags/sdg-watch>) which provides the local definition of the SDG indicators as well as the baseline data. NEDA works closely with the Philippine Statistics Authority (PSA) that coordinates with statistical offices in the different government agencies.

NEDA also leads the process of reporting on the SDGs, undertaking VNRs in 2016 and 2019, involving regional and sectoral consultations. The 2019 VNR focused on “empowering people” and “ensuring inclusiveness and equality.” The report highlighted Goals 4 (quality education), 8 (decent work), 10 (reduced inequalities), 13 (climate action), 16 (peace, justice and strong institutions), and 17 (partnership for the goals). The government will prepare another VNR in 2022, focusing on SDGs 4, 5, 14, 15, and 17. The VNR will include future-oriented thinking and a scenario planning approach – in response to the COVID-19 pandemic that continues to adversely impact the country's progress towards achieving the SDGs.

CSO INITIATIVES AT MONITORING THE SDGs, WITH FOCUS ON SDG 1.4

In 2018, CSOs undertook eight in-country studies that focused on the capacity of National Statistical Offices and information systems to monitor and report on SDG Indicator 1.4.2. This report was earlier published by ANGOC, Land Watch Asia, and the LWA LMWG under the title “Scoping Paper on the Readiness of National Statistical Offices to Report on SDG Indicator 1.4.2 in Eight Asian Countries” (<https://angoc.org/portal/nso-report-on-sdg-indicator-portal-asian-ngo-coalition/>).

Described below are some of the CSO initiatives at monitoring the SDGs in each country.

Bangladesh. In 2020, through the Citizen’s Platform for SDGs, CSOs published an alternative SDG report titled “*Four Years of SDGs in Bangladesh: Measuring Progress and Charting the Path Forward.*” However, the report does not include a status on SDG land targets.

Also in June 2020, another CSO report was put forward by the Association for Land Reform and Development (ALRD) entitled “*Towards Sustainable Shared Prosperity: SDGs through the Lens of Access to Land and Natural Resources.*” This report focuses on 12 SDG Indicators pertaining to land access and access to/control of natural resources.

Cambodia. Land rights has been a serious issue in Cambodia. Thus, CSOs and human rights defenders have been actively engaged in the Universal Periodic Review (UPR) on human rights ever since it was introduced in 2007. In 2013, the Cambodian Human Rights Action Committee (CHRAC), a coalition of 21 CSOs, prepared the UPR which it submitted to the UN Human Rights Council. The report included land, housing rights, and eviction issues.

Cambodia’s 2019 UPR also reports that land ownership remains a prominent area of concern. Current policies have resulted in widespread land grabbing, forced evictions, and crackdowns on protestors and journalists. The UPR recommended that the State ensure the settlement of all pending land disputes, evictions and relocations is a fair, transparent, negotiated and adequately compensated manner.

In terms of monitoring the SDGs, there are two mechanisms under the National Institute of Statistics (NIS) that handle coordination with CSOs for their inputs to the VNR. These are the Statistics Coordination Committee (SCC) that handles government agencies, and the Technical Working Group on Population and Poverty Reduction, a high-level platform of government, development partners and CSOs. The NGO Forum on Cambodia (NGOF) and the Cooperation Committee for Cambodia (CCC) are the two umbrella CSO networks that cooperate with these bodies.

In preparation for Cambodia’s VNR of 2019, the NGOF organized a consultation workshop on SDG Goal 13 (Climate Action) in February 2019 with 60 participants. The CCC also organized three sub-regional workshops to collect inputs for the VNR.

In September 2020, NGOF and CCC jointly organized a National Reflection Workshop on the CSDGs: 2016 to 2030” which was attended by 141 participants from State institutions, the academe, communities and CSOs. The workshop focused on three sectors: a) planet and prosperity, b) people, and c) peace and partnership. However, the workshop did not cover Goal 1 (No Poverty) and land related issues under Target 1.4.

Indonesia. The International NGO Forum on Indonesian Development (INFID), a network founded in 1985, has been monitoring implementation of the SDGs. However, its focus has been on the public’s perception of the SDGs. Several CSOs, including the Bina Desa Sadajiwa, monitor the status of land rights, but not for reporting on the status of the SDGs. Current CSO monitoring efforts focus more on agrarian conflicts, and the achievements of agrarian reform and social forestry programs.

Kyrgyzstan. Currently, CSOs in the country do not monitor or compile data in relation to achievement of the SDGs.

Nepal. The SDGs Forum was established in 2016 as a common platform of for CSOs, community-based organizations (CBOs), and international NGOs (INGOs) to advocate for implementation of the SDGs. It is the civil society platform recognized by the government.

Also, the Community Self Reliance Center (CSRC) in coordination with the National Engagement Strategy, a multi-stakeholder platform working on land governance, has been working specifically in monitoring land-related SDGs. In 2021, the group produced a report on “Nepal: Monitoring progress towards land rights in the SDGs.”

Since the government has not been closely reporting on land-related SDG indicators, this presents an opportunity for CSOs to contribute to the monitoring of land-related SDG indicators, and to advocate for the inclusion of land indicators in national development plans and policies.

Philippines. In 2019, CSOs convened a consultation on the SDGs, with the objective of providing an alternative lens to government’s reading of the status of SDGs in the country. This was co-organized by Social Watch Philippines (SWP), together with Global Call to Action Against Poverty (GCAP), Save the Children, and Philippine Alliance of Human Rights Advocates (PAHRA).

MONITORING OF SDG INDICATOR 1.4.2

The *availability* of national data for Indicator 1.4.2 can be assessed along three research questions, while data *quality* is assessed along two questions related to the scope of its coverage. This is presented in Figure 2 below.

Figure 2. Assessing data availability and quality for SDG 1.4.2

SDG INDICATOR 1.4.2	QUESTIONS on DATA AVAILABILITY
<p>“Proportion of total adult population with secure tenure rights to land, with legally recognized documentation, and who perceive their rights to land as secure by sex and type of tenure”</p>	Is data on security of tenure rights to land available?
	Is the data based on <i>legally-recognized documentation</i> ?
	Does the data include people’s <i>perceptions on security of tenure</i> ?
	QUESTIONS on DATA QUALITY
	Is there <i>sex disaggregation</i> of data?
	Does the data look into types of tenure – <i>non-formal</i> (slums and informal tenure), and <i>collective</i> and <i>customary systems</i> ?

In other words, the assessment of *data availability* for Indicator 1.4.2 looks into three factors: a) whether the government actually collects data focused on land tenure rights and tenure security; b) whether the collection of data is based on legally-documented rights; and, c) whether perception-based data is generated about one’s security of tenure.

According to FAO, security of tenure is “the certainty that a person’s rights to land will be recognized by others and protected in cases of specific challenges” (FAO, 2002).

For the assessment of *data quality*, one examines whether land data on security of tenure rights is disaggregated by sex, and type of tenure.

For type of tenure, available land data is assessed whether it reports on populations *in slums or under informal tenure* (including those living in public lands and public spaces, pastoralists and indigenous communities) whose tenure rights are not legally-recognized. These poorest sectors are sometimes not visible or are unaccounted for in government surveys, yet they are the focus of SDG Goal 1, and specifically of SDG Target 1.4. Related to this is whether the reporting on land data includes tenure under *collective ownership* like the case of collective or cooperative farms, or *customary rights* like for the case of indigenous people’s lands.

Table 2 below summarizes the status of how SDG Indicator 1.4.2 has been considered and included in the monitoring and reporting on the SDGs in the different countries.

Table 2. Country data and reporting on SDG Indicator 1.4.1

COUNTRY	DATA AND METHODOLOGY
Bangladesh	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> Bangladesh Bureau of Statistics (BBS) produces some particular, partial, discrete land data through the different official censuses and surveys. Yet no exclusive census or survey on land tenure, access, rights and/or other land issues. <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> The government has issued two VNR Reports (2017 and 2020) but avoided making any description of progress made on improving security of land tenure (Indicator 1.4.2). BBS data as of 2018 shows that 68.63 percent of household heads having agricultural land possess legal documents of their land. These data are based on (census) self-declarations, not on legal documentation. Among indigenous peoples who comprise some two percent of the population, an estimated maximum of 30 percent in plains, and 33 percent in the CHT region have some land according to Barkat (2016, as cited in Suhrawardy, et al., 2021). About 10.32 million people are in livelihoods related to water bodies; 61 percent of them live in poverty. Yet only five percent of leased-out <i>khas</i> water bodies have gone to poor fisherfolk (Barkat, 2016, as cited in Suhrawardy, et al., 2021). <p>On gender-disaggregation</p> <ul style="list-style-type: none"> No official data reported Women are routinely denied rights to inherit land; women rarely have their names on titles, certificates, leases, and contracts; and, the land registration system is not friendly to rural women, many of whom are illiterate. Independent studies estimate that only 15.8 percent of land at household level in rural areas is owned by women; rural land “effectively owned” by women is even lower (Barkat et al., 2017, as cited in Suhrawardy, et al., 2021).

	<p>On perception of tenure security</p> <ul style="list-style-type: none"> • No official data reported; No survey on people’s perception on land tenure • No data on land conflicts • No data on natural disasters affecting land tenure (e.g., river-eroded land, salinity) • No data on land tenure status of climate change induced migrant families • No data on socially excluded communities such as <i>Dalits</i>, <i>Harijan</i>, <i>Bede</i>, and <i>Hijra</i> (transgender) people • “Official data” does not include data from the academe or from CSOs <p>On data regarding other forms of tenure</p> <ul style="list-style-type: none"> • Data on landlessness is available at the national level • Data on tenant households (including sharecroppers) is available • No census of forest dwellers
Cambodia	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> • Indicator 1.4.2 has not yet been included in the Cambodia Sustainable Development Goals (CSDGs) <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • Land tenure data is usually generated mainly through the ongoing land titling and registration programs • From 1989 to 2020, over six million out of the estimated seven million target plots have been titled (86.8 percent of the total land plots) • There are 33 IP communities who have been registered, and 856 communal land titles (CLTs) with 33,899 hectares for 3,235 families are recognized <p>On gender-disaggregation</p> <ul style="list-style-type: none"> • No official data reported • In the 2019 report of the MLMUPC, there is no information about received land titles disaggregated by sex. <p>On perception of tenure security</p> <ul style="list-style-type: none"> • No official data reported • In 2019, the Multidisciplinary Digital Publishing Institute (MDPI) conducted a perception survey regarding access to land in 20 villages in Northern Cambodia. Results revealed that 62 percent of the 1,129 respondents <i>disagreed</i> with the statement that their current land access was enough to meet their household needs. 47 percent of respondents stated that their future access would not be enough (Beauchamp, et al., 2019).
India	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> • Land is a State-level matter. State legislatures make laws on all matters pertaining to land, land records, settlement and distribution of lands. • Multiple tenure regimes in different States – legal frameworks, unrecorded transactions <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • Legal documentation is available from the Department of Land Resources (DoLR) and land records of State Revenue Departments. • 92 percent of the lands have some form of legally recognized documentation.

	<ul style="list-style-type: none"> • 87.8 percent of cadastral maps for 10 States are uploaded in websites. • However, there has been 71 percent variation in actual and textual records. • Corrections on the Record of Rights has been done in the case of 41 percent of FRA individual titles, 0.7 percent of community titles. • 78 percent of Bhoodan lands have not been distributed in the State of Odisha. <p>On gender-disaggregation</p> <ul style="list-style-type: none"> • Current data on women’s tenure rights remains inconsistent. • 12 States have issued orders for collecting and maintaining sex-segregated data on landholdings and transactions. • Eight States have introduced tax incentives for registering land in the name of women. • 34 percent of Titles under the Forest Rights Act have names of women recorded. <p>On perception of tenure security</p> <ul style="list-style-type: none"> • No official data reported; this information is not collected. <p>On data regarding other forms of tenure</p> <ul style="list-style-type: none"> • Large un-surveyed areas remain in tribal and forested areas.
<p>Indonesia</p>	<p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • The proxy indicator to be used for SDG Indicator 1.4.2 focuses on the use of land for housing and shelter, namely housing that provides secure tenure, consisting of: a) self-owned, b) lease/contract, c) rent, d) free of rent, or e) others, such as jointly owned or traditional house. The SDG Dashboard shows data for percentage of the population who own their houses, or have a rental agreement/contract for their dwellings. Data 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. • The VNR of 2020 includes a brief description of the status of housing under SDG 1. • It also mentions “secure tenure rights to land through the implementation of agrarian reform and social forestry” as one of the policy responses in social protection reform, which aims to eliminate extreme poverty in Indonesia by 2024. <p>On gender-disaggregation</p> <ul style="list-style-type: none"> • No official data reported in relation to land rights <p>On perception of tenure security</p> <ul style="list-style-type: none"> • Government does not officially report perception. However, there are several studies on this aspect. In 2009, a study on the perceived tenure security of select households in the kampongs of Bandung, revealed that titling and de-facto tenure (ex., length of residence, other related documents), increased perception of tenure security (Reerink and van Gelder, 2010). A study by Center for International Forestry Research (CIFOR) in Sumatra and Kalimantan, also showed that village residents may view their tenure to be secure, despite only having customary rights and weak land documents (Resosudarmo, et al., 2014).

Kyrgyzstan	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> • Much of the data is available in the database of the Department of Cadastre and Registration of Rights to Real Estate under the State Registration Service, as well as in other relevant State bodies. <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • SDG Indicator 1.4.2 is measured through a State administrative reporting form No. 22 <i>“On the availability of land in the Kyrgyz Republic and their distribution by categories, owners, land users and lands.”</i> • However, information on the progress on land rights, in particular SDG indicator 1.4.2. was not reported in the first VNR of July 2020. <p>On gender-disaggregation</p> <ul style="list-style-type: none"> • No official data reported <p>On perception of tenure security</p> <ul style="list-style-type: none"> • No official data reported
Nepal	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> • Proxy indicator used by government for 1.4.2 is: <i>“Proportion of total adult population with secure tenure rights to land [as shown by]:</i> <ul style="list-style-type: none"> ○ Share of bottom quintile in national consumption (percentage) ○ Households having properly/tangible assets in women’s name (percentage of total)” • Data for this is mostly collected from secondary sources including statistics, survey, and progress reports produced by the Central Bureau of Statistics (CBS), the National Planning Commission and other relevant agencies. • Reported status of accomplishment as of 2019: <ul style="list-style-type: none"> ○ The share of the bottom quintile in national consumption is 12.05 percent [target of 8.8 for 2019]. ○ Households with assets (land and house) in the name of women is 33.9 percent [target of 25.1 for 2019] • However, the indicator used and reported scores cannot provide the basis to measure the progress towards the secure tenure rights to land of adults as indicated in Target 1.4. <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • Data on legally-recognized documentation is available through the Department of Land Management and Archive at national level. At local level, Land Reform and Revenue offices provide these data. • Total landowners: 11,076,422; total plots registered: 35,065,092; a total of 1,887,009 households own less than 0.5 of a hectare. • Indigenous peoples constitute 35 percent of the population, yet their lands are not officially registered and therefore not formally recognized. <p>On gender-disaggregation</p> <ul style="list-style-type: none"> • Gender-disaggregated data by the land and tenure type are not readily available. • The CBS provides gender-disaggregated data for land and house. This type of data can be found with land reform and revenue offices and Survey Offices at local level, which are not well incorporated or maintained at the national dataset. • 16 percent of land is under joint land ownership; some 33.9 percent of women have ownership over assets (land and house).

	<p>On perception of tenure security</p> <ul style="list-style-type: none"> • Government does not collect data on perception of tenure security. • Sample survey was conducted by PRIndex (2019, released in 2020) which showed that 96 percent of rural men and women have some form of documentation to prove their land rights (1.4.2.a), while 82 percent of rural men and women felt their land rights were secure (1.4.2.b) (Joshi, Gautam, and Basnet, 2021).
Philippines	<p>On availability of land tenure data</p> <ul style="list-style-type: none"> • The proxy indicator used for 1.4.2 is: “Proportion of families which own house and lot or owner-like possession of house and lot; own house, rent lot; own house, rent-free, rent lot; own house, rent-free lot with consent of owner; rent-free house and lot with consent of owner.” This data is generated through the Annual Poverty Indicators Survey (APIS), Family Income and Expenditure Survey (FIES), Census of Population and Housing (CPH), and the Census of Population (POPCEN). • However, the data is prone to overstatement because it based on self-declarations; it is not based on legal documentation; the definition includes rent and lease. <p>On legally-recognized documentation</p> <ul style="list-style-type: none"> • Data on legally-documented land rights is available through the different administrative agencies that issue different tenure instruments (i.e., the DENR, DAR, NCIP and the Land Registration Authority). • No single agency consolidates data on land tenure; there are overlapping claims; and there is no single map system. <p>On sex-disaggregated data</p> <ul style="list-style-type: none"> • Data disaggregation is done by several government agencies for specific sectors (i.e., DAR for farmer sector, DA for farmer and fisherfolk sectors, etc.). • Disaggregated data is not consistently collected or applied (e.g., NCIP does not provide gender disaggregated data on land tenure of indigenous peoples). <p>On perception of tenure security</p> <ul style="list-style-type: none"> • Some factors that may affect perception on tenure security include the occurrence of land and resource conflicts, overlapping claims, impacts of climate change and natural disasters, and issues of peace and order – currently there is no official data on these in the context of land tenure. <p>On data regarding other forms of tenure</p> <ul style="list-style-type: none"> • Data is available on lands under collective tenure (DAR) and on customary lands of indigenous peoples (NCIP). • There is no data on landlessness; no reliable data on populations in slums, informal settlements, or in forestlands.

SUMMARY OF FINDINGS

SDGs and land tenure rights

- SDG 1.4 states: “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 land and other forms**

of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.”

- Through SDG 1.4, land rights are now seen as a central strategy and a global commitment towards “ending poverty.”
- While land issues were previously seen as primarily “local” concerns within the exclusive purview of “Sovereign States,” SDG 1.4 now recognizes “equal rights for all men and women, in particular the poor and vulnerable” to “ownership and control over land and other forms of property” as a *global mandate*.
- Land is recognized as an important element in the achievement of human rights (OHCHR, n.d.). It has been recognized that land tenure rights are essential to the enjoyment of other rights — shelter, food and livelihood, water, space and movement, health, access to basic services, personal security, right to shelter and assistance in cases of disaster, and in some cases, citizenship and the enjoyment of political rights. However, land rights are still not as well recognized in the Universal Periodic Review process of the UN Human Rights Council. Thus, there is a clear role for CSOs in strengthening data generation on SDG 1.4 and 1.4.2.
- Under SDG 1.4, land is viewed mainly as an “economic resource,” and thus, CSOs point out that other functions and values of land should not be overlooked. In the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), it has been recognized that indigenous peoples have a special relationship with their land and therefore, land is intrinsically linked to their cultural rights. Moreover, as some CSOs have pointed out: “The targets under SDG Goal 1 do not fully reflect the special situations of Indigenous Peoples...” (Indigenous Major Group in DeLuca, 2017).
- SDG 1.4 also mentions ownership and control over “natural resources,” which should include tenure over water bodies and water resources. In Bangladesh, about 10.32 million people are in livelihoods related to water bodies; 61 percent of them live in poverty. In the Philippines and Indonesia, fisherfolk households consistently rank among the poorest sectors. Discussions on fisherfolk are often subsumed under SDG 14 (Life Below Water), particularly Target 14.B (support small-scale fishers).

Country efforts in mainstreaming the SDGs

- In all seven countries, the SDGs have been mainstreamed in the national development agenda through the enactment of policies adopting the SDGs; the incorporation of SDGs into the Long-Term and Medium-Term Development Plans of governments; and, in the establishment of coordinating mechanisms for the implementation, monitoring, and reporting of the SDGs.
- Cambodia has adopted all 17 SDGs and has added Goal 18 related to the “clearance of land mines and of explosive remnants of war (ERW).” This reflects the unique situation of Cambodia which remains as one of the world’s most heavily mined and ERW-contaminated nations, even after two decades following the end of war and internal conflict.
- National development planning agencies are often designated as the lead agencies for coordinating work on the SDGs. Meanwhile, National Statistical Offices (NSOs) are tasked with the development of country-level indicators, collection of data requirements, and reporting on country progress in the achievement of the SDGs.

- Most NSOs are still in the process of developing and further refining country SDG indicators that are incorporated into the statistical system of NSOs. The metadata for SDG indicators at country level are presented in documents such as the CSDG Framework, 2016 to 2030 (Cambodia), the SDG Index and Dashboard (India), the Metadata for Indicators of Sustainable Development Goals (Indonesia). In the Philippines, the PSA publishes SDG Watch online (see <http://psa.gov.ph/sdg>), which provides the local definition of the SDG indicators for the country. Similarly, Indonesia publishes local SDG indicators and data related to such on the SDGs Dashboard online (see <https://sdgs.bappenas.go.id/dashboard/>).
- All seven countries have submitted Voluntary National Reviews to the United Nations High-level Political Forum on Sustainable Development (HLPF), as follows: Bangladesh (2017, 2020), Cambodia (2019), India (2017, 2020), Indonesia (2017, 2019, 2021), Kyrgyzstan (2020), Nepal (2017, 2020), and the Philippines (2016, 2019).
- Interestingly, Indonesia's latest VNR for 2021 is on the theme of "Sustainable and Resilient Recovery from the COVID-19 Pandemic for the Achievement of the 2030 Agenda." As the COVID-19 pandemic has increased the incidence of poverty in most countries in Asia, it is critical that economic recovery efforts in the coming years should ensure that the lives of the poor and vulnerable are improved, and they are not left behind.

Limited CSO engagement

- Most countries have established mechanisms for constructive engagement with CSOs, such participation in consultation-workshops for the preparation of VNRs. Cambodia and Nepal have included CSO membership in SDG-related consultative bodies. However, the level of engagement of CSOs in the government's SDG monitoring and reporting process remains very limited.
- Instead, parallel processes on SDG monitoring and reporting are being undertaken by CSOs within countries, with potential for future engagement with respective governments. These include:
 - o Preparation and publication of parallel CSO reports on the status of SDGs in the country. These usually cover one or several themes, such as on climate action, equal rights for women and land rights;
 - o Multi-stakeholder consultations and workshops that cover several themes; and,
 - o Sectoral and thematic research.

Monitoring and reporting on Target 1.4 and Indicator 1.4.2

- SDG Target 1.4 and SDG Indicator 1.4.2 are specifically focused on land rights and security of tenure. As a measure of Target 1.4, indicator 1.4.2 looks into the **"Proportion of total adult population with secure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure."**
- It is noted that all seven countries have **not yet** fully reported on the status of land rights and security of tenure under Target 1.4 in their SDG Country Reports and Voluntary National Reviews. However, Nepal's VNR of 2020 includes a report on land and housing assets in the name of women.

- Land tenure rights is a sensitive subject. Indicator 1.4.2 belongs to Tier II meaning that it has an internationally established methodology, but the data is not regularly produced by countries. Given the multiple sources of data on land tenure security, and the diversity of land tenure systems among countries, it is difficult to establish comparability of data across countries.
- The current state of development of specific indicators and methodologies for reporting on SDG 1.4.2 currently varies among countries:
 - *Bangladesh*: The 2017 VNR stated that metadata related to Indicators 1.4.1 and 1.4.2 were yet to be finalized; however, there was no report or mention of Indicator 1.4.2 in the subsequent 2019 VNR.
 - *Cambodia*: Indicator 1.4.2 is not included in the current list of the country's SDG indicators.
 - *Indonesia*: The proxy indicator to be used for Indicator 1.4.2 is focused on the use of land for housing and shelter. The VNR of 2020 has one paragraph on the status of housing under SDG 1. It also mentions "secure tenure rights to land through the implementation of agrarian reform and social forestry" as one of 11 policy responses in social protection reform, which aims to eliminate extreme poverty in Indonesia by 2024.
 - *Kyrgyzstan*: Indicator 1.4.2 is to be measured through a State administrative reporting form No. 22 "On the availability of land in the Kyrgyz Republic and their distribution by categories, owners, land users and lands."
 - *Nepal*: Proxy indicator used by government for 1.4.2 is: "Proportion of total adult population with secure tenure rights to land [as shown by]: a) Share of bottom quintile in national consumption [percentage]; and, b) Households having properly/tangible assets in women's name [percentage of total]"
 - *Philippines*: The proxy indicator used for 1.4.2 is: "Proportion of families which own house and lot or owner-like possession of house and lot."
- In summary, Indicator 1.4.2 is not included in the monitoring of SDGs in Bangladesh and Cambodia, proxy indicators have been adopted in Indonesia, Nepal, and Philippines, while data from the land registry will be used for reporting in Kyrgyzstan.

On availability of data on land tenure

- All countries collect data on land tenure rights. Land tenure data may come from National Censuses and Surveys and from data of government land agencies.
- Most NSOs and land agencies collect land tenure data at the household level. However, in Nepal and Kyrgyzstan, agencies collect ownership and tenure data at the level of each land or farm plot.
- In Cambodia and Kyrgyzstan, which have active land titling programs, comprehensive land tenure data can be generated from the country's land registration and land titling offices. It should be noted that Cambodia and Kyrgyzstan come from unique historical contexts where all lands were previously taken over by the Central State. These countries instituted private property only in the past 25 years and are still currently in the process of registering and redistributing lands to private households. As such, land monitoring is conducted by their governments through data generated from titling and registration programs.

- Both the Philippines and Indonesia have adopted proxy indicators for Indicator 1.4.2, focusing on security of land for housing. Such data are likely to be generated from nationally-representative surveys. However, the proxy indicator used does not cover security of land used for livelihoods, given that poverty in both countries is largely rural and agricultural. Meanwhile, there is available but unconsolidated land tenure data generated by multiple land agencies.
- In Bangladesh, India, and Nepal, land tenure data are available from Land Revenue Offices, Ministries of Land Reform and Land Management, Land Registration Agencies, and others. The NSOs in each country face unique challenges in relation to gathering and consolidating land tenure data. In India, land is a State-level matter, and State legislatures make laws on all matters pertaining to land, land records, settlement, and distribution of lands. There are multiple tenure regimes in different States. In Nepal, while data is consolidated at central level, the state of land records at local level is not easily accessible. In Nepal and Bangladesh, records of land registration are maintained manually and not yet fully digitized, and hence, not easily accessible.

On whether data on land is based on legally-documented rights

- For countries that collect data on legally documented rights, the data is mainly sourced from the administrative records on land tenure instruments issued and/or registered by land agencies.
- Some countries (Indonesia, Nepal, Philippines) will rely on household surveys and *self-declarations* for documenting land rights, without having to validate such results with land documents. The surveys often ask household respondents about their tenure status over their homelots and farm plots, but do not require them to show documentary proof (e.g., titles, registration papers, contracts, etc.) to support their self-declarations.
- In addition, legal documentation of land rights is not a guarantee of security of tenure since there are many cases of overlapping claims and tenure instruments over common plots of land. This phenomenon was reported in the Philippines where there are overlapping tenure systems among farmers being awarded plots of land in legally-documented territories of indigenous peoples.

On whether data includes peoples' perceptions

- NONE of the countries collects or reports perception data on tenure security.
- Rather, CSOs have conducted some community-level focus group discussions (FGDs), interviews, or surveys on local perceptions of security of land tenure. These have yielded some interesting insights.
- The Foundation for Ecological Security (FES) conducted 24 FGDs plus interviews in 12 villages in two States (Jharkhand and Odisha) involving 251 persons (tribals and non-tribals), with separate FGDs among women and men. *Some findings* were:
 - While homesteads and agricultural lands were perceived by 98 percent to have tenure security, barely 11 percent felt secure that common lands will not be alienated by various means, including encroachments by local elites, earmarking of common lands for industrial and compensatory afforestation, and for government Land Banks.

- Also, while perceptions on access to forest lands varied widely among study villages, Dalits felt most insecure while accessing forest lands for various livelihood needs (FES, 2021).
- Tenure security over land must be seen within the broader societal context wherein threats to the enjoyment of tenure rights are now more than ever taking on many forms – land disputes, development aggression, State expropriation, armed conflict, natural disasters, climate change, etc. As such, it must be emphasized that *perception* of security of tenure is a crucial indicator – i.e., how do people really feel about their tenure over their land?

On disaggregation of land tenure data by sex

- Most countries do not disaggregate land tenure rights by sex. If data are generated through censuses and household surveys, it is the sex of the “household head” that is usually recorded. As such, women’s land rights are usually recognized when ownership of land or housing by “female-headed households” are recorded.
- In the Kyrgyz Republic, Nepal, and the Philippines, land agencies are able to disaggregate land tenure instruments (titles, land certificates) issued and registered by sex of holder. However, this is not always the case especially where multiple agencies are involved in the issuance of different types of tenure documents.
- The governments of India and Nepal have introduced incentives (lower costs, tax incentives, simplified systems) in order to encourage the registration of lands in the name of women as owners or co-owners.
- Women’s land rights should also be examined in the context of *collective* land rights, where communities or groups are recognized as having legal ownership or rights to land. As within households, the question is whether men and women exercise **equal** decision-making and control rights over land.

On data regarding other forms of tenure

- All countries are able to disaggregate data by type of tenure. However, it is important that data gathering methods are able to capture actual tenure systems accurately, and to disaggregate data on land tenure security by the type of tenure. They should give due recognition to the diversity of tenure systems that exist within a country.
- There are questions and challenges about monitoring rights to land in cases where people hold *secondary rights* (lands under rent, lease, tenancy, or contract) or when land is held *collectively*, such as collective farms under cooperatives, common pasture lands, or indigenous lands.
- In most cases, holders of secondary rights are not documented or registered. There are also some countries that do not provide for collective or communal land ownership, especially when the owning entities are communities, rather than corporations, registered groups or associations.
- In three countries (Cambodia, India, and Philippines), there are legal provisions on collective land ownership and communal land tenure. These countries have provisions for collective titling systems for indigenous peoples.
 - Cambodia provides legal recognition for land rights of indigenous peoples under the 2001 Land Law, and issues *communal titles* under Sub-Decree 83 on Communal Land Titling. Records for these are readily available and are gathered by the NIS.

- o The Philippines has *collectively transferred* lands under the Comprehensive Agrarian Reform Program and legally recognizes *indigenous people's communal lands* under the Indigenous Peoples' Rights Act (IPRA).
- o India provides ownership and land-use rights to forest-dwelling Scheduled Tribes and other traditional forest dwellers at the individual and community level under the Forest Rights Act of 2006.

Challenges for CSOs in pursuing land rights in the SDGs

While land tenure security has been included in the SDGs, it can only be realized if governments will continue to report land rights in the SDGs, particularly the operationalization of SDG 1.4.2. The pursuit of land rights is an ongoing political act. For the land agenda to remain high and visible, CSOs have to present in a sustained basis, clear evidence on the importance of tenure security and how far the countries have come in reaching this target.

The indicators and methodologies used by the NSOs indicate that further discourse is needed to arrive at consensus at the country level. Tenure security is viewed differently by the rural poor, and hence the current indicator used in measuring SDG 1.4 needs to be enhanced. This is an area that can be further explored with NSOs and the custodian agencies. Using the experience of the Philippines as a starting point, CSOs and rural poor organizations have identified a partial enumeration of conditions needed to ensure tenure security according to specific sectors in the rural areas. (See Box 2)

Box 2. Conditions to ensure tenure security according to rural sectors in the Philippines (work-in-progress)

For farmers:

- has own agricultural land
- physically tilling the land distributed under agrarian reform program
- able to pay amortization of land distributed under agrarian reform program
- has adequate support services
- no threat of displacement
- no competing claims over the same land

For fisherfolk:

- has secured preferential rights to municipal waters
- delineated municipal waters
- has fisherfolk settlements
- has adequate support services
- no threat of displacement due to reclamation projects
- no encroachment from commercial and foreign fishers

For indigenous peoples:

- secured ancestral domain
- able to exercise customary governance over ancestral domains
- formulated community plans
- has adequate support services
- respect for FPIC (free, prior, and informed consent)
- no threat of displacement from mega projects
- no threat of militarization and criminalization

On the other hand, while there is openness of NSOs and national planning ministries/commissions to engage CSOs in the discourse of land agenda in the SDGs, the spaces for engagement are still limited.

Other land data issues include:

- data sets within and among government agencies are inconsistent with one another;
- lack of official data on land conflicts; for agencies that collect them, different methodologies are used and they come in different formats;
- in most of the countries included in this study, there is no data on landlessness;
- access to land data remains an issue – either they are difficult to access despite follow-ups or they are not updated; and,
- agency websites in most countries included in the study are at times slow, and do not contain updated information.

RECOMMENDATIONS

In response to the challenges faced by CSOs in pursuing land rights in the SDGs, in particular in SDG 1.4, a major intervention revolves around the formulation and effective implementation of policies and programs in securing and protecting the land rights of the rural poor. CSOs shall continue to advocate for policy agendas and reforms – within and outside the SDGs – as indicated in the respective country reports. As increased and sustained civil society participation in governance is needed to effect these changes, CSOs shall continually to scale-up their research to inform their advocacy as well as to find effective ways to share knowledge and lessons with others.

At the same time, ANGOC and the LWA campaign shall pursue the twin-approach of: a) optimizing SDGs as platform for joint learning; and, b) monitoring the actions, data and methodologies of governments in implementing SDG 1.4 towards more truthful and accurate reporting.

In relation to SDGs as a Platform for Joint Learning:

The SDGs, and in particular SDG 1.4 provides extra space to discuss and advocate land rights in national and regional policy agendas. However, the SDGs by themselves will not lead to any major shifts in land policy and governance without strong moral and political pressure from citizens and civil society. Thus, it is recommended that CSOs continue to engage the NSOs in terms of:

- utilizing existing or setting up new coordination mechanisms between NSOs and CSOs;
- increasing understanding of NSOs on land issues; and,
- refining the methodology and indicators in collecting data for SDG Indicator 1.4.2 and discussing how to produce nationally consolidated tenure security data.

In particular, the national planning ministries/commissions/departments, NSOs and CSOs can discuss the appropriateness and feasibility of

implementing at the national level the methodology for producing data on 1.4.2 as proposed by the global custodian agencies.

At the same time, CSOs can be the bridge in organizing activities where national planning ministries/commissions/departments and NSOs can present land data with the sectors of civil society, government land agencies, and the global SDG custodian agencies. This will be a challenging process involving many consultations and discussions; however, since SDG 1.4 is part of Goal 1, securing land rights is seen as a major intervention in reducing global poverty by various stakeholders.

Thus, CSOs shall use the SDGs as a venue as learning exchange to discuss matters such as:

- illustrative cases demonstrating the centrality of land tenure issues in addressing the country's problems of poverty and disempowerment;
- COVID-19 impacts on poverty, violations of land rights; importance of transparency and CSO engagement in COVID recovery plans; and,
- links of tenure rights with climate change.

In relation to Monitoring SDG 1.4:

There are two tracks related to this intervention. First is CSO participation in the official SDG reporting mechanisms and processes. This can be undertaken by participating in national committees mandated to prepare the SDG Country Reports and VNRs. To the extent possible, CSOs can become members of the country's official delegation to the High-Level Political Forum. At the same time, CSOs can join in governments' inter-agency meetings on data convergence and reconciliation.

The second track is external monitoring. As part of its watchdog role, CSOs shall continue to examine *public availability of, and public access to data* of the NSOs and related government agencies in relation to SDG monitoring and reporting, and more specifically, to land data as required under Goal 1.4.

At the same time, using official data and community-generated data, CSOs shall prepare reports on SDG 1.4.2 with focus on:

- reporting on informal and customary rights;
- reporting on tenurial security for women;
- reporting on land distribution;
- transparency in land administration, management and data;
- reporting on disadvantaged and vulnerable groups (*Dalits, harijans*, excluded communities);
- reporting on the landless; and,
- land conflicts and disputes, and land rights defenders.

As governments do not produce data on perception of tenure security, CSOs can develop proxy indicators and generate data through focus group discussions and key informant interviews with partner communities. These will help not just in the collection of data, but as a guide for the actions of government in implementing Target 1.4.

CONCLUSION

The SDGs have emphasized the importance of secure land rights in eradicating poverty. These global goals and their associated indicators on access and control over resources serve as good starting points to assess countries' progress. However, as exemplified by global and country experiences with land rights indicators, data is a complicated and potentially divisive subject matter. The larger task is to work towards tenure security for those who deeply depend on land and natural resources, until *and beyond* 2030. This entails close and constant cooperation between and among communities, CSOs, government land agencies, NSOs, and global custodian agencies in order to identify the present status of land rights, come up with achievable targets, and work jointly towards common goals. □

Acronyms

ALRD	Association for Land Reform and Development
ADS	Agriculture Development Strategy (Nepal)
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
BAPPENAS	National Development Planning Agency (Indonesia)
BBS	Bangladesh Bureau of Statistics
CBS	Central Bureau Statistics (Nepal)
CCC	Cooperation Committee for Cambodia
CHRAC	Cambodian Human Rights Action Committee
CSDGs	Cambodian SDGs
CSRC	Community Self Reliance Centre
CSO	civil society organization
FAO	Food and Agriculture Organization of the United Nations
FES	Foundation for Ecological Security
FGD	focus group discussion
GCAP	Global Call to Action Against Poverty
HLPF	High Level Political Forum
IAEG-SDGs	Inter-Agency and Expert Group on SDG Indicators
INFID	International NGO Forum on <i>Indonesian</i> Development
IFAD	International Fund for Agricultural Development
KII	key informant interview
LIRC	Land Issues Resolving Commission
LWA	Land Watch Asia
LWA LMWG	Land Watch Asia Land Monitoring Working Group
MDGs	Millennium Development Goals
MoLMCPA	Ministry of Land Management, Cooperatives and Poverty Alleviation (Nepal)
MoP	Ministry of Planning (Cambodia)
NEDA	National Economic and Development Authority (Philippines)
NGOF	NGO Forum on Cambodia
NIS	National Institute of Statistics (Cambodia)
NITI Aayog	National Institution for Transforming India
NPC	National Planning Commission (Nepal)
NSC	National Statistical Committee (Kyrgyzstan)
NSO	National Statistics Office
PAHRA	Philippine Alliance of Human Rights Advocates
PDP	Philippine Development Plan
PSA	Philippine Statistics Authority
SCC	Statistics Coordination Committee (Cambodia)
SDGs	Sustainable Development Goals
SSI	semi-structured interview
SWP	Social Watch Philippines

UN-Habitat	United Nations Human Settlement Programme
UNEP	United Nations Environmental Programme
UNHRC	United Nations Human Rights Council
UNOHCHR	UN Office of High Commissioner for Human Rights
UNSC	United Nations Statistical Commission
UNSD	UN Statistics Division
UPR	Universal Periodic Review
VNR	Voluntary National Review
WB	World Bank

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Disclaimer

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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

Gazi Mohammad Suhrawardy
with assistance from Rowshan Jahan Moni, AKM Bulbul Ahmed, and
Md. Waliul Islam



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 1.4.2¹) and the related indicator on secure rights to agricultural land (Indicator 5.a.1²) 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,³ 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).

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 *khas* 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 *khas* 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 *khas* 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

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 *bhumikhatian*.

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 Chattagram 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 policies include, among others, the following:

- National Agriculture Policy 2018;
- Seed Policy 1999, Seed Act 2018, Seed Rules 2020;
- 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 dearth 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

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

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

Religion	Legal documents of agricultural land							
	Total	Yes	No	Not Known	Total	Yes	No	Not Known
	Number				Percentage			
Total	18,052,233	12,388,914	1,571,412	4,091,907	100.00	68.63	8.70	22.67
Muslim	16,258,668	11,210,957	1,390,623	3,657,088	100.00	68.95	8.55	22.49
Hindu & Others	1,793,565	1,177,957	180,789	434,819	100.00	65.68	10.08	24.24

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

Religion	Female household members' land ownership							
	Total	Yes	No	Not Known	Total	Yes	No	Not Known
	Number				Percentage			
Total	27,436,920	8,790,973	18,286,644	359,303	100.00	32.04	66.65	1.31
Muslim	24,742,123	8,477,320	15,941,747	323,056	100.00	34.26	64.43	1.31
Hindu & Others	2,694,797	313,653	2,344,897	36,247	100.00	11.64	87.02	1.35

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” owned⁵ 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

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

women, 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 mind-set 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 RIGHTS⁷

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 Moulvibazar 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:

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

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

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Shamsul Huda
Executive Director, ALRD

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Disclaimer

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

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A Call for Land Tenure Security Inclusion in Cambodia Sustainable Development Goals:

2020 CSO Report on Sustainable Development Goal in Securing Rights to Land and Resources in Cambodia

Nhek Sarin, DED



OVERVIEW OF THE STUDY

Land and SDGs, focus on 1.4 and rural tenure security

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by 170 United Nations Member States in September 2015 (ODC, 2019) “as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030” (UNDP, n.d.). It covers three pillars including economy, social affairs and environment (Ry, 2021). These 170 members endorsed the 2030 Agenda and committed to implementing the SDGs, a set of 17 Global Goals in a 15- year period (Land Portal, n.d.). “Achieving the SDGs requires the partnership of governments, private sectors, civil society and citizens alike to make sure that a better planet is left for future generations” (UNDP, n.d.). These goals have been broken down into 169 targets and 230 indicators. SDG 1 seeks to “end poverty in all its forms everywhere” and to eradicate extreme poverty and overall poverty by 50 percent by 2030 (ODC, 2019). “The 2030 Agenda for Sustainable Development contains land-related targets and indicators under SDGs 1, 2, 5, 11 and 15” (Land Portal, n.d.). The 2030 SDG global agenda acknowledges land as an asset and factor in which the poverty and inequality in rural and urban areas needs to be addressed. “Land is a significant resource, both cross-cutting and critical to achieving the SDGs. It is discovered that there are eight targets and 12 indicators related to land” (Land Portal, n.d.). Therefore, land tenure security significantly contributes to the achievement of the SDGs for ending poverty and hunger. Furthermore, land tenure security is important for poor populations to access and sustain their livelihoods. Likewise, without land tenure security, families and communities are vulnerable to expropriations and face numerous challenges to access financial resources, markets, and other services. Therefore, the inclusion of land ownership and control under SDG target 1.4 is very significant, as this places land rights on the global agenda. The inclusion of land indicators in a number of the SDG targets, has highlighted land rights as a critical strategy in ending hunger and poverty (ANGOC, 2019).

Goal 1 - No poverty

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 (GLTN, n.d.)

Indicator 1.4.2

Indicator 1.4.2 is composed of two parts: (A) measures the incidence of adults with legally recognized documentation over land among the total adult population; while (B) focuses on the incidence of adults who report having perceived secure rights to land among the adult population. Both parts provide complementary data sets on security of tenure rights, needed for measuring the indicator (UN-Habitat and World Bank, 2020).

In addition, land rights security for women in particular is seen as vital to achieving the Sustainable Development Goals (SDGs)— especially with regard to eradicating poverty, ending hunger, and ensuring gender equality (Goal 1, 2, and 5). Land rights security has seen some progress through land titling. However, women still require stronger support and interventions to ensure that they can make decisions on land use and enjoy its benefits. In the end, land rights security uplifts the whole community and brings the world closer to realizing the SDGs (Salcedo-La Viña, 2020).

The Millennium Development Goals (MDGs) 2000 to 2015 comprised the following eight targets: 1) Eradicate extreme poverty and hunger; 2) Achieve universal primary education; 3) Promote gender equality and empower women; 4) Reduce child mortality; 5) Improve maternal health; 6) Combat HIV/AIDS, malaria, and other diseases; 7) Ensure environmental sustainability; and, 8) Develop a global partnership for development (World Bank, n.d.). Under these eight goals, there are 18 targets and 48 indicators to measure progress towards the MDGs (ITU, n.d.) As the MDG period concluded in 2015, the UN officially launched in 2016 the bold and transformative 2030 Agenda for Sustainable Development adopted by world leaders at the United Nations (We Can End Poverty, n.d.). Following the official launch, Cambodia enthusiastically supported the agenda set out by the Sustainable Development Goals (SDGs) 2016 to 2030 (RGC, 2019).

Table 1: Development Goals Contextualized for Cambodia

Development Goals	Years	Goals	Targets	Indicators
MDGs	2000 to 2015	8	18	48
CMDGs	2000 to 2015	9	25 (overall targets)	106 (target/indicators) ¹
SDGs	2016 to 2030	17	169	230
CSDGs	2016 to 2030	18	88	148

The Royal Government of Cambodia (RGC) then fully adopted the SDGs to fit the Cambodian context regarding national needs, challenges, and aspirations. The Cambodia Sustainable Development Goals (CSDGs) have been fully integrated into the National Strategic Development Plan (NSDP) 2019 to 2023 which provides a large proportion of the country’s Monitoring and Evaluation (M&E) data; and, via proposed inclusion in the Budget Strategic Plan of the line ministries and agencies. The said plan is a major part of Cambodia’s performance-based budgeting arrangement. This innovation and effort of the RGC is intended to make the country known internationally (UN, 2019).

All the UN member-States have committed to achieve the Sustainable Development Targets by 2030. However, there is a clear gap between what is being committed and the delivery of the commitments. For example, in the case of land targets, in the 2020 SDG Voluntary National Review (VNR) only seven countries reported on specific land targets. The gap results from many reasons ranging from lack of political will, as well as shortage of resources including technical capacity (International Land Coalition - ILC, n.d.).

Given the integral role that CSOs played in the formulation of the 2030 agenda, they are likewise key to the monitoring and reporting the status of the implementation of the SDGs. Hence, the initiation by the Land Watch Asia Land Monitoring Working Group (LWA LMWG) of country reports focused on SDG 1.4. From a CSO perspective, these reports will provide a broader picture of land rights and tenure security of *rural populations*, in order to contribute towards assessing the RGC’s performance in meeting SDG Target 1.4.

¹ RGC. (2003). *Cambodia Millennium Development Goals Report 2023*. Ministry of Planning.

Under Target 1.4, the indicator on *secure tenure rights* (Indicator 1.4.2)² and the related indicator on *secure rights to agricultural land* (Indicator 5.a.1)³ 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,⁴ 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). 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.

GLOBAL METHODOLOGIES IN MEASURING 1.4.2 BY CUSTODIAN AGENCIES

Globally, land tenure has recently been recognized by the establishment of the SDG indicators 1.4.2 and 5.a.1. In response to this, the Global Donor Working Group on Land (GDWGL) and the Global Land Indicators Initiative (GLII) have taken on the role of guardians of indicators 1.4.2 (UN Habitat and World Bank) and 5.a.1 (FAO).⁵ They are jointly developing a standardized survey instrument to collect the relevant data for computation of both indicators (WB, FAO, and UN-Habitat, 2019).

Objectives

From a CSO perspective, this report will offer a clearer picture of land rights and tenure security of rural populations, to assess Cambodia's performance in relation to meeting SDG Target 1.4. This write-up 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 will also discuss other qualifiers of land rights and tenure security that may not be captured by the SDG indicators at first glance (ex. 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.

² 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

³ (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

⁴ 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/>

⁵ GLII is the Global Land Indicators Initiative, established in 2012 and hosted by the Global Land Tool Network (GLTN).

In particular, this report is being prepared to:

- contribute towards 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 was developed based on secondary data and primary data. The secondary data was obtained from different sources such as government, UN agencies, and NGOs. The reviewed documents included research papers, studies, government censuses, related laws, Voluntary National Reviews (VNRs), and other related laws and reports. Previous reports prepared by Land Watch Asia (LWA) which STAR Kampuchea anchored for Cambodia, namely, the 2018 CSO Report: *Land Data*, the Cambodia National Institute of Statistics: *A Scoping Study on National Statistics Office in the Context of SDG Indicator 1.4.2*, and the 2020 Cambodia Land Monitoring Report were also sources of information for this report.

For the primary data, the information incorporated in the report was collected from individual interviews, a validation workshop, a Focus Group Discussion (FGD), and multi-stakeholder dialogues. The FGD and the validation workshop were conducted with 51 people on 4 August 2021 in order to collect ideas and inputs to improve the report. Similarly, an interview was also conducted with four informants from NGOs and National Institute of Statistics (NIS) personnel on 9 February 2021 and on 25 February 2021, respectively, including generating more information on how the relevant institutions collect data to produce the progress report and VNR.

In summary, the data gathering phase underwent the following process:

- Desk research on the related topic;
- Key informant interviews (KIIs) with NGO staff and government officers to map out efforts of government and CSOs to pursue SDG Target 1.4;
- An FGD with CSOs to validate the findings and solidify recommendations; and,
- A multi-stakeholder workshop to present and further validate the contents of the report, among an audience of CSOs, community-based organizations, government agencies, international organizations, media, and other groups/ sectors deemed relevant to the discussion.

LEGAL FRAMEWORK ON LAND RIGHTS FOR SMALLHOLDERS, POLICIES ON LAND RIGHTS FOR WOMEN (INDICATOR 5.A.2) AND SUPPORT SERVICES

On farmers and smallholders

After two decades of civil war and the Vietnamese occupation, agricultural land property rights in Cambodia were reestablished during and following the 1993

to 2000 period. However, the limited access to markets, inappropriate use of power, and the absence of effective mechanisms to protect the farmers resulted in increased incidence of landlessness, land exploitation, and land insecurity. At the same time, the land concession system was reintroduced without proper guidance and control mechanisms (Diepart & Sem, 2015). Mineral exploitation led to serious environmental degradation and did not contribute much to the national treasury despite the big commercial revenues generated. At the same time, conflicts escalated around access and control over land and natural resources. To address these issues, the RGC first focused on developing new laws and regulations. This strong legal basis allowed the RGC to establish a land tenure institution, and to promulgate the 2001 Land Law.

The 2001 Land Law differentiates between five various domains of property. All land continues to be owned by the State unless its ownership has been legally privatized. Within this domain, *State public land* refers to State land with a public interest (roads, mountains, military bases, or land where a public service is delivered such as a school, an administrative post, public hospital land or land that has a natural origin such as forest, water bodies, river beds, and so on). In contrast, *State private land* is defined simply as all State land that is not State public land, and can be legally privatized. The *private domain*, meanwhile, includes all land that has full legal private ownership. Then, there is also ownership of *Buddhist properties* that exist within the premises of Buddhist monasteries, and finally the *indigenous community land* where indigenous communities have established residence.

The implementation of the 2001 Land Law embraced a number of “new” formalization processes of land property rights. Central to these is the formal transfer of State property (domain) to private or collective property rights, and the differentiation between State private land and State public land. This is highly contentious because large-scale concessions to private entities have remained a central element of State land management in Cambodia.

There are three types of land concessions in Cambodia: a) Social Land Concessions [SLCs], b) Economic Land Concessions [ELCs], and c) Use, Development and Exploitation Concessions [UDEC]. The core objective, according to the government, is two-fold: a) to improve tenure security and access to land through a market-based land distributive system [relying on land titling, cadastral administration, and land markets] and redistributive land reform through SLCs; and, b) to stimulate investment to improve productivity and agricultural diversity under the system of “concessions.”

To deal with land conflicts as a consequence of granting economic land concessions (ELCs), Prime Minister Hun Sen issued a moratorium, known as Order 01 in May 2021. The Order 01 intends to cease the granting of ELCs to the companies that extended onto the State land (Dwyer, 2015). Also, the Order 01 attempts to curb the escalation of the violent land conflict and confrontations between the concessionaires and the people, forest crimes, and illegal logging (Diepart & Sem, 2015a).

On 26 June 2020, the World Bank (WB) approved USD 93 million credit for Cambodia’s LASED III (Land Allocation for Social and Economic Development Project III). This credit is provided in order to help improve land tenure security and access, as well as access to infrastructure, agriculture, and social services for the country’s landless and poor smallholders and indigenous communities. This project also provides sustainable access to land and natural resources to small agricultural producers and rural communities, which is a key component

of the government's effort in response to poverty reduction as set in the SDGs. This project will go through a legal framework for SLCs that expands land titling for the landless rural poor (The World Bank, 2020).

Cambodia's 2001 Land Law recognizes *phaukeak* (Khmer for "individual possession rights"), granting individual titling after five years of peaceful possession of land after 1979 (Wellmann, 2018). And only persons or legal entities of Khmer nationality have the right to own land in the Kingdom of Cambodia (Land Law, 2001).

On indigenous peoples (IP)

It is apparent that the RGC has promoted industrial models of development and extensive natural resource extraction, especially in areas where IP communities live, violating the preservation of these communities' way of life and use of their land. Due to lack of a comprehensive legal framework to protect indigenous land rights and poor implementation of laws to protect collective ownership rights, the indigenous communities face severe tenure insecurity and displacement from their homes and land (NGO Working Group on ICESCR-Cambodia, 2019).

The 2001 Land Law protects the collective rights of the IP communities over land and also provides for the development of a comprehensive legal framework to govern relevant processes, rights, and protections (Land Law, 2001). The Law also allows IPs to claim communal land titles (CLTs) over their customary lands, thereby granting them the right to protect their ownership as private owners (NGO Working Group on ICESCR-Cambodia, 2019).

Shifting cultivation may be carried out in areas specifically identified as "reserved land." Apart from this, forestland is excluded from being titled (Wellmann, 2018).

Article 23 of the 2001 Land Law also states that indigenous communities shall continue to manage their land. As such, indigenous land should not be expropriated prior to cadastral titling and mapping (Land Law, 2001). The government's LASED III project "has also promoted Indigenous Communal Land Titling (ICLT) to enhance tenure security for indigenous people over their lands" (The World Bank, 2020).

On women's land rights and tenure

With the intention of promoting gender equality as a means to promote economic growth and development, and reduce poverty, two SDG indicators 5.A.1 and 1.4.2 have been included in the SDGs. As a result, women's land rights and tenure have also been brought to the fore in the international agenda (Doss & Meinzen-Dick, 2020). Importantly, the international community now fully recognizes the importance of securing women's land rights. This is evidenced by the inclusion of women's land ownership and secure tenure rights as indicators for poverty eradication (Goal 1), ending hunger (Goal 2), and gender equity (Goal 5).

Likewise, the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forestry (VGGT) recognizes that women and girls have equal tenure rights and access to land, fisheries, and forests. A number of developing countries generate policies to ensure that land titling and land registration are mandated or promote joint titling of household land in the names of both spouses as well as land registration in the name of women individually (Salcedo-La Viña, 2020). In Cambodia, for instance, women and men have equal rights to property ownership as joint titling by both spouses.

These equal rights to land and property ownership by both men and women is enshrined in the 1993 Cambodian Constitution which reads that, “all persons, individually or collectively, shall have the right to ownership. Only Khmer legal entities and citizens of Khmer nationality shall have the right to own land. Legal private ownership shall be protected by the law. The right to confiscate possessions from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation in advance” (Cambodian Constitution, 1993).

On pastoralists, water-users, and forest dwellers

Article 40 of the Law on Forestry reads, “For local communities living within or near the Permanent Forest Reserves, the State shall recognize and ensure their traditional user rights for the purpose of traditional customs, beliefs, religions and living as defined in this article. The traditional user rights of a local community for forest products and by-products shall not require the permit. The traditional user rights under this article consist of: a) The collection of dead wood, picking wild fruit, collecting bees’ honeys, taking resin, and collecting other forest by-products; b) Using timbers to build houses, stables for animals, fences and to make agricultural instruments; c) Grass cutting or unleashing livestock to graze within the forests; d) Using other forest products and by-products consistent with traditional family use; and, e) The right to barter or sell forest by-products shall not require the permit, if those activities do not cause significant threat to the sustainability of the forest” (Forestry Law, 2002 Article 40).

On fisherfolk

Article 59 of the Law on Fishery reads that all Cambodian citizens have the rights to form Community Fisheries in their own areas on a voluntary basis to take part in the sustainable management, conservation, development, and use of fishery resources. The procedures to form the Community Fisheries shall be determined by a Sub-decree, Article 60. The Minister of Agriculture, Forestry and Fisheries is entitled to allocate part of the fishery domain to the community fishers that live inside or nearby the fishery domain as community fishing area (Law on Fishery, 2006).

COUNTRY EFFORTS TO PURSUE SDG TARGET 1.4

Cambodia enthusiastically endorsed the agenda set out by the SDGs 2016 to 2030. In late 2015, Cambodia started reviewing and mapping the global goals and targets to national priorities. The country accepted all 17 SDGs and added one additional goal, related to clearance of land mines and of Explosive Remnants of War (reflecting the national priority of de-mining Cambodia’s territory). Therefore, the final CSDG version comprises of 18 *Cambodian Sustainable Development Goals*, 88 nationally relevant targets, and 148 (global and locally-defined) indicators including 96 as national Indicators (CSDG Framework, 2016 to 2030).

Under the Ministry of Planning, the NIS has achieved major gains in mainstreaming the CSDGs, especially in the localization process of the SDGs for CSDGs at the national level of the government. The CSDGs were approved by the RGC in 2018. However, based on the reviewed documents, *indicator 1.4.2 pertaining to land*

tenure is not found in the 2016 to 2030 CSDGs. Yet, there is “1.4.1: Percentage of total members of registered community fisheries and forestry with tenure rights to fisheries and forestry resource management through effective community registration and development” (CSDG 2016 to 2030).

In the National Strategic Development Plan (NSDP) 2014 to 2018, the progress of land administration, land planning, urbanization, and land distribution is reported. For example, until the end of 2018, 73.25 percent of the total seven million land titles — exceeding the target by 3.25 percent — including land registration of 24 indigenous communities equal to 684 titles, were issued; 8,353 complaints of land disputes were solved; and, a total of 3,967 cases were completed involving 21,002 families residing on 6,320 hectares. In addition, a QR Code on a new model of land titles was launched, through which information is accessible on smartphones (NSDP, 2019 to 2023; 2019).

Government’s efforts and CSOs’ role in CSDG monitoring and reporting

As with the CSDG Framework, the Voluntary National Review (VNR) relies on a wide consultation process. Since the Universal Periodic Review (UPR) was introduced in 2007, civil society organizations (CSOs) and human rights defenders (HRDs) have constantly engaged in the process, in order to effect positive change for human rights across the world. The role of civil society has proven to be vital for the success of the UPR (UPR Info, 2017). Thus, the 2030 Sustainable Development Agenda is promoted as being more participatory and equitable — with the planning and implementation of the SDGs incorporated into local development strategies such as the NSDP) 2014 to 2018 (ODC, 2018).

A key purpose of the VNR is to track Cambodia’s national performance on the CSDGs, drawing on quantitative data and qualitative reports. It has adopted a “whole of government” approach involving line ministries and agencies, and local administrations; and, a “whole of society” approach open to civil society and business actors; with regular consultations taking place throughout the process. The six global prioritized goals are specifically CSDGs 4, 8, 10, 13, 16, and 17 (NGOF, 2019).

Led by the Ministry of Planning (MoP), the VNR consultative process began in late 2018. CSOs expressed a strong commitment to raising public awareness on the SDGs and the VNR process at both the national and sub-national levels (NGO Forum, 2019). Thus, they play a significant role in promoting an open, inclusive, and transparent participatory method on VNR reporting among all relevant stakeholders. The VNR documents efforts to adapt and deliver the CSDGs through the establishment of institutions and mechanisms; their integration within the National Strategic Development Plan (NSDP) 2019 to 2023 and public budgeting; and, SDG advocacy and citizens’ engagement. The VNR also reviews progress to date of all Cambodian SDGs, with an in-depth review of the six prioritized SDGs (Education, Decent Work and Growth, Reduced Inequality, Climate Action, Peace and Institutions, and SDG Partnerships). However, as mentioned, land indicator 1.4.2 is not included.

Moreover, these six areas each figure within the RGC’s strategic planning priorities, as set out in the Rectangular Strategy-Phase IV (RS IV) and the NSDP (SDG-UN, 2019). The RS IV acts as a comprehensive policy framework for formulating the “National Strategic Development Plan, 2019 to 2023” with clearly defined indicators and a timeframe for implementation that must be consistent with the RGC’s sectoral policies (Bing, n.d.). The RGC recognizes that it is early in the implementation process that sustainable efforts are needed, and

has set out concrete delivery proposals on management oversight, monitoring and evaluation, and resourcing (SDG-UN, 2019).

Lead government agency in charge of monitoring progress towards the SDGs

Acting as lead technical focal point, the MoP has overall responsibility for the national M&E process and maintains the indicator database of CSDGs. Mandated to receive and compile data, the MoP is tasked to submit annual updates and five yearly-milestones reports subject for review by the RGC (RGC, 2019).

The Ministry of Land Management, Urban Planning and Construction (MLMUPC) is responsible for indicator 1.4.1 related to land ownership (ODC, 2019). According to Mr. Mar Sophal, Socio-Economic Equity in Development (SEED) Program Manager of the NGO Forum on Cambodia (NGOF), CSOs had developed a VNR parallel report and presented it to the UN in New York in 2019. For the progress report of CSDGs, CSOs were invited to provide inputs to the last revision of the report of CSDGs in an inter-ministry meeting held in 2019.

As indicator 1.4.2 has yet to be included in the CSDGs, there is no specific sub-committee under the MoP that looks into SDG 1.4.2. However, the General Planning Department and the National Institute of Statistics (NIS) under the MoP are responsible for monitoring and following up the implementation of the CSDGs and the NSDP. These institutions also have a role in evaluating the progress and collecting data to include in the CSDG report. The MLMUPC and the Ministry of Agriculture, Forestry and Fisheries (MAFF) are responsible for gathering data and preparing the report related to land, but not to provide data specific to indicator 1.4.2.

The technical responsibilities of the MoP include advising RGC stakeholders on design, estimation, and calculation of indicators; on data collection; and, on reporting procedures and conventions. The MoP is also responsible for the specific indicators; while the provision of supporting data rests with the respective line ministries and agencies. Their capacity and data systems need to be urgently strengthened through the National Strategy for Development of Statistics (NSDS), which is a significant complementary initiative to designing and monitoring the CSDGs (RGC, 2019).

As part of the NSDP mid-term review, a series of consultation meetings with line ministries was jointly organized by the General Directorate of Planning and the NIS on localization and incorporation of SDG indicator 1.4.2 into the CSDGs (Sochea, 2018).

Government and CSO efforts towards reporting on land-related issues and indicators

As early as 2013, the Cambodian Human Rights Action Committee (CHRAC) — a coalition of 21 NGOs and Association members working in the field of human rights, democracy, and legal aid in Cambodia — prepared the UPR to submit to the United Nations Human Rights Council (UNHRC). Among the 17 issues reported on, one was on land, another was on housing rights, and the third was on eviction (CHRAC, 2013).

Also, the UPR of Cambodia, submitted to the UN in 2014 by IIMA (Istituto Internazionale Maria Ausiliatrice) and VIDES (International Volunteerism Organization for Women, Education, Development) reported the issue related

to the protection of the right to land of all Cambodians, especially indigenous peoples, as stated in Articles 8 and 10 of the UN Declaration on the Rights of Indigenous Peoples, adopted by Cambodia in 2007 (IIIMA & VIDES, 2014). Cambodia's 2014 UPR indicated that Cambodia had appointed representatives to protect the land interests of "poor people," as well as to cooperate with NGOs to address land conflicts through practicing an Alternative Dispute Resolution (ADR) mechanism. Even so, land issues remain a major concern (UPR Cambodia, 2019).

In 2018, STAR Kampuchea (SK) conducted a study on "Land Data and the Cambodia National Institution of Statistics: A Scoping Study on National Statistics Office in the Context of SDG Indicator 1.4.2." The aim of the study was to review and learn how the SDGs are mainstreamed in the National Institute of Statistics (NIS). The report concluded that the NIS is a strategic partner in the refinement of the methodology to measure land tenure in Cambodia. At that time, the NIS had indicated its willingness to conduct a pilot feasibility study to improve and incorporate available data on SDG indicator 1.4.2 into its future censuses and surveys, once the CSDGs would be approved (Sochea, 2018).

A study on "Implications of Closing Civic Space for Sustainable Development in Cambodia" revealed that rights violations related to land grabbing and unsustainable land management obstruct the achievement of the CSDGs and the SDG 15 (Life on Land). The key factor is that the political elite and rich people use their close ties to take advantage of the forests and timber. So, the ability of civil society to monitor or to conduct the campaign against land grabbing is limited (Schroder and Young, 2019).

After the CSDGs were approved in 2018, the NIS began its pilot feasibility study on the inclusion of data related to indicator 1.4.2 in its censuses and surveys. Based on interviews with key informants, the government recognizes the importance of indicator 1.4.2. In 2017, the MoP had conducted a feasibility study on how to integrate this indicator in the CSDGs, and reassessed it in 2019 for possible inclusion in the CSDGs in alignment with the global SDGs. Apparently, indicator 1.4.2 is planned to be added to the CSDGs in 2023. This will also foster collaboration within the land sector in terms of data sharing among land agencies, to be consolidated into reports on Cambodia's progress on SDG Goal 1, Target 1.4 — particularly SDG Indicator 1.4.2. This will likewise support implementation of the NSDP policies, including those for the land sector (Sochea, 2018).

At present, there are two mechanisms under the NIS that handle coordination with NGOs and CSOs for their inputs to the VNR. These are the Statistics Coordination Committee (SCC) which handles government agencies and the Technical Working Group on Population and Poverty Reduction — a high-level platform of government, development partners, and CSOs. The NGO Forum on Cambodia (NGOF) and the Cooperation Committee for Cambodia (CCC) are part of these coordination partners. These two big umbrella groups are playing a key role within their respective networks of NGOs, to facilitate linkages once inputs of statistical data for the planning process are sought (Sochea, 2018).

Latest government reports on SDGs: Still without land indicators

Cambodia's Voluntary National Review 2019 on the Implementation of the 2030 Agenda for Sustainable Development was the latest document produced by the RGC. Based on the summary of the VNR 2019, the country's performance on the nine goals of the Cambodian Millennium Development Goals (CMDGs) were reported: 1) Eradicate Extreme Poverty and Hunger, 2) Achieve Universal Primary

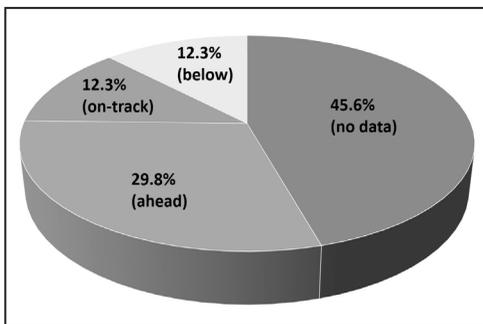
Education, 3) Promote Gender Equality and Empowering Women, 4) Reduce Child Mortality, 5) Improve Maternal Health, 6) Combat HIV/AIDs, Malaria and Other Diseases, 7) Ensure Environment Sustainability, 8) Global Partnership, 9) Demine/Remove Explosive Remnants and Assist Victims (CSDG Framework, 2016 to 2030). Land targets were not among these.

In the VNR’s progress reviews, a majority of the CSDG targets were rated as “ahead” or “on track” while the other targets are rated as “promising.” The former include the six prioritized goals (Education, Decent Work and Growth, Reduced Inequalities, Climate Action, Peace and Institutions, and SDG Partnership). Moreover, these six goals appear in the RGC’s strategic planning priority as set out in the RS IV and the NSDP 2019 to 2023 (RGC, 2019).

The VNR also claims that Cambodia has achieved the MDGs and its ambitions for the CSDGs correspond to the country’s development story of rapid post-conflict recovery, dramatic poverty reduction, and its emergence as a high-growth, lower middle-income country. It likewise reported that the “SDGs fully align with the Royal Government’s long-term development vision as articulated in Vision 2050, and in its medium-term instruments — the Rectangular Strategy (RS) IV and the NSDP 2019 to 2023” (RGC, 2019).

Based on the 2019 VNR, the results of the CSDGs’ implementation shows that Cambodia has achieved beyond the milestone, 29.8 percent; on-track (close to specific milestone), 12.30 percent; below the milestone, 12.30 percent; and, no data, 45.60 percent (Ry, 2021).

Chart 1: Result of CSDGs based on VNR (12 Goals)



Source: Ry, 2021

The statistical data is connected to the list of variables and indicators of the NSDP, the CSDGs (formerly the CMDGs), and the ASEAN. The production of statistical data is aligned with the circumstances of Cambodia’s current social and economic development.

Based mainly on the Strategic Development Plan (SDP) or framework of each line ministry, decisions on official statistical data

or indicators are made. As the SDP is apparently aligned with the Government Rectangular Strategy (GRS), and the NSDP is likewise expected to be aligned with the CSDGs, each line ministry has a role to generate data and indicators which are considered important to measure the progress and the achievements of the SDP as well as the corresponding portions of the NSDP and the CSDGs. The generated data, indicators, and achievements are submitted to the Director General (DG) of Planning in the MoP upon request every year (NIS, 2012a).

Data to be collected specific to land are stipulated in the Statistical Master Plan (SMP), an overarching document on statistic programs of the RGC which is used together with the NSDP (NIS, 2012a). Under its internal governmental arrangements, for instance, land sector statistics are reported by the MLMUPC (Sochea, 2018).

Cambodia’s 2019 UPR also reports that land ownership remains a prominent area of concern. Current policies of the RGC appear to exploit a lack of entitlements

among the public to expedite private developments, resulting in widespread land grabbing and forced evictions. The report highlights the crackdown on protesters and journalists who were reporting on land disputes, and were then intimidated, harassed, and interrogated by the authorities for their activism. The UPR also recommends that the State ensure that all pending land disputes, evictions, and relocations be settled in a fair, transparent, negotiated, and adequately compensated manner (UPR Cambodia, 2019).

CSO consultations and alternative monitoring reports

Land organizations and stakeholders worldwide are committed to fully implementing the SDGs and to monitoring land-related indicators, especially 1.4 and 1.4.2, in order to promote responsible land governance (Land Portal, n.d.). In Cambodia, however, monitoring of land indicators within the SDGs remains overshadowed by other goals and targets.

The NGOF organized a Consultation Workshop on “Engaging CSOs in the Cambodia Voluntary National Review” on 15 February 2019 with 60 participants (18 women) from national and international organizations to provide the inputs of CSOs on climate change in response to Goal 13 of the SDGs.

The theme for the VNR 2019 was empowering people and ensuring inclusivity and equality. The six goals reviewed in depth were: a) Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; b) Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all; c) Goal 10: Reduce inequality within and among countries; d) Goal 13: Take urgent action to combat climate change and its impacts; e) Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels; and, f) Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development. The CCC conducted three sub-regional workshops to collect CSOs’ inputs for discussion in this workshop (NGO Forum, 2019).

On 7 to 8 September 2020, a national reflection workshop was organized in Phnom Penh on the “Implementation of CSDGs 2016 to 2030 and the NSDP.” This workshop was jointly organized by the NGOF and CCC, as well as other NGOs working on education, health, children, women, and gender. There were 141 participants (36 were women) from different State institutions, the private sector, the academe, development partners, civil society, NGOs, and communities from 15 different provinces. The workshop focused on three overall sectors: a) Planet and prosperity, concerning Goals 11, 13, 14, and 15; b) People, concerning Goals 3, 4, and 5; and, c) Peace and partnership, concerning Goals 6 and 17 (NGOF & CCC, 2020). This workshop did not cover Goal 1: No poverty and Target 1.4 on land tenure security.

Based on interviews with key informants, there is no Land Working Group that monitors the land-related targets of SDGs, particularly 1.4.2. For CSOs, NGO Forum and CCC coordinate the mobilization of NGOs in Cambodia to gather inputs on indicators and monitor the progress of the CSDGs in general.

On the other hand, NGOF in collaboration with CCC and Cambodian Human Rights Action Committee (CHRAC) and other key networks jointly organized a series of discussions with the following objectives:

- Sensitization of the process and contents of SDGs and Financing for Development, and Paris Outcome: Climate Change;

- Mapping out current institutions of CSOs about their key focuses and how are they related to SDGs;
- Discussion on governance arrangement within the NGOs/CSOs for engagement in localization of SDGs in Cambodia and beyond; and,
- Development of a concrete event calendar for CSOs participation in each event linked with localization of SDGs at subnational, national and international levels (NGO Forum, 2018).

SILAKA, a Cambodian NGO, had produced Social Watch country reports covering the periods 2002 until 2012:

- 2002 - Towards assimilation into the world economy;
- 2003 - The long road to poverty eradication;
- 2004 - The race to meet the Millennium Development Goals;
- 2008 - Accountability needed;
- 2009 - Economic growth must be re-directed; and,
- 2012 - Human and social capacities should be the priority.

In regard to land, a Social Watch report does mention that, in 2009, the RGC awarded several concessions of over 10,000 hectares on the slope of Mount O Ral, where almost 900 Suy live in five villages in the Treapang Chor commune. The land concessions were granted for corn plantations and tourism without seeking permission from the local population, including the Suy, who immediately protested, asserting their right over their lands and resources (Social Watch, 2012).

Role of CSOs in the VNR 2020

In truth, the land agenda has not been prominent in the recent SDG reporting processes of governments. In most cases, States do not report on land in their SDG country reports and VNRs. In situations where State parties include land in their SDG reports, the content is mostly 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. Given this, CSOs are well positioned to analyze data independently and highlight the gaps and ways forward with regard to land (ANGOC, 2019). The RGC is preparing the VNR 2020, which aims to monitor and evaluate the implementation of the SDGs in each country that is a member of the United Nations. The VNR process involves all stakeholders: the government, the private sector, the academe, and civil society (NGO Forum, 2019).

To contribute to these efforts, the NGOF, together with seven NGOs/CSOs, co-organized the “National Consultation Workshop on Engaging CSOs in the Cambodia Voluntary National Review 2019.” The workshop had 60 participants (18 women) from NGOs and community-based organizations (NGO Forum, 2019). However, it did not specifically discuss land issues.

Mr. Mar Sophal, Socio-Economic Equity in Development (SEED) Program Manager, NGOF, mentioned in his presentation at the consultative and validation workshop on the CSO Report regarding SDG 1.4 conducted on 5 August 2021, that CSOs are indispensable and valuable partners in the process of achieving the CSDGs. In line with this, CSOs have set out five strategies that apply to their areas of expertise:

- Disseminate information on the CSDGs widely to the public, especially young people, in both urban and remote rural areas;

- Build the capacity of CSOs themselves to incorporate the CSDGs into their action plans in order to mobilize additional resources to contribute to achieving this goal;
- Promote partnerships among the private sector, NGOs, development partners, and government authorities to prioritize national policies and strengthen cooperation without leaving anyone behind;
- Monitor and evaluate the implementation of the CSDGs, ensuring a civil society space and open and inclusive participation; and,
- Gather resources and cooperate to jointly implement, monitor, and evaluate the CSDGs on 7 to 8 September 2020, through a “National Reflection Workshop on the Implementation of the Cambodia Sustainable Development Goals (CSDGs) 2016 to 2030 and the National Strategic Development Plan (NSDP) 2019.”

In the course of developing the 2020 VNR, the Ministry of Planning (MoP) was open to CSOs giving their inputs on the indicators and the implementation of the CSDGs and the NSDP. NGOs submitted their inputs through relevant ministries responsible for consolidating and transmitting these to the MoP. CCC and NGOF were regularly invited to attend the meetings of such agencies to provide comments on the indicators being assessed.

WHY IS INDICATOR 1.4.2 NOT BEING MEASURED OR REPORTED ON?

The Ministry of Land Management, Urban Planning and Construction (MLMUPC) is responsible for reporting on indicator 1.4.2, and the National Institute of Statistics (NIS) is tasked to consolidate these reports. However, when the draft CSDGs — consisting of 18 goals, 89 targets, and 248 indicators for monitoring and evaluating the NSDP — were finalized and submitted to the Council Minister for approval in 2018 (Sochea, 2018), security of land tenure was not among the indicators to be measured and reported on.

On gathering information and reporting of legally-recognized documentation

The NIS is the official statistics policy-making body of the RGC with responsibility for establishing and leading an integrated National Statistics System (NSS), covering all designated official statistics of ministries, government institutions, and their respective statistics units (NIS, 2012b). As part of the Ministry of Planning (MoP) of the RGC, the NIS is mandated to serve as the “focal point on statistical matters in Cambodia. The NIS compiles and consolidates statistics provided by centralized office and also collect primary data through household and establishment survey; and population, agricultural and economic censuses” (Meng, 2015). According to the 2019 Census of Cambodia, the NIS is “responsible for reviewing, editing and coding the questionnaires, data processing, data aggregation, producing other results such as specialized demographic studies” (Cambodia Census, 2019).

In addition to the NIS, “designated statistical units within ministries and government institutions shall be responsible for collecting, processing, compiling, analyzing, publishing and disseminating other official statistics to the

public according to the data requirements of users” (Sub-Decree on Designated Official Statistics). There are statistical bureaus and sections as well within the planning and statistics departments of the various ministries and in the planning and statistical units at the province and district levels.

Despite all these, based on the reviewed documents and the interviews conducted, there is no land indicator to measure the SDG 1.4.2 among all the statistics generated.

Who decides on data to be collected?

Article 2 of the Statistic Law “aims to serve the statistical information requirements of the policy-makers in formulating and evaluating policies and socio-economic programs in responding to the socio-economic development of the country, as well as the information needs of the decision-makers and researchers in the wider national and international communities” (RGC, 2010). It means that the Statistics Advisory Council (SAC) will decide on the data to be collected in response to the information needs for decision-makers and other stakeholders. For example, the SAC is to advise the MoP regarding policies on official statistics (Sochea, 2018).

Two preliminary analyses were jointly developed by the RGC in partnership with United Nations agencies. They include the 2016 Rapid Integrated Assessment (RIA) and the 2017 SDG Assessment. To map the country’s NSDP and other major strategies, RIA sought to identify areas of alignment between the SDGs and Cambodia’s policy agenda while the SDG Assessment focused on the indicators and availability of reliable data sources (VNR, 2019)

On gathering information and reporting of disaggregated data by sex and type of tenure

Based on the census conducted in 2019 by the NIS, there is no information about disaggregated data by sex and type of tenure. Moreover, in the 2019 report of MLMUPC, there is also no information about issued land titles disaggregated by sex.

On gathering information and reporting of perception on tenure security

An article on “Investigating Perceptions of Land Issue in a Threatened Landscape in Northern Cambodia” published by the Multidisciplinary Digital Publishing Institute (MDPI)⁶ reports that issues related to management, security, and access to land highly affect the well-being of rural communities in developing countries, especially in contested conservation landscapes where land and its access is often restricted. In such context, local people’s motivation for sustainably managing their resources and achieving conversion targets is highly tied to their perception of well-being. This is because locally valued resources such as land have material as well as relational symbolic dimensions.

The MDPI publication also says that access to land has been recognized as a significant concern. This is based on a survey in 20 selected villages. The results of the survey show that 62 percent of the 1,129 respondents disagreed with the

⁶ MDPI is a pioneer in scholarly open access publishing and has supported academic communities since 1996.

statement that their current land access was enough to meet their household needs; and 47 percent of respondents stated that their future access would not be enough (Beauchamp et al., 2019).

Most of the land documents are written in English and these documents are mostly available in the libraries of government and NGOs, which communities have difficulty accessing.

RECOMMENDATIONS ON THE COUNTRY'S METHODOLOGIES IN MEASURING AND REPORTING SDG 1.4.2

In the long run, by 2030, Cambodia is committed to ensuring “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” (VNR, 2019). However, Cambodia’s VNR does not include tenure issues — in terms of the government’s response to SDG 1.4.2 — as a specific category of the report.

Likewise, the General Population Census of Cambodia 2019 (GPCC, 2019) does not include land tenure in the report. The 2019 Census is a part of the 2020 Round of Population and Housing Census, as recommended by the United Nations.

In Cambodia, four censuses have been conducted — the first in 1962, the second in 1998, the third in 2008, and the last one in 2019. A census plan was developed in 2016 and later was approved by the RGC. A National Census Committee was then formed in 2017.

Under the MoP, the NIS was tasked to generate enumeration maps using hand-drawn area plans for the entire country. The NIS was also mandated to review, edit, and code the questionnaires, then handle data processing, data aggregation, and the production of specialized demographic studies (NIS, 2019).

STAR Kampuchea, NGO, and CCC have since submitted a recommendation to the government to add an indicator on land (1.4.2) into the CSDGs.

On informal and customary recognition of land rights: Main issues and recommendations

The customary tenure system in Cambodia grants rights to citizens to use a piece of land and benefit from its outputs (usufruct rights) (Williams, 1999). This means that families who had cleared and use a piece of land for production are allowed to claim possession rights (*phaukeak*) over that land, with the concept of “land acquisition by plough” (Ironsides, 2017).

However, to acquire possession, every citizen needs to follow the Cambodia 2021 Land Law which says that any person who, for no less than five (5) years prior to the promulgation of the Law, enjoyed peaceful, uncontested possession of immovable property that can be legally acquired privately is given the right to request a definitive title of ownership (2001 Land Law, Article 30). Furthermore, the Law protects the deprivation of ownership by stating that “No person may be deprived of his ownership, unless it is in the public interest.” Thus, deprivation of

ownership may only be carried out in accordance with the procedures provided by the law and regulations and after fair just compensation in advance (2021 Land Law, Article 5) (Ironsides, 2017).

For the year 2020, the MLMUPC issued 607,893 land titles to citizens, equal to 86.8 percent of the total pieces of land available for titling. The Ministry reported that these land titles have been issued as part of its systematic land titling and communal land titling process (MLMUPC, 2020).

On women's tenure security

In Cambodia, women's tenure security is recognized by local legislation (Article 31 of the Cambodia Constitution) as well as international laws. However, in practice, women's tenure security has not yet been fully promoted and impacts heavily on the advancement of women's rights. In Cambodia, land conflict continues to obstruct the promotion of human rights, especially women's rights to tenure security. Culturally, Cambodian women are expected to fulfill household roles such as taking care of the children, cooking for the family, and helping their husbands in cultivation and fishing. However, when there are widespread land abuses and an absence of formal protections for their lands, Cambodian women are often at the forefront of protest movements to protect their land rights. This is because women perceive that access to land and other natural resources is essential to ensuring gender equality and an adequate standard of living. Interestingly, research by the Citizens Commission on Human Rights (CCHR) has shown that, when women have increased land tenure security, their participation in household decision-making increases, net household incomes increase, the incidence of domestic violence is reduced, and expenditures on food and education for children increase (CCHR, 2016).

On land conflicts and land rights defenders: Main issues and recommendations

In Cambodia, 85 percent of the country's 16 million people depend on agriculture; thus land for cultivation is their top priority (Sun, 2017).

From 2003 until November 2019, the Municipality, Provincial, Khan/District Cadastral Committee received 8,643 complaints. Of these, some 4,136 cases were completely solved by these Cadastral Committees, while 2,820 cases were returned to the plaintiffs (as they are not under the committees' jurisdiction), 908 were withdrawn, and 779 are still awaiting resolution (MLMUPC, 2019). Based on STAR Kampuchea's (SK) land dispute database, which collected 78 high-profile cases in 2020, land conflicts led to varied violations:

- Physical abuse (disappearance, illegal detention, injuries);
- Psychological abuse (harassment, threats, prosecution, mental illness);
- Economic abuse (denial of compensation, destruction of property, and loss of employment);
- Political abuse (sectarian discrimination, labeling, confiscation of property, harassment); and,
- Cultural abuse (change of religion, discrimination, and disruption of life and beliefs).

In general, land conflicts greatly affect human rights, food security, sovereignty, tenure security, and other rights. NGOs working in this field say that over half

a million Cambodians have lost their land (land rights) in the span of 20 years (LICADHO, 2018). Likewise, in the majority of situations, human rights concerns arise largely in the context of governance of tenure. Land issues impacting upon human rights may go beyond the governance of land tenure, extending to environmental protection and access to natural resources (UN, 2015).

Land violations are the most critical and rampant form of human rights violations occurring in Cambodia today. It is estimated that as many as one third of Cambodian families have been involved in a land dispute. These disputes involve land grabs by the RGC or related entities, the sale of public land to private entities, and the appropriation of land for economic projects (CCHR, n.d). CCHR has developed a project seeking to ensure that vulnerable and marginalized communities affected by land conflicts together with human rights defenders (HRDs) and CSOs are able to take action to recover their land, and hold the RGC and private companies accountable for their actions. Ultimately, the project seeks to achieve land security and tenure for these marginalized people, as well as establish respect for land rights by the RGC and private companies throughout Cambodia (CCHR, n.d.).

In line with this, a “Multi-stakeholder Validation Workshop on 2020 Country Land Monitoring” was organized by SK on 30 June 2021, with the participation of 35 NGOs and community members. The workshop produced the following recommendations:

Government should:

- Ensure that investors consider the interest of the community, especially the IPs;
- Conduct an inventory of the State public land and the State private land to avoid the abuse of State land which can be classified as social and economic land concessions;
- Speed up the systematic land registration;
- Strictly implement the law and require all to respect the law in conformity with Article 196 of the Civil Law;
- Speed up the amendment of the Land Law;
- Speed up the approval of the Environmental Code which includes Environmental Impact Assessment (EIA) and Free, Prior, and Informed Consent (FPIC);
- Be open-minded and allow the people to enjoy their right to express their concerns, and stop the arrest of land activists;
- Strengthen the implementation of the laws and create responsive mechanisms to protect the land and natural resources;
- Solve land problems peacefully with the engagement of the community and civil society;
- Strengthen the practices of FPIC and EIA as endorsed by UNDP;
- Eliminate impunity; and,
- Eliminate nepotism, work closely with NGOs, and consider NGOs as valuable partners.

NGOs should:

- Strictly monitor land conflicts;
- Have a common advocacy mechanism to deal with land conflicts;
- Continue to educate the citizens on relevant laws;
- Provide intervention and help people to create evidence-based research studies;

- Collaborate with other NGOs involved in similar sectors in order to work together for a common interest and build a strong voice; when NGOs are divided, their voice weakens and negatively impacts on the community;
- Encourage one another to continue to support communities further;
- Not be afraid to talk directly to the government, rather than talk behind the government or only with other NGOs; and,
- Should continue to enhance the capacities of IPs.

The community should:

- Not be intimidated, but must be strong and work together with one voice;
- Further strengthen its capacity and should not rely on only one person as the leader of the community; anyone can lead the community to have one voice;
- Be self-reliant, have strong leadership, and reduce dependence on NGOs; and,
- Develop a good strategy to protect themselves from illegal arrest and to curb land conflicts.

RECOMMENDATIONS FOR GOVERNMENT TO PRODUCE A MORE TRUTHFUL AND ACCURATE REPORT ON LAND TENURE SECURITY

On 5 March 2021, CCC and NGOOF jointly conducted the “Online Workshop on Providing Inputs for Revision of Targets and Indicators of the Cambodia Sustainable Development Goals (CSDGs) Framework 2016 to 2030 Based on the Impact of COVID-19.” This workshop was attended by 62 NGOs, including national and local NGOs.

The workshop produced the following recommendations:

- Consider withdrawing or seek sources to support the indicators;
- Modify the indicators;
- Modify the targets (based on the resource of data);
- Collect data (based on the cycle of data); and,
- Consider adding more indicators, including SDG 1.4.

The participants noted two major challenges:

- The spread of COVID-19 drew heavily upon government resources, thus greatly affecting the achievement of the 2016 to 2030 CSDGs. Despite the growth of the economy and investments of the private sector resulting in high public revenues, funding from development partners dropped significantly. Thus, Cambodia needs more funds to strengthen its public services.
- Lack of information related to the indicators on the governance, reform, and strengthening of the management system for the public sector; as well as the lack of data for monitoring and evaluation — for example, the project on a public finance strategy for development of statistics, the reform of public administration, and the program to promote the sub-national democracy.

REFLECTIONS ON HOW CSOs CAN SUSTAIN THE LAND AGENDA THROUGH THE SDGs

Below are the recommendations from 51 participants who attended the validation workshop on 5 August 2021, representing CBOs and NGOs working in the land sector; the MLMUPC; the Provincial Department of Land Management, Urban Planning and Construction; the Cambodian Human Rights Committee (CHRC), and other relevant institutions.

For government:

- The detailed written documents on the progress of CSDGs should be compiled;
- The various stakeholders at both sub- and national levels should be engaged in the process of implementation and reporting of CSDGs, to ensure transparency and accountability;
- Division of responsibilities among government institutions should be more specific in regard to CSDG progress reports, and the VNRs should be shared to relevant stakeholders;
- The land complaint information/data should be available through online platforms; and,
- Environmental Impact Assessment (EIA) should be conducted with the participation of the relevant ministries, CSOs, the private sector, and the affected target communities.

For civil society organizations:

- Maintain the cooperation and strengthen the partnership with the government and relevant stakeholders to highlight challenges and incorporate solutions into the national strategic plan;
- Disseminate information on the Land Law and strengthen citizens' capacity and knowledge, especially among the vulnerable groups;
- Ensure that relevant documents, such as land registration/titles, are available for citizens to access;
- Provide information to citizens on the number of beneficiaries who plan to register for a collective land title, and have this information available for inquiry from the commune councils; and,
- Advocate for the Land Law to encompass land rights, natural resource protection, forestry and fishery, and environmental codes.

What are opportunities for NGOs contributing to the SDGs achievements?

- Upholding the SDGs as the common policy;
- Actively participating in monitoring the development and implementation process of the National Strategic Development Plan (NSDP);
- Advocating for the government to allocate a development budget to attain the CSDGs; and,
- Joining the Technical Working Groups (TWGs) of all institutions and ministries of legislative and executive branches in order to champion the interests of the vulnerable as a priority for possible solutions. □

Acronyms

ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CCC	Cooperation Committee for Cambodia
CCHR	Cambodian Center for Human Rights
CDC	The Council for the Development of Cambodia
CHRAC	Cambodia Human Rights Action Coalition
CMDGs	Cambodia Millennium Development Goals
CSDGs	Cambodia Sustainable Development Goals
CSO	civil society organization
DIDES	International Volunteer Organization for Women and Education
ECOSOC	Economic and Social Council
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization
FGD	focus group discussion
FPIC	Free, Prior and Informed Consent
GDWGL	Global Donor Working Group on Land
GLII	Global Land Indicators Initiative
GLTN	Global Land Tool Network
GPCC	General Population Census of Cambodia
IGO	intergovernmental organization
IIMA	Instituto Internazionale Maria Austriatrice
ILC	International Land Coalition
LASED	Land Allocation for Social and Economic Development Project
LWA	Land Watch Asia
MAFF	Ministry of Agriculture, Forestry and Fisheries
MDG	Millennium Development Goal
MDPI	Multi-Disciplinary Digital Publishing Institute
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoP	Ministry of Planning
MRLG	Mekong Region Land Governance
NAC	National Annual Conference
NGO	non-governmental organization
NGOF	NGO Forum on Cambodia
NIS	National Institute of Statistics
NSDP	National Strategic Development Plan
ODC	Open Development Cambodia
RGC	Royal Government of Cambodia
RIA	Rapid Integrated Assessment
RS IV	Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase IV (2019 to 2023)
SAC	Statistics Advisory Council
SDG	Sustainable Development Goal
UNDP	United Nations Development Programme
UNDG	United Nations Development Group (renamed UNSDG)
UNDSG	United Nations Sustainable Development Group
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UPR	Universal Periodic Review
VNR	Voluntary National Review
WB	World Bank

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Nhek Sarin

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A look into village-level perceptions on “land tenure security” amidst India’s land data challenges



FOUNDATION FOR ECOLOGICAL SECURITY

INDIA

CONTEXT

Sustainable Development Goals (SDGs) reflect the will of the international community to end poverty and hunger and move towards more equitable and environmentally sustainable development policies and programs. The progress towards achievement of these goals is tracked and monitored by a set of indicators by national governments, aided by data collected and reported by National Statistics Offices (NSOs) and other agencies.

In India, NITI Aayog has the mandate to oversee the adoption and monitoring of the SDGs in the country. NITI Aayog is the institution that prepares frameworks for reporting various indicators, compiles the data from a number of agencies, and prepares annual and periodic reports on the achievement of various SDGs. *SDG India Index and Dashboard* measures progress against various goals by different States and Union Territories. It includes a rating system based on a scale of zero to 100, where zero denotes the worst performance and 100 denotes achievement of the target. (See <https://sdgindiaindex.niti.gov.in/#/ranking>)

Since its inception in 2018, the Index has been comprehensively documenting and ranking the progress made by States and Union Territories towards achieving the SDGs. The third edition of the *SDG India Index 2020 to 2021* was released on 3 June 2021 by NITI Aayog. From covering 13 Goals with 62 indicators in the first edition in 2018, the third edition in 2021 covers 16 Goals on 115 quantitative indicators, with a qualitative assessment on Goal 17.

Goal 1 of “No Poverty” is critical to developing countries like India, with land being the most important productive asset in rural and agrarian landscapes. Similarly, poorer sections of society in rural areas are heavily dependent on common lands like forests, pastures, orchards, water bodies, and other common lands for earning livelihoods. Hence, secure tenure over lands, both individual holdings and village common lands, is an important barometer that determines social and economic development. “Securing tenure rights for all” will ensure the sustainable social and economic opportunities needed to eradicate poverty (SDG 1), as well as contribute to the achievement of SDG 2 on eradicating hunger; SDG 5 on gender equality and empowerment of women; SDG 11 on building inclusive, resilient, and sustainable urban areas; SDG 15 on reducing land degradation; and, SDG 16 on fostering peace and security.

SDG indicator 1.4.2 measures the proportion of the 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. Responsible land governance therefore demands access to regular, quality, and gender disaggregated data on land tenure rights at the national and sub-national levels. Key policy decisions relating to transforming women’s land rights and frameworks like Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT) are influenced by this.

This study examined the tenure regimes in place across States, the data used for reporting tenure security under SDG reporting, and perceptions of tenure security among men and women for various categories of lands.

STUDY METHODOLOGY

The study involved:

- Review of literature around land records, tenure regimes in different States, land use and land holdings, and government programs on land records updating and digitization;
- Scanning of secondary data from websites of States and the central government, publications by State and central Department/Ministry of Statistics on State and district-wise availability of various categories of land, land use, patterns in land holdings, recognitions under the Forest Rights Act (FRA) 2006; and,
- Collection of primary data from 12 villages of six districts of two States.

Sampling methods and data collection instruments

Two States in eastern India, namely Jharkhand and Odisha, were selected for in-depth study and primary data collection. Of the six districts selected, three districts are dominated by Scheduled Tribes (STs) and hence Tribal Sub Plans (TSP) are implemented there, while the other three districts have a smaller population of Scheduled Tribes. Purposive sampling was used for selection of 12 villages from which primary data were collected.

Table 1. Study States and districts

Serial No.	State	District	TSP/Non TSP
1	Jharkhand	Gumla	TSP
2		Simdega	TSP
3		Palamu	Non TSP
4	Odisha	Koraput	TSP
5		Mayurbhanj	TSP
6		Boudh	Non TSP

Two villages were selected from each district, one dominated by STs and another village where STs are either not present or are not the dominant community, thus totaling 12 villages. All the villages have cases of individual forest rights claims made under the FRA and subsequently settled. All the villages have a minimum of 100 hectares of community forests. All the villages are accessible by semi-metalled/metalled roads. At least two self-help groups (SHGs) are available and operating in each of these villages.

Data collection in all these villages was facilitated by local NGOs. Focus group discussions (FGDs) and key informant interviews (KIIs) were used for collecting data. Separate FGDs were conducted for women to get an idea about their perceptions of tenure security over individual holdings and common lands.

Table 2. Participants of 24 FGDs and KIIs

State	FGD		KII		Total		
	Female	Male	Female	Male	Female	Male	Total
Jharkhand	44 (27 STs)	73 (48 STs)	2	5	46	78	124
Odisha	48 (24 STs)	69 (37 STs)	4	6	52	75	127
Total	92	142	6	11	98	153	251

Box 1. Questions asked during the FGDs and KIIIs

FGD Guide Questions

- How many households have Records of Rights (RoRs) for all lands cultivated by them?
- Have you seen your village revenue map, land records of your household?
- Whose names are found/recorded in the RoRs?
- How many times have you gone to the local revenue office in the past two years and for what purposes?
- Do you have correct maps of all plots owned by you/registered in your name?
- How many households have women's names recorded in the RoRs?
- What are the conflicts relating to land in your village?
- How many households got land under some government program in the past five years? What were the criteria? How were they selected?
- How many households have forest rights titles? What is the area of land so recognized? Do you have maps for these titles? Is there any discrepancy?
- If you face problems in land records, whom do you approach in your village and outside the village?

KII Guide Questions

- What are the land records including maps maintained by the Revenue Department at various levels and offices?
- How are they updated and what is the frequency of updating of major records?
- What are the major citizen services offered by the Revenue Department?
- What are the sources of State level data on land tenure and how are they collected, collated?
- Which data and records are already digitized? What is the impact of the Land Records Modernization Program?
- What are the major challenges in land records maintenance?
- What are the changes that have come up in land data reporting in the past five years?
- How can we move towards gender segregated data on land tenure?
- How can we correct land records pertaining to forest rights titles? What are the challenges in this exercise?
- What are the ways and means of moving towards better reporting of land tenure under the SDGs?

These questions were not asked sequentially. For most respondents, SDG goals were explained first as part of confidence building and transparency while collecting data.

Profile of the study States

Odisha

Odisha, an eastern State of the Indian Union, is the ninth largest State accounting for 4.7 percent of the country's geographical area. As per the 2011 Census, the population of the State stands at 41.9 million of which 84 percent live in rural areas. STs constitute 22.13 percent of the State's population whereas SCs account for 16.53 percent. Around 39.2 percent of the State's population lives below the poverty line as per National Sample Survey Organization (NSSO) Round 2009 to 2010 following the Tendulkar Committee methodology. The State has

a forest area of 58,136 square kilometers which covers 37 percent of the total geographical area of the State (ENVIS Centre of Odisha's State of Environment, 2020). Odisha is divided into four geomorphological zones, namely: Northern Plateau, Central Table Lands, Eastern Ghats, and Coastal Plains. STs mostly reside in the Northern Plateau and Eastern Ghats of the State. Administratively, the State is divided into 30 districts, with 42 percent of the geographical area under Schedule 5 of the Constitution. Scheduled Areas are spread over 12 of the State's 30 districts. The State is home to 56 tribes, including 13 Particularly Vulnerable Tribal Groups (PVTGs).

Jharkhand

The State of Jharkhand came into being on 15 November 2000 as the 28th State of the Indian Union. It occupies the northeastern part of the Deccan Plateau and covers 79,714 square kilometers. Chhotanagpur plateau, its most prominent physiographic feature, is actually a series of flat-topped plateaus, hills, and valleys. The State is drained by three major river systems: Damodar, Subarnarekha, and Brahmani. The total recorded forest area is 23,605 square kilometers, which is 29.61 percent of its geographical area (Forest, Environment and Climate Change Department, Government of Jharkhand, n.d.). Both tropical dry-deciduous and moist deciduous forest vegetation are found. Indigenous tribal communities like Munda, Oraon, Ho, Santhal, Paharia, and Chero constitute 28 percent of the 27 million-strong population (Jharkhand State Open School, n.d.). Administratively, the State is organized into 24 districts, 33 sub-divisions, 247 Blocks, 3979 *gram panchayats*, and 32,620 villages. Some 134 Blocks in 15 districts are included in the Tribal Sub Plan. The State's tenure regimes have historically recognized community tenure over common lands, including forests. The Chhotanagpur Tenancy Act and the Santal Parganas Tenancy Act were enacted to recognize traditional land tenure regimes prevalent among the indigenous population of the area after two famous rebellions occurred during colonial rule.

REFLECTIONS FROM LITERATURE REVIEW

Legal frameworks and tenure regimes

Land and land revenue is a State subject under the Constitution of India. State legislatures make laws on all matters pertaining to land, land records, settlement, and distribution of lands. The revenue departments of the State governments are the nodal departments for administration and management of lands.

Such is the legacy of the British colonial system governing all categories except forest lands. Forests are in the Concurrent List of the Constitution and hence both Union and State governments exercise authority over these. Every State has a land records organization that keeps data on land and land holdings and maps of such holdings. Multiple tenure regimes which are a product of legacies during different rulers co-exist in the States. The broad regimes are:

- Individual homestead and agricultural holdings with clear record of rights;
- Individual homestead and agricultural holdings without proper record of rights;
- Hereditary regimes over lands vested/gifted in the name of deities, temples, mosques, etc.;

- Common lands like pastures, orchards, and water bodies administered by the local self-governments/*gram panchayats*;
- Common lands/government lands administered by the Revenue, Irrigation, and Fishery Departments; and,
- Forest lands under Revenue and Forest Departments.

Except for the first and last regimes, clear disaggregated data is not easily available at the State and district levels. Moreover, there are huge differences in actual possessions, textual data in land records, and spatial maps of villages where land parcels are recorded with a number. In remote forested areas, lands above a certain elevation were not surveyed. All such lands were deemed as forest lands or government lands. A large part of the current State of Odisha was ruled by the princes and kings before Indian independence from British rule. These areas were not surveyed in the manner British-held areas were surveyed and settled resulting in various local tenure regimes being unrecognized. However, the enactment of the FRA in 2006 addressed the issue of unsurveyed areas to some extent.

The State of Jharkhand is unique in many ways. It is the only State outside northeastern India which recognizes communal tenure regimes. The system of “*khutkhatti*” practiced by Munda tribes is recognized under the Chhotanagpur Tenancy Act. Similar provisions exist in Santal tribe-dominated areas called *Santhal Parganas*. Under these tenure regimes, villagers collectively decide on the lands to be cultivated by individual households. Similarly, most of the forest areas are recorded within village revenue boundaries, enabling legal access to forest areas for collection and use by local communities.

The FRA brought in seminal changes in tenure regimes over forest lands. Odisha has more than 29,000 villages having forests within village boundaries. Similarly, Jharkhand has around 16,000 villages having recorded forest lands. Under the FRA, all these lands are expected to be brought in under community tenure regimes instead of current State or management control of the Forest Department. Similarly, actual possessions of STs and other traditional forest dwellers in forest lands are to be recognized and the record of rights distributed to all such eligible households. Odisha recognized the land rights of 0.42 million households using the provisions of this law. However, Jharkhand has been able to settle the rights of only 54,000 households to date.

The Bhoodan movement in India is a Gandhian non-violent method of land redistribution launched by the late Vinoba Bhave. Every State has a Bhoodan law for distribution of lands donated by the landlords. However, as per literature review, there are hardly any records available in most State and district levels on the redistribution of Bhoodan land and the settlement and issuance of records of rights.

Availability and accessibility of data

The following documents, reports, and websites were scanned for data pertaining to land, land records, and land tenure to understand the nature and quality of data available, access systems of such data, the costs to be incurred, and government programs that make land data and records easily accessible to the common people:

- Economic survey of Central and State Governments;
- Statistical Handbooks of the State and districts;

- NITI Aayog's SDG Index and Dashboard;
- Reports of the Ministry of Statistics and Programme Implementation, Government of India;
- Reports of the Department of Land Resources, Ministry of Agriculture, Government of India;
- State portals on land records of Bhulekh, Odisha and Jharbhoomi, Jharkhand;
- Annual reports of the Directorate of Land Records of States;
- Reports of the National Council of Applied Economic Research; and,
- Reports pertaining to land holdings of the NSSO.

The above sources are rich in data as far as categories of land available in each State, district, and *tehsil* (sub-district); the number and type of holdings, current land uses, land transactions and transfers in a *tehsil*, etc. However, data about tenure are not available or reported as mandated under SDG 1.4.2. It may be the case that all land recorded in the names of individuals may be inferred as having secure tenure rights, and data about the number of landless households and landless laborers is available in such reports. However, as field findings reveal, there are huge under-estimations of the numbers in both the States studied.

MAIN FINDINGS FROM THE STUDY AREAS

The primary data were collected from 12 villages of the two States and analyzed against district-level secondary data for legally recognized documentation for both individual and common lands. Perceptions of various communities were separately recorded in focus group discussions (FGDs). Separate meetings of Women Self-Help Groups were held to better understand the perceptions of tenure security among women.

Two FGDs were conducted in each village, one with men and another with women. Hence, a total of 24 FGDs were conducted involving 142 men and 92 women (See Table 2). In six of the villages, the participants were mostly STs; while in the other six villages, it was a mixed caste group. Participant households own land (they have private lands) and are dependent on common lands including forests. The FGDs were conducted between 11:00 in the morning to 3:00 in the afternoon in the different communities, when the villagers were back from either their farms or the forests and were available in their homes. In the non-tribal villages, this was also the time when the women would have finished cooking. The FGDs were conducted mostly in common and open places in the village (village deity's place, under a tamarind or *mahua* tree). There were two to three men as "onlookers" during the FGDs with women in each of these villages.

Key informant interviews (KIIs) were conducted with the following respondents:

- Revenue officials at the *tehsil* level – six from the two States;
- Retired State revenue department officials - two from each State;
- Official of land records modernization program - one from Odisha;
- NGO staff - six from six districts;
- President of the Odisha State chapter of the National Association of Women Organizations;

- State Conveners of the Right to Food network - one each from the two States;
- Two advocates from two States working on land rights of *Dalits* (Scheduled Castes); and,
- Convener of Jharkhand Jungle Bachao Andolan (a State-level network of forest conservation groups in Jharkhand).

It was revealed that people are able to access their private land records from State land portals. However, the data in many of these sites, portals, and reports are outdated — thereby impinging on the usability of the data by both the people and policymakers. Gender segregated data are neither kept nor available. Both the States have introduced stamp duty incentives to register lands in the names of women. Stamp duty is collected by the State government as a percentage of the total value of transactions when land is sold and transferred to another person. The amount is often substantial and exemption from reduction in the duty acts as an incentive. In Odisha, around three percent of land transactions have been registered in the names of women in the past three years.

The data on common lands is the weakest area of the two States' records. Laws refer to all common lands as government lands. Hence, the owner of such lands is the State. The State can therefore alienate or acquire such lands without the consent of the local communities for public purposes as defined under land acquisition laws. In Odisha, however, grazing lands cannot be alienated without making provisions for a minimum area of grazing land as mandated under law. This lack of quality data on common lands is one of the reasons for a higher perception of tenure insecurity among the people. Data on encroachments on various categories of common lands is neither aggregated nor reported. All data needs to be collated at the *tehsil* level to get a picture of actual availability versus recorded common lands. Similarly, data on religious endowments (lands) and their current status is not available centrally.

Legally recognized documentation

“*Pattas*” or Records of Rights are considered legal documents that ensure secure tenure over individual land holdings. In terms of land use, individual holdings cover homestead plots, agricultural lands, orchards, and small water bodies. These *pattas* have a number and indicate the total area of holdings in a given revenue village. Common land parcels like pastures, village forests, water bodies, roads, playgrounds, cremation/burial grounds, common orchards, *nullahs* (water channels), stone quarries, hills, etc. are also assigned a number in the village revenue map. Hence, both textual and spatial records reflect the total amount of land ownership and land uses. However, ownership changes due to sale and succession are not updated regularly in these records.

The findings from the two study States are summarized below. Some 92 percent of the lands reported under the individual holdings category have some form of legally recognized documentation. This includes FRA individual forest rights titles wherever settled.

- About 87.8 percent of the cadastral maps of these two States are uploaded in the websites.
- Seventy-one percent variations are observed in actual and textual records in the study villages. This is primarily on account of non-recording of sale or informal transactions and lack of updating reflecting succession to the next generation after family divisions.

- Seventy-eight percent of Bhoodan lands are not distributed in Odisha, meaning these lands are officially listed as property of the Bhoodan land committee. But the record of rights and actual possession are, in effect, in the hands of landlords or their progenies. Most of these lands are now tied up in litigations in various courts.
- Correction of the Record of Rights for individual forest rights has been done for 41 percent of the title-holders across the country as per Ministry of Tribal Affairs. It is 67 percent in case of Odisha. The process is yet to begin in the State of Jharkhand.
- Encroachments on common lands are reported for all the 12 study villages. Such encroachment ranges from 12 to 24 percent of the total common lands in these villages.

Gender disaggregated data

Current data on gender disaggregation is sketchy and limited across States in the country. Not many insights can be drawn regarding the study States and villages. However, some initiatives have been taken by various State governments to collect, compile, and report gender segregated data in the future.

- Twelve Indian States, including the two study States, have issued orders for collecting and maintaining gender segregated data on land holdings and transactions (NCAER Index).
- Eight States have introduced some form of incentives in the form of tax and duty concessions to encourage registration of lands in the names of women (NCAER, State Revenue Department websites).
- Both the study States have introduced programs for providing land to single women households in rural areas (State Revenue Department websites).
- Seven States reported provisions for leasing common lands, such as water bodies for pisciculture, to women self-help groups (National Rural Livelihoods Mission literature).
- Individual forest rights titles are supposed to be recorded in the names of both men and women heads of households. Some 34 percent of FRA titles have names of women entered in these titles (Presentation by Tribal Research Institute of Odisha in a webinar in July 2021).

Perceptions of tenure security

Perceptions about tenure security vary greatly among various communities and for different categories of lands. Scoring methods using small stone chips through participatory rural appraisal (PRA) were employed during FGDs to understand these varying perceptions. The major findings are summarized below.

- Homestead and agricultural lands enjoy the highest percentage of perception of tenure security among respondent groups in both study States. More than 98 percent believed that these lands cannot be alienated without their explicit consent. The only exception was a group of displaced people in Odisha who have been affected by a minor irrigation dam project.
- Forty-one percent of households who have been cultivating religious endowment lands for generations felt insecure in terms of tenure. They felt that government can take away their lands.

- Seventy-three percent of the respondent groups felt that grazing lands or village pastures are secure. The threats reported were primarily on account of existing encroachments on pastures by the village elites and on stone quarries close to pasture lands.
- Perceptions on access to forest lands varied widely among the study villages, depending on the communities involved. *Dalits* felt most insecure while accessing forest lands for various livelihood needs. Around 52 percent of STs felt secure while accessing forest lands, while 78 percent of the other caste groups felt secure while collecting forest products.
- There was near unanimity that common lands are most insecure in the villages. Barely 11 percent felt secure that common lands will not be alienated by various means. Apart from encroachments by local elites, earmarking of common lands for industrial and compensatory afforestation Land Banks by government were cited as major threats by key informants.
- No major difference was observed between men and women in terms of perception of tenure security in the case of individual holdings. However, 17 percent less women felt secure when it came to tenure over common lands.
- The transgender community felt most insecure about their current holdings. However, they were participants in only one village in Odisha.
- STs have the highest perception of security of their current individual holdings, except for the displaced community mentioned above. This is intriguing as it goes against normative beliefs. It may be mentioned here that six of the 12 villages studied are exclusive tribal villages.

Observations on availability and access to Government Data

There are multiple agencies that are responsible for collection and upkeep of various types of land data. Often the data maintained by these agencies do not match. The most common mismatch is the data and maps maintained by the Revenue and Forest Departments. There is no single repository where these data are pooled, analyzed, and reported. Data at the State level are not updated regularly. The progress of the Land Records Modernization Program, which was expected to digitize land records and provide access to real-time and updated data, is very slow in many districts except for new transactions, sales, and registrations. Access to internet connectivity in rural areas is still very low thereby limiting the benefits of digitization.

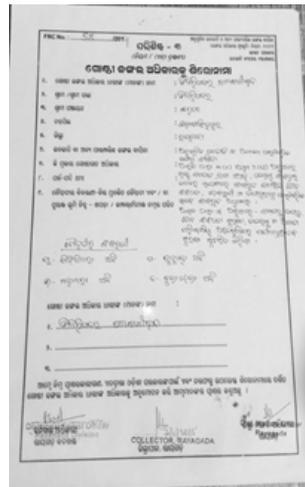
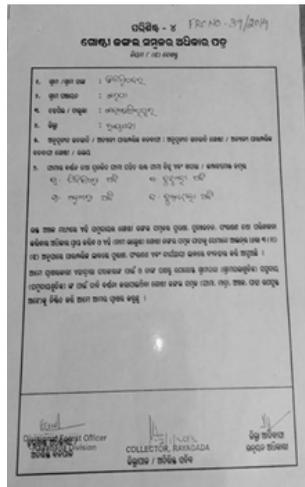
Major developments

Some major developments in the last year, 2020, bring hope of better access to land data and better services by various agencies responsible for land administration:

- 10 States are providing a facility for automatic generation of a note in the Record of Rights (RoR) when a transaction is registered.
- States are now making the cadastral maps available in mosaic format with the actual measurement of plot boundaries.
- The Government of India launched a new scheme called SVAMITVA for surveying of villages and mapping of land parcels with improved technology (<https://svamitva.nic.in/>).

- The Land Records and Services Index 2021 by the National Council of Applied Economic Research (NCAER) ranks States according to various parameters of land administration. This is expected to foster competition among the States to provide better and faster services relating to land.

Sample of CFR Titles



CONCLUSION

Reporting of land governance including land tenure data in India is a major challenge given multiple tenure regimes and the multitude of laws in different States of the country. Although land tenure data is available at lower levels of revenue administration (revenue circles, *tehsils*), the complexity of these data makes it difficult for compilation and reporting at State and national levels. Land classification and their categories vary from State to State — making comparison extremely difficult. A large part of these data are dated and not updated regularly. In remote tribal areas, survey and settlement processes are often incomplete, making availability of land records and data difficult. While the FRA recognized legitimate possessions of indigenous people, land records are yet to be updated reflecting the new reality. Gender segregated data is likewise not available for all parameters, except new transactions/sale deeds. Programs of land records modernization initiated by the Central and State governments in the past few years are expected to improve data availability, reliability, and reporting in the future. □

Acronyms

FES	Foundation for Ecological Security
FRA	Forest Rights Act
FGD	focus group discussion
KII	key informant interview
NGO	non-governmental organization
NSO	National Statistics Office
NSSO	National Sample Survey Organization
NCAER	National Council of Applied Economic Research
PRA	participatory rural appraisal
PVTGs	Particularly Vulnerable Tribal Groups
RoR	Record of Rights
SCs	Scheduled Castes
SDGs	Sustainable Development Goals
SHG	self-help group
STs	Scheduled Tribes
TSP	Tribal Sub Plans
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

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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*

[TPB/SDGs]), 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 – in *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

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

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Working towards a True and Accurate Land and Resources Tenure Security Report: 2020 CSO Report on Sustainable Development Goal Target 1.4 in Kyrgyzstan

Sairagul Tazhibaeva, Specialist, Kyrgyz Association of
Forest and Land Users (KAFLU)

Erkinbek Kozhoyev, Chairman, National Union of
Water Users Association (NUWUA)

Toolos Bostonbaev, Chief Specialist for Monitoring and
Information Management, NUWUA



OVERVIEW OF THE STUDY

The scope and methodology of writing this report was determined in accordance with the terms of the Outline for Reports on SDG Target 1.4 provided by ANGO as a guide, and was adapted to the conditions of the Kyrgyz Republic.

The report was based on previous case country land monitoring report initiated by Land Watch Asia (2018) and the country scoping paper: A Scoping Study on National Statistics Committee of the Kyrgyz Republic in the context of SDG Indicator 1.4.2 (2018).

The methodology for writing the report included the following stages:

Stage 1: Desk research

- Review and analysis of the legal and regulatory framework governing the management and use of land resources in the Kyrgyz Republic;
- Collection and study of statistical data, review of basic legal and reference information, study of other reports and research in this area; and,
- Study of documents or materials about the SDGs in the Kyrgyz Republic.

Stage 2: Conducting consultation meetings to receive proposals from stakeholders and address missing information

- Organized a meeting with focus groups participated by representatives from NSC KR, KAFLU, Kyrgyz Zhaiyty, RDF, and NES Kyrgyzstan; and,
- Organized two round table discussions (in the South - 31 participants and in the North - 38 participants) with a representative of ILC Asia, water users, forest users, pasture users, and representatives of the MAFPM.

Stage 3: Synthesis/Analysis of all information and data obtained

- All suggestions and comments received were properly integrated into this report.

Stage 4: Submission of the report at the regional level

- Presentation of the draft report to the LWA Land Monitoring Working Group Members; and,
- Finalization of the report.

COUNTRY EFFORTS TO ACHIEVE SDG TARGET 1.4

National policy framework

The Kyrgyz Republic is committed to implementing the UN 2030 Agenda for Sustainable Development. Sustainable Development Goals (SDGs) are included in government policy and are reflected in:¹

- The National Development Strategy of the Kyrgyz Republic for 2018 to 2040; and,

¹ VNR to achieve the SDGs in the Kyrgyz Republic, 2020

- The Program of the Government of the Kyrgyz Republic “Unity. Confidence. Creation” for the period 2018 to 2022.

The National Development Strategy of the Kyrgyz Republic for 2018 to 2040 is the main strategic document that defines targets and reflects a common vision of the future, showing the main direction of the country’s development for 2018 to 2040.

The quality and standard of living, the rights and obligations of a person are at the center of State policy. The strategy is aimed primarily at creating an environment for human development, unlocking the potential of everyone who lives in our country, and ensuring her/his well-being.

The Kyrgyz Republic adheres to a global commitment to “leave no one behind,” with a special focus and priority attention on the most vulnerable groups of the population.

Full and equal participation of women in management at all levels of decision-making in political, economic, and public life is ensured in Kyrgyzstan. State programs are being implemented aimed at achieving gender equality and eliminating the imbalance between the opportunities of women and men (National Development Strategy of the Kyrgyz Republic for 2018 to 2040).

The main strategic directions of the National Development Strategy of the Kyrgyz Republic for the period 2018 to 2040 are:

- Person - family - society;
- Economic well-being and quality of the development environment; and,
- Public administration.

Land rights are secured through the strategic direction Public Administration, clause 4.3. Rule of Law — that describes that the justice system will be the personification of justice in the State. By 2040, an independent justice system will be built in Kyrgyzstan, which will comprehensively ensure the protection of a person and his legal rights, guarantee the inviolability of property, creating the best conditions in the region for business development. Judicial protection will be available and the system will be transparent.

Poverty reduction is reflected in the strategic direction through:

- “Person - family – society,” which states that in 2040 a citizen of the Kyrgyz Republic has the potential to ensure a decent standard of living for herself/himself and her/his family. S/He is able to adapt to the conditions of a changing world and has the ability to responsibly choose her/his life path in her/his country and abroad;
- “Economic prosperity and quality of the environment for development,” which states that the development of the country’s economy will make it possible to level the standard of living of the population in cities and villages, and improve the provision of State and municipal services. Through the development of small and medium-sized businesses and the creation of productive jobs, employment and stable income will be provided. The economy will also be balanced in terms of regional development.

The leading benchmark for the Development Program of the Kyrgyz Republic for the period 2018 to 2022 “Unity. Confidence. Creation” is a long-term vision until 2040, allowing the maintenance of a clear framework, taking into account global challenges, opportunities, and national interests. The program is focused on

maintaining continuity and consistency on those results of the implementation of the National Strategy for Sustainable Development of the Kyrgyz Republic for the period 2013 to 2017, which remain important and/or have not achieved the desired result.

In this program, the rights to land are not directly reflected. However, the most important priority is to provide guarantees of security and justice for all Kyrgyzstanis, including landowners and land users. The result of the Government's efforts in this area should be the effective application of the concept of protecting a person and citizen, which should prevail over the concept of protecting the system of power.

The priority measure of the next five-year development cycle, in order to protect the individual and ensure public order, will continue the restructuring of the law enforcement system, despite possible internal resistance.

Mechanisms for SDG Coordination

In accordance with the Resolution of the Government of the Kyrgyz Republic "On the Coordination Committee for Adaptation, Implementation and Monitoring of Sustainable Development Goals until 2030 in the Kyrgyz Republic" dated 22 December 2015, No. 867, a Coordination Committee for Adaptation, Implementation and Monitoring of the SDGs until 2030 was formed in the Kyrgyz Republic.

The said Committee is an advisory body that coordinates the activities of State bodies, plenipotentiary representatives of the Government of the Kyrgyz Republic from the regions and local self-government bodies, and representatives of civil society involved in adaptation, implementation and monitoring activities to achieve the SDGs.

It is composed of representatives of State executive authorities, Committees of the Parliament of the Kyrgyz Republic (as agreed), the Secretariat of the National Council for Sustainable Development of the Kyrgyz Republic (as agreed), and international organizations (as agreed). The Chairman of the Committee is the Prime Minister of the Kyrgyz Republic.

The working body of the Committee (secretariat of the Committee) is the Department of Economics and Investments of the Office of the Government of the Kyrgyz Republic.

On the other hand, the National Statistical Committee of the Kyrgyz Republic is the responsible body for building a monitoring and reporting system to monitor the achievement of the 2030 Agenda for Sustainable Development.

Voluntary National Review

The Voluntary National Review (VNR) indicates that 16 SDGs are included in State policy. They are likewise reflected in the National Development Strategy of the Kyrgyz Republic for 2018 to 2040 and the government program of the Kyrgyz Republic "Unity, Confidence, Creation" for the period 2018 to 2022.

Approved by the Order of the Government of the Kyrgyz Republic dated 9 June 2020, the first VNR was transmitted by the Ministry of Foreign Affairs of the Kyrgyz Republic to the Department of Economic and UN Social Affairs, and presented at the High-Level Political Forum on Sustainable Development at the United Nations in July 2020.

In the first NVR, information on progress in land rights, in particular SDG target 1.4.2

CSO initiatives in monitoring SDGs

Currently, in the Kyrgyz Republic, CSOs do not monitor and do not compile data on the achievement of the SDGs.

LEGAL FRAMEWORK FOR LAND RIGHTS FOR SMALLHOLDERS, INCLUDING POLICY ON WOMEN'S LAND RIGHTS, AND POLICY ON ANCILLARY SERVICES

On farmers and smallholders

According to the Constitution of the Kyrgyz Republic, civil and sectoral legislation, all citizens of the Kyrgyz Republic have equal rights to own and dispose of land and other forms of property, as well as access to natural resources, to appropriate new technologies and financial services, including microfinance.

With the attainment of independence by the Republic (1991), radical changes took place in agriculture, which led to the reform of the collective farm system and the formation of peasants farms through the denationalization and privatization of many State-owned agricultural enterprises.

In the course of reforming the agrarian sector, more than 286 thousand peasant (farmer) households, about 1,200 various associations and cooperatives were created. Usually, a farm consists of members of the same family: these are parents, brothers, children and other close relatives.

In the Constitution, private ownership of land was introduced, and a law “On the management of agricultural land” was adopted.

In 2016, there were more than 400,000 farms. The process of fragmentation and an increase in the number of farms is associated with the fact that individual family members live separately and create new farms. There is a further decrease in the average size of the area of farms. This suggests that the current farmer mentality prefers individual activities rather than collective ones.

The average farm size is usually one to three hectares. At the same time, this also includes the plowed lands of the National Fund for the Redistribution of Agricultural Lands they lease. In fact, in the southern regions, average farm size is 0.6 to 1.1 hectares, and in the northern, it is from one to five hectares (Akmataliev, 2019).

An analysis of the economic activities of peasant farms shows that many of these farms exist on the verge of bankruptcy or are fragmented into smaller individual farms. In addition, some newly formed peasant farms have exist only on paper.

The implementation of the State policy on reforming the agrarian sector, in which the personal interests of the land user were given priority, was embodied in practice by the legislative consolidation of private ownership of land and the adoption of laws regulating the land market. For example, in 1999, the Law “On Peasant (Farm) Economy,” the Law “On Mortgage,” and others were adopted, aimed at further stimulating agricultural development.

Given the acute shortage of agricultural machinery — in particular, harvesters and tractors — the government has embarked on the development of leasing. The annual demand for equipment is about 1,000 tractors of various brands, more than 100 combines, as well as attachments. In 2013, under the leasing program, the country had already received more than 1,000 units of agricultural machinery, which any farmer could purchase on acceptable terms (Akmataliev, 2019).

The market of leasing services in the Republic is expected to average about \$280 million annually. In January 2013, the government approved the Agriculture Financing Project, which opened the opportunity for commercial banks to invest in agriculture in the form of loans from three to five billion soms (approximately US\$35 to 59 million) at 10 to 11 percent per annum. In addition, another 10 percent per year is to be received in the form of subsidies from the budget. In effect, banks were granted the opportunity to earn decent money without taking particular risks (Akmataliev, 2019).

As the experience of developed industrial countries shows, the overwhelming majority of individual private peasant farms cannot survive amidst tough competition. The government decree of 24 December 2012 No. 875 “On the State Program for the Development of the Agricultural Cooperative Movement in the Kyrgyz Republic” and the adopted Law of the Kyrgyz Republic “On Cooperatives” are timely for the development of agriculture. At the same time, the association into cooperatives should be on a purely voluntary basis, and as a member of the cooperative; the peasant (farmer) should remain the owner of his land and other means of production. However, the cooperative movement in Kyrgyzstan has not yet reached its goal due to many problems, among them a weak material and technical base (Alymkulova, 2015).

The Food and Agriculture Organization of the United Nations (FAO) launched a project to help improve the living conditions of more than 400,000 small farmers in Kyrgyzstan, allowing local producers to ensure the safety of their products, and expand access to domestic and international markets. The project is expected to help increase the share of domestic and international markets for fruits and vegetables and improve food security in Kyrgyzstan (Khazirov, 2021).

On women

Land relations in the Kyrgyz Republic are regulated by legal acts aimed at observing and protecting the rights and legitimate interests of landowners and land users, regardless of their gender and other characteristics.

Kyrgyzstan is a party to international conventions and covenants on gender equality in various fields, including ratifying the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1997, which obliges member States to take appropriate measures to eliminate all types of discrimination against women and ensure that, among other things, the same rights of spouses in relation to acquisition, management, use, and disposal of property.

The national policy is upheld in medium- and long-term development plans, as follows:

- The National Development Strategy of the Kyrgyz Republic for 2018 to 2040 is aimed primarily at creating equal opportunities for every citizen, an environment for human development, unlocking the potential of everyone who lives in our country, ensuring their well-being.

- In the program of the Government of the Kyrgyz Republic “Unity. Confidence. Creation” for the period 2018 to 2022 provides for a gender aspect of development: with an emphasis on improving the situation in the field of ensuring equality in all aspects of the human dimension, including equal rights to work, equal access to socio-economic benefits, public infrastructure, and infrastructure of security and justice.

The main regulatory legal acts of the Kyrgyz Republic governing the rights of tenure and use of land resources irrespective of gender are:

- The Constitution of the Kyrgyz Republic prohibits gender discrimination, provides everyone with equal rights and establishes that men and women have equal opportunities and freedoms (Part 4 of Article 16); this includes international agreements to which Kyrgyzstan is a party.
- The Family Code of the Kyrgyz Republic/FC KR (dated 30 August 2003, No. 201) regulates family relations between spouses and defines the family as the basic unit of society, while only registered marriages are recognized, and family relations are regulated on the basis of the principles of equality of spouses. The FC KR also establishes a rule in which all property of the spouses acquired during the marriage is considered joint property and is co-managed by the spouses. In the event of a divorce, the joint property of the spouses is equally divided, unless otherwise specified in the marriage contract. In addition, the legislation of the Kyrgyz Republic also defines equal inheritance rights for sons and daughters.
- The Law of the Kyrgyz Republic “On the Basics of State Guarantees for Ensuring Gender Equality” prohibits direct and indirect gender discrimination, including traditional ways and cultures that discriminate against women. It guarantees equal property rights, defines equal rights to use land and to protect these rights equally for men and women.
- The Law of the Kyrgyz Republic “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women” defines State guarantees for the provision of equal rights and opportunities to persons of different sexes in the political, social, economic, cultural, and other spheres of human life.
- According to the amendments made in July 2016 to the Land Code of the Kyrgyz Republic and the Law of the Kyrgyz Republic “On the management of agricultural land,” owners of a land plot (land share) in the amount of up to five hectares are allowed to sell only a single complete piece of the land area, without segmentation, with the transfer of a document on ownership. Since such a title deed is usually issued in the name of the husband alone, a woman who is separated from her husband cannot sell, exchange, or inherit her share of the family’s land or any part of it. This is discriminatory, and often results in women finding themselves indigent and economically dependent.

The above documents are structured around four main priorities: economic empowerment of women; creation of a functional education system; eliminating gender discrimination and increasing women’s access to justice; and, promoting gender parity in enhancing women’s political participation. These documents recognize the needs of specific social groups, including rural women, youth, the elderly, and people with disabilities.

However, despite the regulatory legal framework of the Kyrgyz Republic formally providing the basis for equal rights of men and women, including women's rights to property and land, traditional stereotypes are still strong and the prevailing opinion is that a man is the breadwinner and a woman is the keeper of the home.

The contribution of rural women to the country's economy goes unnoticed and ignored. Women themselves are often unable to defend their rights to land, access to vital resources (clean water), social services, and justice on their own.

An ambiguous practice exists regarding the registration of the right to inherit land shares and the division between spouses of land shares that were obtained in the course of the country's land reform. At the time of its implementation, the determination of the land share of citizens was carried out taking into account their family members at the time of the reorganization of collective and state farms. At the same time, as a rule, the Certificates for the right to a land share — at present, the Certificates on the right of private ownership of a land plot (for a land share) — were issued to the head of the family (to a father, brothers, spouse).

As a result, if a woman gets married, divorced, or is widowed, she loses the right to a land share. Often, in rural areas, women usually cede/lose their rights to land to their husbands (as the head of the family), fathers and brothers (in the event of marriage), to fathers-in-law in the event of divorce and division of property or the death of a husband, or to sons in the event of inheritance. In most cases, the courts do not rule in favor of women, referring to the norms of the Labor Code of the Kyrgyz Republic that the land share is indivisible and, instead, issue a court decision to pay her the value of her share in monetary terms.

An example of unequal access of women and men to land resources can be found in the results of a small study "Gender in the perception of society" (NSC KR National Survey 2016), with 5,950 surveyed households composed of 16,145 people (8,469 women and 7,676 men) aged 15 years and older. The bulk of household property (62 percent) is registered to men, and only 29 percent to women. At the same time, almost every tenth household (nine percent) has land registered to a person who is not a member of the household. The study revealed that household land resources are mainly registered in the name of men (80 percent). The ability of women to dispose of household assets is noticeably lower than that of men, and coincides with the level of ownership for all assets, except for real estate. The ability to dispose of residential and commercial real estate for women is higher than the level of ownership, which is because the right to dispose of real estate acquired in marriage is limited by the need for the consent of both spouses. Moreover, in cities, 14.2 percent of the female population have the right to dispose of land resources, while in rural areas it is 8.2 percent. For men, it is about 86 percent and 92 percent, respectively (NSC KR, 2016).

On Pastoralists

More than 93 percent of the territory of Kyrgyzstan is occupied by mountain ranges of the two greatest mountain systems, Tien Shan and Pamir-Alai, which are covered with large tracts of natural pastures — the total area of which is more than nine million hectares and occupies more than 85 percent of the total agricultural land.

Pastures are the exclusive State property of the Kyrgyz Republic. As such, the Land Code of the Kyrgyz Republic and the Law of the Kyrgyz Republic “On Pastures,” as well as other regulatory legal acts of the Kyrgyz Republic regulate pasture management, improvement, and use.

According to the Law of the Kyrgyz Republic “On Pastures,” responsibility and control over the management of State-owned pasture lands, in addition to the right of disposal, is transferred to local government bodies, which have the right to delegate authority for the management and use of pastures to pasture user associations. The executive body of the association of pasture users is the Pasture Committee.

The Pasture Committee (hereinafter referred to as the PC) consists of representatives of pasture users, deputies of the local convocation, a representative of the authorized body for the environment and forestry, and heads of the executive body of local self-government. The functions of the PC are:

- development of a community plan for the use of pastures;
- development of an annual plan for the use of pastures;
- implementation of the provisions of the community plans for the use of pastures and the annual plan for the use of pastures;
- monitoring of the condition of pastures;
- issuance of pasture tickets in accordance with the annual plan for the use of pastures, as well as the conclusion of agreements on the use of pastures for other purposes;
- establishment and collection of payments for the use of pastures with its obligatory approval by the local convocation;
- settlement of disputes related to the use of pastures, within the powers of the pasture committee; and,
- management of income received from payments for the use of pastures and other resources directed as investments in pasture infrastructure, for their maintenance, management, and improvement in accordance with the current legislation of the Kyrgyz Republic.

Currently, 456 housing estates have been established operating under rural self-government of the Republic, three of which housing estates are located in urban-type settlements. The law of the Kyrgyz Republic “On Pastures” establishes the structure, functions, and responsibilities of the PC. With the support of donor organizations, pasture user associations and PCs received basic training and technical support.

In addition, livestock grazing is allowed on the territory of the State Forest Fund, an area of 927,609.6 hectares regulated by the Forest Code and the decree of the Government on the “Procedure for the use and disposal of the State Forest Fund,” dated 10 April 2018, No. 192.

Today, both on the pastures and on the SFF pasture lands, there is an irregular load on pasturelands, causing deterioration in their condition due to soil erosion, and leading to a significant decrease in the productivity of land resources.

On Water Users

After gaining independence, Kyrgyzstan began agrarian and land reform. By the Decree of the President of the Kyrgyz Republic, dated 22 February 1994, No. 23 “On measures to deepen the agrarian and land reform,” the former collective and State farms were liquidated, and agricultural land was transferred to the ownership of the peasants, who received them in the form of land plots.

Some of the peasants united in peasant farms and agricultural cooperatives, while some began to work independently. Under these conditions, the irrigation network, which previously belonged to the former collective and State farms, became ownerless.

Under the new conditions, instead of one water user — a collective farm or State farm with an average area of about 2,000 hectares of irrigated land — now from 10 to 2,000 water users share a common irrigation network. The total number of agricultural water users in the Republic has reached more than 310,000 units. These peasant farms have not been able to maintain the on-farm irrigation network at the proper technical level.

The lack of funds from farmers for the proper operation, maintenance, and rehabilitation of the on-farm network and structures led to the steady deterioration of their technical condition. The normal operation of the irrigation network and the fair distribution of water became practically impossible to carry out.

In the second half of the 1990s, the Government of the Kyrgyz Republic found a solution to these problems in the implementation and development of water users associations (WUAs). WUAs are organizations of the water users themselves and therefore their water supply activities must meet their needs and be fully accountable to them.

During this period, three separate grants from the Asian Development Bank (ADB), the FAO, and the Japanese Government were used to establish pilot WUAs and study the international experience with such associations.

In order to provide State assistance and conditions for the creation and development of WUAs, and based on the results of the projects of the above-mentioned donors, in 1995 the Government of the Kyrgyz Republic adopted Resolution No. 226 dated 5 June 1995 “On Approval of the Regulation on Water Users Associations in Rural Areas.” This was replaced by a new Regulation “On Water Users Associations in Rural Areas,” approved by Resolution No. 473 dated 13 August 1997, taking into account the experience gained and the changed conditions. Currently, there are 475 WUAs with a total service area of 736,000 hectares.

On Forest dwellers (Forest users)

The Kyrgyz Republic possesses only sparsely forested areas (5.6 percent of the total area of the county). Nevertheless, forests perform important ecological-economic and social-health-improving functions.

The forests of the republic mainly grow near 283 (62.5) out of 453 settlements and more than two million of the rural population live near forests or directly on the territory of the State Forest Fund, their social development is highly

dependent on forest resources. (Concept paper for the development of the forestry industry in the Kyrgyz Republic for the period of 2040).

Based on the results of studies conducted on the value chain of walnut as a forest product, it was established that (PROFOR and RDF, 2011):

- 546,862 people (109,372 households) live near spruce forests, which are mainly located in the north western and central parts of the country, as well as in the high mountain zones of the Fergana Valley;
- 1,279,081 people (255,816 households) live within or near the walnut-fruit forests in the south of the country;
- a significant number of people (approximately 546,862 people in 109,372 households) live in or near juniper forests in different parts of the country; and,
- more than 150,000 people (about 30,000 households) live in the area of floodplain forests.

According to the Forestry Code of the Kyrgyz Republic, SFF plots can be provided for use by organizations and citizens, etc. on a rental basis. In total, there are about 290,000 forest users on the lands of the SFF who have formal lease agreements.

Forest management of local communities is multipurpose and is formed based on the needs of local communities and the potential of ecosystem products and services of each individual forest landscape. Local communities use a wide range of woody (commercial forest, firewood) and non-woody forest products (fruits, medicinal plants, mushrooms, etc.), as well as organize side-use of various types of forest resources (grazing and haymaking, tourism and recreation). Unfortunately, in the absence of proper accounting of all types of forest use, the volume of products and services of forest ecosystems is almost overlooked in the system of national accounts, which ultimately translates into an insignificant figure for the contribution of forestry to GDP. In most cases, the women collect forest fruits, medicinal herbs, and firewood, thus impacting poverty reduction and national food security. Therefore, gender balance should be ensured in the distribution of access rights to forest resources.

Forest use is regulated by the procedure for the use and disposal of the State Forest Fund, approved by the Resolution of the Government of the Kyrgyz Republic dated 10 April 2018 No. 192, and applies to individuals and legal entities of the Kyrgyz Republic that carry out forest use. The following types of forest uses can be carried out on the lands of the SFF:

- agriculture, haymaking, cattle grazing, placement of apiaries, collection of wild food resources, medicinal plants, technical raw materials;
- procurement of secondary forest resources;
- reproduction of forest resources;
- the use of the forest for scientific research, cultural, recreational and tourist purposes, as well as for the needs of the hunting economy;
- performance of work in order to develop mineral deposits (geological exploration of mineral resources, development of mineral deposits);
- the use of reservoirs; and,
- community forestry.

The provision of lands of the SFF to forest users is carried out on a competitive basis.

On fisherfolk

There are several types of fishing in Kyrgyzstan: commercial fishing, amateur, and sport fishing. The Fisheries Department of the Ministry of Agriculture and Food Industry and private entrepreneurs are involved in the development of the fishing industry in the Republic.

After the prohibition of fishing on the Issyk-Kul and Son-Kul lakes, commercial fishing was carried out mainly on the large fishery reservoirs: Toktogul, Kirov, Orto-Tokoisk and Bazar-Korgon, and Lake Kara-Suu. The main commercial fish species in reservoirs and lakes are Issyk-Kul trout-gegarkuni, whitefish-ludoga, peled, carp, bream, tench, pike-perch, grass carp, silver carp, and *marinka*.

The development of commercial fishing, which currently involves more than 80 fishery entities, is hampered by the low production potential of fishery entities. Aside from a decrease in the fish productivity of reservoirs, wear and tear and low productivity of equipment, the industry is plagued by ineffective logistics, difficulties with lending, difficulties in obtaining land for organizing pond farms, etc.

In the opinion of fish farmers, there are no favorable conditions for the growth of the scale of fish production. Despite the existence of the existing mechanism for protecting the interests of fish farms when water is discharged from reservoirs (advance notification of water release, coordination of the water level after water discharge, etc.), there are no effective practices for implementing these norms.

How does the government report or measure SDG 1.4.2?

On methodology for legally-recognized documentation

Indicator 1.4.2 “Proportion of the total adult population with guaranteed land tenure rights, as supported by legally recognized documents, and who consider their land rights to be guaranteed, by sex and type of land tenure” is currently categorized as Tier II.

Interpretation of the indicator 1.4.2. The indicator shows the number of land users by area of various categories of land of the Land Fund.

- Indicator type: quantitative indicator.
- Level of detail: Republic, *oblast* (an administrative-territorial unit that unites the territories of cities of regional significance, as well as districts located on the territory of this region, in which State administration is carried out taking into account the interests of local communities and the competence of local self-government bodies), district, village administration.
- Data source: the State Administrative Reporting Form No. 22 “On the availability of land in the Kyrgyz Republic and their distribution by categories, owners, land users and lands” (i.e., land balance). The following items are included:
 - Number of the land contour;
 - Full name of the owner, name of the land user, contour, categories of the land fund;
 - Total area of land, including irrigated land;
 - Total area by form of ownership (State, communal, private);

- o Area Arable land (irrigated, rainfed);
 - o Area of perennial fruit plantations;
 - o Haymaking area (flooded, dry land, waterlogged, radical improvement);
 - o Pasture area (dry land, swampy, cultural and radical improvement, summer, spring-autumn, winter);
 - o Household lands;
 - o Gardens, vegetable gardens, lawns, flower beds;
 - o Forest areas; and,
 - o Arboreal and shrub plantations.
- Intended purpose of land balance data (Form 22) to characterize the country's land resources and assess the impact on them of diverse economic activities, data on the availability of land in the Kyrgyz Republic, their distribution by categories, lands, owners, land users, and their qualitative characteristics.
 - Term for the provision of land balance (Form 22): annually in June after the reporting period (approved by the decree of the Government of the Kyrgyz Republic).
 - Data collection and processing: responsible for data collection is the Department of Cadastre and Registration of Rights to Real Estate under the State Registration Service under the Government of the Kyrgyz Republic. Data collection is carried out by a specialist - land surveyor of the village administration who submits these to the district administration for land management and registration of rights to real estate, then to the Department of Cadastre and Registration of Rights to Real Estate at the State Registration Service under the GKR.

Disaggregation by sex and type of ownership

Currently, information on the number of landowners disaggregated by sex is not available. This information is available in part at the national level of the Department of Cadastre and Registration of Rights to Real Estate under the State Registration Service under the Government of the Kyrgyz Republic.

The National Statistical Committee of the Kyrgyz Republic has information on the population by sex and age, in the territorial context.

Perceptions of tenure guarantees

The Constitution of the Kyrgyz Republic recognizes a variety of forms of ownership and guarantees equal legal protection of private, State, municipal and other forms of ownership. The Kyrgyz Republic protects the property of its citizens and legal entities, as well as its property located on the territory of other States.

The Civil Code of the Kyrgyz Republic defines that “real estate includes land plots, subsoil plots, isolated water bodies, forests, perennial plantings, buildings, structures and everything that is firmly connected with the land, that is, objects whose movement without damage disproportionate to their purpose is impossible.”

Rights and encumbrances to real estate, as well as transactions with it, are subject to mandatory State registration. The registration procedure is regulated by the Law of the Kyrgyz Republic “On State registration of rights to real estate and transactions with it” (dated 8 December 2011 No. 230).

According to the legislation of the Kyrgyz Republic, the following are subject to mandatory registration:

- ownership;
- the right of economic management;
- the right of operational management;
- the right to unlimited (without specifying the term) use of the land plot;
- rights arising from a mortgage, including a mortgage by virtue of law or a pledge;
- the right to temporary use, lease or sublease for a period of three years or more;
- easements;
- restrictions on the rights to design, build, and use a separate unit of immovable property, except for restrictions that apply to immovable property in accordance with the legislation and other regulations of the Kyrgyz Republic;
- rights arising from court decisions;
- rights to use natural resources, the list of which is established by the legislation of the Kyrgyz Republic;
- rights arising from the legalization of property; and,
- other rights subject to registration at present or in the future in accordance with the Civil Code and other regulatory legal acts of the Kyrgyz Republic.

State Registration Service under the Government of the Kyrgyz Republic (SRS)

is a State executive body that provides functions for the implementation of State policy in the field of registration of the population, rights to real estate within the granted powers, as well as for the formation, storage, and updating of the Unified State Register of Population.

In addition, the SRS submits proposals for the consideration of the Ministry of Justice regarding the development of a unified State policy in the field of land management and regulation of land relations, including on improving the standards for compensation for losses, the procedure for using State land, and transferring land from one category to another.

The Department of Cadastre and Registration of Rights to Real Estate deals directly with the issues of registration of rights to real estate in the SRS.

Currently, 49 local registration bodies function in the structure of the Department, in which 1,670 people work, of which 23 are employees in the central office of the Department. The main functions of local registration authorities are:

- registration of rights to real estate and transactions with it, including encumbrances and restrictions;
- carrying out land surveying and cadastral works;
- provision of data on units of real estate; and,
- technical inspection of real estate units.

On what data are available

- **Legally recognized documentation**

Farmers and smallholders. According to the Law of the Kyrgyz Republic “On Agricultural Census” dated 29 September 2000, N80, the agricultural census in the Kyrgyz Republic is carried out once every ten years and is timed to coincide with the next round of world agricultural censuses.

The statistical unit of the agricultural census is a holding engaged in agricultural production, which includes livestock and poultry, buildings and structures, agricultural machinery, equipment and implements, perennial plantations, land used in whole or in part for agricultural production, regardless of the form of ownership and size.

Enterprises of agriculture, forestry and fisheries, subsidiary farms of educational institutions, industrial, transport, construction and other enterprises and organizations, peasant (farmer) enterprises are subject to a continuous census. Individual households of the population (including collective orchards and vegetable gardens) are subject to a selective census with at least 35 percent coverage for accounting for the plant growing industry; and for accounting for livestock and poultry, they are subject to a complete census.

Agricultural census data are published and disseminated only in a generalized form in accordance with the Law of the Kyrgyz Republic “On Official Statistics.”

The Kyrgyz Republic conducted a full-scale agricultural census in two stages — the first stage (crop production and horticulture) in 2002, and the second stage (livestock, agricultural fixed assets infrastructure) in 2003.

The Kyrgyz Republic plans to conduct the next agricultural census in 2024 as part of the GSP (Generalized system of preferences) 2020 Program, which covers the period from 2016 to 2025.

In 2022, the Agricultural Census Program of the Kyrgyz Republic 2024 will begin development. The aim of this agriculture-focused census is to create a database for subsequent monitoring of the Kyrgyz Republic’s achievement of the Sustainable Development Goals. In this upcoming Agricultural Census Program in 2024, the registration of regulatory information on the land area of land users will be laid down according to the following documents:

- the State act on the right of unlimited use (without specifying the term) of the land plot;
- State act on the right of private ownership of a land plot;
- certificate of private ownership of the land plot;
- certificates for the right to temporary use of a land plot; and,
- lease agreements.

During the land reform implementation, the determination of the area of the land share of citizens took into account their family members at the time of the reorganization of collective and State farms. In the upcoming census of 2024, the criteria to be taken into account will be based on the principle of disaggregation required in the SDGs:

- date of issue of the document to the land share (allotment);
- type of ownership; and,
- gender, date of birth, and nationality for each owner (land user) and family members of the owner.

With this in mind, the results of the 2024 agricultural census will serve as a basis for improving land relations in the Kyrgyz Republic.

Women. The statistical publication “Women and Men of the Kyrgyz Republic” contains data on the population, representation of women and men in government, employment and unemployment, living standards, education, health care, delinquency, as well as crimes committed against women and children, and domestic violence for the years from 2013 to 2017.

The publication is supplemented with a new section on indicators of the SDGs that determine the position of women and men in Kyrgyzstan. It is intended for employees of management bodies, scientific, business and banking circles, teaching staff, graduate students and students, and other interested persons.

According to the NSC KR National Survey (2016), the employment of women in agriculture, forestry, and fishing of the total employed population is:

- 2013: 41.4 percent;
- 2014: 44.5 percent;
- 2015: 44.0 percent;
- 2016: 41.1 percent; and,
- 2017: 36.9 percent.

According to the data registered in the Unified State Register of Static Units (USRSU), as of 1 January 2018, 19.2 percent of the heads of existing peasant (farmer) households are women.

Pastoralists. In order to obtain reliable information on the number of livestock and poultry in the Kyrgyz Republic, by the Order of the Government of the Kyrgyz Republic dated 2 April 2010, No. 107-r, Methodological Guidelines for keeping records of livestock and poultry in farms of all categories of the Kyrgyz Republic were approved.

When registering livestock and poultry, State statistics bodies determine the presence of livestock and poultry:

- in the farms of legal entities, subsidiary farms of enterprises and organizations - according to the data of Form No. 24 “Report on the state of animal husbandry”;
- in personal subsidiary plots of citizens in rural areas, in peasant (farm) farms and farms of individual entrepreneurs engaged in agricultural activities living in rural areas, according to reports of village administration - Forms No. 6, 9-c;
- in summer cottages, in holiday homes, boarding houses, shepherds’ houses, and other detached buildings - on the basis of complete accounting according to Form No. 3; and,
- in personal subsidiary plots of citizens, in peasant farms and in farms of individual entrepreneurs engaged in agricultural activities, living in cities and urban settlements, according to reports of quarter committees and local territorial administration bodies - Form No. 4.

Water Users. By the Resolution of the Government of the Kyrgyz Republic dated 25 January 1995, N19, the “Regulation on state accounting and control of water use in the Kyrgyz Republic” was approved.

All water bodies and water resources concentrated in them, constituting the State Water Fund of the Kyrgyz Republic, as well as waters withdrawn from water bodies and used for the needs of the population and the national economy with the help of structures and technical devices, or discharged into water bodies, are subject to State accounting.

The National Statistical Committee of the Kyrgyz Republic approves:

- the procedure and forms for maintaining State statistical reporting on the use and protection of waters, developed by the concerned ministries and departments; and,
- instructions on the procedure for conducting State statistical reporting.

The State body for water management of the Kyrgyz Republic conducts:

- State accounting and control of water use;
- accounting and registration of water users;
- registration of water facilities;
- control over compliance with the water use conditions specified in the licenses;
- control over compliance with the established limits for water consumption and water disposal from irrigation and collector-drainage systems;
- control over the observance of the norms and rules for the operation of water facilities and devices, except for the systems of communal water supply and wastewater disposal in cities and regional centers;
- accounting of water resources in state irrigation systems;
- control over compliance with norms and rules for the primary accounting of water use carried out by water users;
- State water cadastre for the section “Water use”; and,
- monitoring of water bodies using the departmental observation network.

Forest dwellers. Official registration or collection of information about forest dwellers is not carried out, since there is no concept of “forest dwellers” in the RLA KR (Regulatory Legal Acts of the Kyrgyz Republic).

In 2011, a study on the “Walnut value chain” was carried out, which determined the size of the population or the number of households living in or near forestlands. When accounting for forest resources, the Land Code (LC KR) mainly determines the boundaries, areas, quantitative and qualitative characteristics of forest resources, types and volumes of forest use (wood), as well as the volume of forestry work and permissible volumes of forest use for the next year.

Fisherfolk. The Law of the Kyrgyz Republic “On Fisheries” regulates the legal, economic, and organizational foundations of the Republic’s fisheries in order to fully develop it, preserve and increase fish stocks, increase the fish productivity of reservoirs and ponds, and fully meet the needs of the population in terms of fish products.

In accordance with Art. 5 of this Law “Accounting for fish stocks”: Fish stocks, as well as fish grown in artificial reservoirs, are subject to accounting, which is carried out separately for water bodies and fish species in accordance with the procedure established by law.

Subjects engaged in fisheries are obliged to provide state fisheries management bodies annually with information on fish stocks and volumes of their catch.

Comments on the methodology and data

In order to identify the views of CSOs and other stakeholders on the methodology used by the government to measure SDG 1.4.2, two roundtable discussions were held (one in the north and another in the south of the country), with the participation of water users, land users, forest users, and pasture users. At these meetings, this report was presented and the participation of CSOs in reporting on the SDGs in the Kyrgyz Republic was discussed.

The roundtable talks revealed that, although the approach for preparing the VNR was multi-stakeholder, multi-sectoral, with the involvement of various stakeholders, many participants did not have a common understanding of the SDGs, methodology, and process of preparing the VNR of the country.

The roundtable participants noted that, in the first VNR, information on progress in the area of land rights, in particular SDG indicator 1.4.2., there are no data. However, there were opportunities to collect for this indicator, since the database of the Department of Cadastre and Registration of Rights to Real Estate under the State Registration Service under the Government of the Kyrgyz Republic and its regional divisions has all the necessary data.

Participants recommended the following:

- Regularly increase the legal capacity and awareness of CSOs and other stakeholders on the correct collection and processing of data/information regarding the SDGs;
- When preparing the VNR, involve relevant CSOs in collecting data for their respective sectors (for example, the National Pasture Users Association, the Kyrgyz Association of Forest Users and Land Users, the Water Users Association, etc.); and,
- When preparing the next VNR, include information on SDG indicator 1.4.2.

On Legally recognized documentation

Target 1.4, “By 2030, ensure that all men and women, especially the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control of land and other forms of property, inheritance, natural resources consistent with new technologies and financial services, including microfinance” is reflected in the Constitution of the Kyrgyz Republic, and in civil and sectoral legislation, since all citizens of the Kyrgyz Republic have equal rights to own and dispose of land and other forms of property, as well as access to natural resources, to appropriate new technologies and financial services, including microfinance.

The main normative legal acts of the Kyrgyz Republic ensuring the implementation of SDG Target 1.4:

- Constitution of the Kyrgyz Republic;
- Civil Code of the Kyrgyz Republic;
- Land Code of the Kyrgyz Republic;
- Forest Code of the Kyrgyz Republic;
- Water Code of the Kyrgyz Republic;
- Tax Code of the Kyrgyz Republic;
- Law of the Kyrgyz Republic “On Land Reform”;
- Law of the Kyrgyz Republic “On Peasant Economy”;
- Law of the Kyrgyz Republic “On Management of Agricultural Land”;
- Law of the Kyrgyz Republic “On Pastures”;
- Decree of the President of the Kyrgyz Republic of 1994 “On measures to deepen land and agrarian reform in the Kyrgyz Republic”; and,
- Government Decree dated 18 April 2018, No. 192 “On approval of the Procedure for the use and disposal of the State Forest Fund.”

Perceptions over warranty ownership?

According to statistics, about 64.37 percent of the country’s population lives in rural areas (300,952 people), where almost 40 percent of the economically active population are women (1,025 people) and 32 percent are young people aged 20 to 40 years (1,986,000 people). The poverty rate was 25.4 percent in 2016 (NSC KR Population and Housing Census of the Kyrgyz Republic, data

for 2017). About 1,800,000 people live below the poverty line, of which more than 68 percent are residents of rural settlements. About 26 percent of male-headed households and 15 percent of female-headed households are poor. In households where the head of the household is a woman, the level of general poverty is lower than in households headed by men, and the level of extreme poverty is practically the same for both male and female heads.

The rural population has advantages in acquiring rights to agricultural land plots in the Kyrgyz Republic. Thus, the Regulation on the Procedure for the Purchase and Sale of Agricultural Land (as amended by the Resolution of the Government of the Kyrgyz Republic dated 9 September 2005, No. 422) regulates the priority rights of citizens of the Kyrgyz Republic when purchasing an agricultural land plot, as follows:

- Agricultural land, which is in State or private ownership, can be sold only to citizens of the Kyrgyz Republic who have permanently resided in rural areas for at least two years.
- When granting ownership of agricultural land, the citizens of the Kyrgyz Republic who live in the territory of this village council, as well as have land plots (irrigated arable land) less than 0.10 of a hectare per family member and live in high mountainous and remote areas, have a priority right.

According to the Law of the Kyrgyz Republic “On Pastures,” responsibility and control over the management of State-owned pasture lands, in addition to the right of disposal, is transferred to local government bodies, which have the right to delegate authority for the management and use of pastures to pasture user associations. The local community creates an association of pasture users, representing the interests of livestock owners and other users of pastures in a given territorial unit in relation to the use and improvement of pastures.

According to the NLA “On approval of the procedure for the use and management of the State Forest Fund, approved by the Resolution of the Government of the Kyrgyz Republic” dated 10 April 2018, No. 192, the lands of the SFF are provided for use to forest users on a competitive basis.

For the purpose of participation of communities in joint forest management, the territorial State forestry management body grants the right to use the lands of the SFF to communities) and/or associations of communities. Such groups are formed on a voluntary basis from local residents or citizens living in the territory of the SFF or near it.

HOW TO ENSURE THAT THE METHODOLOGIES AND DATA COLLECTED FOR SDG 1.4.2 ADDRESS TENURE ISSUES?

Informal and traditional recognition of land rights: Key issues and recommendations

The legislation provides for many ways of acquiring property rights, among which inheritance occupies a special place, which can be explained as traditional ownership of property, including land resources. Its importance is also evidenced by the inclusion of the right of inheritance in Article 19 of the Constitution, paragraph 4 that states, “in the Kyrgyz Republic, the right to inherit is protected and protected by law.”

The civil legislation of the Kyrgyz Republic provides for two bases of inheritance — by will and by law. Inheritance by law takes place insofar as it is not cancelled or changed by the issuance of a will. On the other hand, drawing up a will is a way for the testator to exercise the power to dispose of his property in case of death.

In order to become the heir under the will, a citizen needs to be legally capable. In accordance with paragraph 2 of Art. 52 of the Civil Code of the Kyrgyz Republic, the legal capacity of a citizen arises at the moment of birth and terminates by death. Legislation does not impose requirements for the legal capacity of heirs by will. The lack of full legal capacity of a person is compensated by the capacity of his legal representative - parent, adoptive parent, guardian, and trustee.

Guarantee of ownership of women

According to the NLA of the Kyrgyz Republic, women have the same property rights to land and other agricultural resources as men. Despite this, laws are still not effectively enforced and there is a high level of inequality and imbalance at the regional level.

On their own, women are often unable to defend their rights to land, access to vital resources (clean water), social services, and justice. To provide land to socially vulnerable groups of the population, such as young families, the State has the right to be a buyer on the agricultural land market based on a special decision of the Government of the Kyrgyz Republic, approved by the Parliament of the Kyrgyz Republic (Article 33 of the Law “On agricultural land management”).

One of the main problems in the gender aspect is legal nihilism, illiteracy, a high level of mistrust in decision-makers at both the State and local levels, lack of awareness and capacity to protect their interests, in particular among women in rural areas. A further restraining factor for the protection of the rights of women in the Kyrgyz Republic are folk traditions and established stereotypes and customs.

Land conflicts and human rights defenders: Key issues and recommendations

According to the review of judicial practice on issues related to the application of land legislation, the most common subjects of litigation are:

- Recognition of ownership of land plots;
- Challenging acts of local self-government bodies on the provision and seizure of a land plot;
- Disputes regarding land plots adjacent to the house;
- Payment of land tax;
- Challenging actions (omissions) of officials of state bodies;
- The procedure for granting lands of specially protected natural areas;
- Mortgage of land plots;
- Requirements to remove obstacles in the use of a land plot and to reclaim a land plot from someone else’s illegal possession; and,
- Recognition of contracts as invalid and application of the consequences of their invalidity, among others.

Among the problems that cause the greatest number of conflicts and disputes, the following issues on land resources are identified:

- Changing the boundaries of land shares;
- Unauthorized seizure of land plots; and,
- An imbalance in decision-making between “the obligatory provision of every citizen of the Kyrgyz Republic once throughout the entire territory of a land plot for the construction of a residential building” and “preservation of agricultural land to address the issue of ensuring food security.”

In Kyrgyzstan, any dispute can be resolved through pre-trial settlement mechanisms, in court, as well as alternative dispute resolution.

In accordance with the legislation of the Kyrgyz Republic, disputes/conflicts involving land rights can be resolved through:

- **Appeal to a higher authority** in accordance with the Law of the Kyrgyz Republic “On the Procedure for Considering Citizens’ Appeals” and the Law of the Kyrgyz Republic “On the Basics of Administrative Activities and Administrative Procedures.”
- **Appeal to the administrative commission of local self-government bodies**, which consider cases of administrative offenses provided for by the Code of Administrative Activity. These are administrative offenses infringing on the protection of the health of citizens, administrative offenses in agriculture, administrative offenses infringing on the rules of trade, causing harm (damage) to the consumer, administrative offenses infringing on urban planning and architectural activities, administrative offenses in housing and communal services. All these norms protect the healthy lifestyle of the local population, the improvement and welfare of citizens and will allow problems at the local community level to disappear, such as selling in unidentified places, dumping garbage in unidentified places, wasting crops, violating the regime of using pastures, etc.
- **Appeal to the prosecutor’s office** is one of the out-of-court mechanisms for realizing access to justice in matters related to the right to own and use land resources, where, according to the Law of the Kyrgyz Republic “On the Prosecutor’s Office of the Kyrgyz Republic” (dated July 17, 2009, No. 224), the prosecutor’s office supervises:
 - o the observance of legislative acts by local self-government bodies and subordinate to the Government of the Kyrgyz Republic by all executive authorities, legal entities, public associations, officials for compliance with the laws of the acts issued by them, as well as citizens;
 - o the implementation of laws by bodies carrying out operational-search activities, inquiry, and preliminary investigation;
 - o the observance of laws in places of detention of detainees, in places of preliminary detention, during the execution of sentences and other measures of a coercive nature, imposed by the court; and,
 - o over observance of laws by military administration bodies, military units and institutions.
- **Appeal to the Ombudsman** is one of the mechanisms for protecting violated rights to land or, as it is also called, the parliamentary ombudsman for human rights, whose activities are regulated by the Constitution of the Kyrgyz Republic and the Law of the Kyrgyz Republic “On the Ombudsman of the Kyrgyz Republic” (dated 31 July 2002, No. 136). The purpose of the control of the Ombudsman are:

- protection of human and civil rights and freedoms proclaimed by the Constitution and laws of the Kyrgyz Republic, international treaties and agreements ratified by the Kyrgyz Republic;
- observance and respect for human and civil rights and freedoms, by citizens of the Kyrgyz Republic, regardless of their location, by foreigners or Stateless persons who are in the territory of the Kyrgyz Republic, and by State authorities, local self-government bodies and their officials;
- prevention of violations of human and civil rights and freedoms or assistance in their restoration;
- assistance in bringing the legislation of the Kyrgyz Republic on human and civil rights and freedoms in line with the Constitution of the Kyrgyz Republic, international standards in this area;
- improvement and further development of international cooperation in the field of protection of human and civil rights and freedoms;
- prevention of any forms of discrimination in the exercise of human rights and freedoms; and,
- promotion of legal awareness of the population and protection of confidential information about an individual.

In this regard, in the exercise of his powers, the Ombudsman does not depend on any State bodies and officials; it is prohibited to interfere in his activities or influence him in any form, and such actions entail liability in accordance with Kyrgyz criminal law.

The administrative procedure for the protection of civil rights provides for the resolution of disputes, restoration of rights, suppression of illegal actions of subjects of law by means of instructions, resolutions, acts of authorized bodies (administrative bodies, local self-government bodies, ministries and departments) adopted in accordance with the current legislation of the Kyrgyz Republic.

Courts of general jurisdiction consider civil (including land) and criminal cases. Any interested person has the right, in accordance with the procedure established by law, to apply to the court for the protection of his violated or disputed rights, freedoms or interests protected by law. Waiver of the right to go to court is invalid (Code of Civil Procedure of the Kyrgyz Republic, Article 4).

If one of the parties disagrees with the decision of the court of first instance, this party has the right to appeal the decision in the court of appeal). The last instance of the courts of general jurisdiction is the Supreme Court of the Kyrgyz Republic; its decision is final and not subject to appeal. The procedure for considering cases in the field of land legal relations is provided for by the Code of Civil Procedure of the Kyrgyz Republic.

Alternative resolution of disputes in the Kyrgyz Republic is possible through the courts of elders and arbitration courts. Courts of elders are created by decision of a meeting of citizens, local convention or other representative local self-government bodies on the territory of villages, settlements, cities from among elders, other citizens who enjoy respect and authority. The courts of elders consider property, family disputes, and other cases provided for by law, transferred by agreement of the parties for their consideration, in order to achieve reconciliation of the parties and make a fair decision that does not contradict the law. The decisions of the courts of elders can be appealed in the manner prescribed by the legislation of the Kyrgyz Republic.

Arbitration court. By agreement of the parties, a dispute within the jurisdiction of the court, in cases stipulated by the legislation of the Kyrgyz Republic, may be referred to an arbitration court before a decision is made in the court of first instance. The activities of arbitration courts are regulated by the Law of the Kyrgyz Republic “On the Arbitration Court of the Kyrgyz Republic” (dated 30 July 2002, No. 135).

Mediation. Disputes can be resolved through mediation, which can be carried out both before going to court and during court proceedings, arbitration proceedings, and enforcement proceedings. Mediation cannot be applied to administrative cases (actions/inactions, invalidation of administrative acts). In most cases, according to experts, access to justice is limited by the absence of norms providing for the resolution of disputes over the ownership and use of land resources through mediation.

There are no national statistics on land offenses. However, it can be considered as an example of an appeal to the Ombudsman institution for 2017, when this apparatus received 231 complaints on land issues, equivalent to about seven percent of the total number of complaints received from citizens (International Business Council for GTZ Property Rights Protection, 2017), and for the period from 4 January to 31 March 2017, the State Registration Service received 108 complaints from citizens on land issues (registration of real estate, issuance of documents, land disputes) (State Registration Service Centre, 2017).

Human rights defenders. Kyrgyzstan protects the rights of all its citizens, including the protection of human rights defenders working in the field of land relations, as well as their right to freedom of opinion and expression, peaceful assembly and association, set forth in the UN Declaration on Human Rights Defenders and the International Covenant on Civil and Political Rights, which Kyrgyzstan ratified in 1994.

Thus, in order to support the rights and freedoms of citizens, the Human Rights Committee (HRC) was established in 2014. On 28 October 2015, the UN General Assembly elected Kyrgyzstan as a member of the UN Human Rights Council (UN HRC) for a period until the end of 2018. States elected to the Human Rights Council commit themselves on their territory to uphold the highest standards in the promotion and protection of human rights, and to cooperate fully with the UN HRC. In addition, in 2014, the Parliamentary Assembly of the Council of Europe (PACE) awarded the Parliament of Kyrgyzstan the status of “Partner for Democracy.” Since its inception in 2009, this status has been awarded to the national parliament only for the third time. This status is seen as an important incentive for the further development of democracy, the principles of the rule of law and the protection of human rights (Report of the international mission 2016).

In 2014, the Law of the Kyrgyz Republic “On Public Councils of State Bodies” was adopted, which provides for the creation of supervisory and advisory bodies under all executive authorities. It includes representatives of civil society for cooperation and promotion of public initiatives, as well as inclusion in these bodies of the most authoritative human rights defenders in the country.

Thus, the Kyrgyz Republic has an Ombudsman; there are independent human rights institutions: various human rights movements, NGOs, media, trade union movements, etc., but the State does not ensure the safety of human rights institutions during court proceedings. Having analyzed the current legislation and the current situation with human rights defenders in the Kyrgyz Republic,

we can conclude that there is not even one among the national institutions that would demonstrate a willingness or ability to take effective action in this area. The newly-created State institutions have also proved incapable of fully meeting their purpose: the human rights ombudsman is not sufficiently involved in high-level human rights discussions (such as the EU-Kyrgyzstan Human Rights Dialogues), and national preventive mechanisms are very weak, in particular due to lack of adequate funding required for inspection and public awareness raising.

Transparency and enforceability of land administration: Key issues and recommendations

According to the division of land, during privatization, 25 percent of agricultural land was transferred to State ownership and 75 percent was given to private ownership. Currently, all State and municipal lands under land legislation are managed centrally, while citizens of the Kyrgyz Republic decentralize private property ownership.

According to the Law of the Kyrgyz Republic “On Normative Legal Acts,” all innovations and changes in the legislation of the Kyrgyz Republic are carried out based on the results of preliminary public hearings, including in focus groups at the national and subnational levels. The results of such public opinion gathering should be taken into account when laws are passed, but this process is not always followed at present.

Local communities play a critical role in the planning and management of the country’s pasture, forest, and water resources. For example, according to the Law of the Kyrgyz Republic “On Pastures” dated 26 January 2009, No. 30, all pasture lands were transferred to the management of Pasture Committees (PCs), consisting of representatives of pasture users, deputies of the local convocation, a representative of the authorized body for the environment and forestry, and heads of the executive local government body. The PC is in charge of the current activities of the association of pasture users, and is engaged in planning the use of pasture resources.

Joint forest management is the planning and implementation of activities that regulate the impact on forests and is aimed at achieving sustainable forest management with the participation of local governments, the population, and local communities. The instruments of joint forest management are through the lease of forestland and community forestry. Today, the forestry enterprises have about 20 thousand lease agreements for land plots of SFF.

The water resources management process was transferred to local communities represented by water users associations (WUAs), organizations established in accordance with the Law “On Water Users Associations” in order to operate and maintain irrigation systems. The norms of the Water Code also provide for the consistent expansion of the participation of water users, the public, and other stakeholders in the process of planning, making, and monitoring the implementation of governing decisions.

Natural resource management in the Kyrgyz Republic is based on the following principles:

- participation of all stakeholders in the planning and decision-making process;
- taking into account the needs of generations when making decisions on the use and protection of natural resources;

- taking into account the economic value of natural resources when planning, making decisions, and implementing activities for the use and protection of natural resources;
- precaution in decision-making (lack of complete scientific information should not be a reason for postponing or refusing to take effective measures where there is a risk of causing serious harm to natural resources, the environment, or human life);
- providing users with real guarantees in the exercise of their rights and legal protection; and,
- accessibility, according to which information on the State and use of natural resources should be available to members of the public.

In order to improve access to the population and expand the transparency of decision-making regarding the management and use of natural resources, various platforms have been created in the Kyrgyz Republic:

- *The National Council for Sustainable Development* under the President of the Kyrgyz Republic, which was established on 24 November 2012 in order to unite the efforts of all branches of government, the private sector and civil society on the future development of the Kyrgyz Republic to reach consensus on the main positions of the future sustainable development of the Kyrgyz Republic on the political “platform” at the highest level;
- *Coordinating Council on Macroeconomics and Investment Policy* under the Government of the Kyrgyz Republic (Resolution of the GKR dated 13 May 2011, No. 215), chaired by the Prime Minister to stabilize and achieve sustainable economic development of the Kyrgyz Republic by making coordinated decisions on the development and implementation of macroeconomic and investment policies;
- *Coordination Commission on Climate Change Problems* (Resolution of the Government of the Kyrgyz Republic No. 783 dated 21 November 2012), chaired by the Vice Prime Minister of the Kyrgyz Republic to provide guidance and coordination of the activities of ministries, departments, and organizations to fulfil the obligations of the Kyrgyz Republic under the UN Framework Convention on Climate Change and the Kyoto Protocol;
- *Council for Business Development and Investment* under the Government of the Kyrgyz Republic (Resolution of the GKR dated 5 August 2010 No. 149), which is an advisory body to the Government, ensuring the development and preparation of recommendations and proposals for government bodies on improving the business environment and investment climate and the implementation of measures necessary to accelerate the socio-economic development of the country; and,
- *National Water Council* (Resolution of the GKR dated 3 February 2006, No. 64) to coordinate the activities of ministries, State committees, administrative departments, local State administrations, and local self-government bodies on water resources management, use, and protection.

There are also public platforms for full participation in the discussion of the most important decisions in the field of efficient use of natural resources of the Kyrgyz Republic:

- *Coordination Council on the effective use of the pasture resources of Kyrgyzstan* - providing assistance to further reform the system of

management and use of pastures in the Kyrgyz Republic through the implementation of joint projects; exchange of experience and information on the implementation of measures in the field of sustainable management of pasture resources; and, making proposals and recommendations to government agencies on the effective management and use of pastures.

- *Regional Pasture Network* - an information platform designed to share experiences and expertise in pasture management in Central Asia, China, and Mongolia. This network focuses on pasture management and includes aspects of forest and wildlife management.
- *Mountain Partnership Sustainable Mountain Development* - a voluntary alliance of partnership efforts to improve the livelihoods of mountain communities and protect mountain ecosystems around the world. The Mountain Partnership was launched during the World Summit on Sustainable Development in 2002. Today, this global alliance has members from 50 countries, 16 intergovernmental organizations, 112 different groups, representatives of civil society, NGOs, and the private sector.
- *Coordinating Council of the National Dialogue on Water Policy in the Kyrgyz Republic* - considers key issues of the national water policy and makes decisions on activities; coordinates the activities of partners and projects on water issues in the Kyrgyz Republic; and, recommends institutional, economic, and financial aspects of water resources management and water management systems.
- *Climate Network of Kyrgyzstan* - a voluntary, self-governing, non-profit association of legal organizations created to reduce the negative impact of climate change on the environment and human life at the national and international level. The main goal of the Network is to promote the development of national policies, technologies, and practices, as well as represent public interests in the field of mitigation and adaptation to climate change in order to reduce the negative impact of climate change on the environment and human life at the national and international level.

In accordance with the current legislation, measures have been taken to ensure transparency, and all data on the implemented and approved programs are published on the official websites of the Government of the Kyrgyz Republic, ministries, departments, and agencies. All laws of the Kyrgyz Republic are published in the republican newspaper “*Erkin Too*,” and are publicly available on the Internet, on the websites of ministries, departments, and other concerned parties. All laws and changes on these are stored in the information system “*Toktom*.”

The Kyrgyz Republic annually collects information on land resources, compiles reports on the distribution of land by type, and publishes reports by the NSC KR in the form of annual and quarterly data. The population census is carried out once every ten years in accordance with the presidential decree. In the Kyrgyz Republic, official documents of State authorities and local self-government are accepted in the State language (Kyrgyz), in cases stipulated by legislation, are translated into the official language (Russian), and published in two languages. A document in the State language is considered original. In some cases, documents are translated, as necessary, into local languages (for example, Uzbek). In addition, there is an accessible and complete system for recording land ownership by types of categories and forms of ownership. This data is stored in the State Register and Design Institute for Land Management, “*Kyrgyzgiprozem*.”

Despite all the measures taken to ensure open access to official legal information in the country and the publication of news in the field of legislation on the official website of the government and in the bulletin of the Ministry of Justice on a regular basis, it is necessary to note the low level of knowledge of this information on the part of the population (estimated at about half of the population), especially in rural areas. This is primarily due to the lack of practice of public discussion and clarification of the meaning of laws, as well as the lack of a felt need for detailed knowledge of legislation by the average rural resident.

GUIDELINES FOR GOVERNMENT TO CREATE A TRUE AND ACCURATE LAND TENURE SECURITY REPORT

The analysis showed that the global objectives and indicators of the Sustainable Development Goals (SDGs) are reflected in the national strategic documents of the country, such as the National Strategy for Sustainable Development of the Kyrgyz Republic for 2018 to 2040 and the Program of the Government of the Kyrgyz Republic “Unity. Confidence. Creation.”

However, despite this, there is still a need to adapt and harmonize the global SDGs in the country’s national strategic documents, as well as to reflect them in sectoral development programs.

Considering that the SDGs (targets and indicators) and national strategic documents of the Kyrgyz Republic are closely interconnected and aimed at achieving common development goals, it is nevertheless necessary to strengthen the process of adapting the SDGs in the country.

At the same time, building an effective monitoring and reporting system for the SDGs, in turn, will create an effective mechanism for monitoring national strategic development documents.

The main recommended next steps to build a monitoring and reporting system for the Sustainable Development Goals in the Kyrgyz Republic are:

- Create an effective mechanism for coordinating global and strategic documents at the national level in order to create a common vision of the country’s development, by assigning a coordinating function to the Secretariat of the National Council for Sustainable Development of the Kyrgyz Republic, in coordination with the Government Office of the Kyrgyz Republic;
- Create a national formal mechanism for cooperation among government bodies in order to clearly define responsibilities, make public the activities being implemented, and ensure transparency of processes related to the SDGs and national strategic documents;
- Form a system of national SDG indicators, taking into account the national priorities and interests of the Kyrgyz Republic, provided for in the national strategic documents for the period up to 2040 and for the period 2018 to 2022;
- Identify possible sources of funding for special surveys based on broad consultations with the Ministry of Finance of the Kyrgyz Republic and development partners;

- Implement digital solutions everywhere in the process of collecting, processing, storing, and disseminating SDG indicators;
- Conduct an inventory of sectoral strategic documents for their consistency with indicators of sustainable development and develop principles for the inclusion of SDG indicators in national strategic documents and in sectoral documents;
- Carry out regular analysis of the interaction of the global Sustainable Development Agenda with national strategic documents; and,
- Maintain the maximum account of the levels of disaggregation when developing regional development programs, which will make the starting conditions the most favorable for the collection and subsequent processing of data of adapted indicators (NSC KR Report, 2016).

Currently, information on the number of landowners disaggregated by sex is not available. This information is available in part in the regional structures of the Department of Cadastre and Registration of Rights to Real Estate under the State Registration Service of the Government of the Kyrgyz Republic. However, the National Statistical Committee of the Kyrgyz Republic (NSC KR) has information on the population by sex and age, in the territorial context.

It is necessary to combine all sources of information and plan the next steps, which will entail testing and conducting questionnaires among landowners.

It is also necessary to carry out activities aimed at obtaining disaggregated data:

- area of land plots under private ownership;
- area of land plots by sex of the landowner;
- grouping of landowners by gender and year of birth; and,
- form of ownership by the landowner.

REFLECTIONS ON HOW CSOs CAN SUPPORT THE LAND AGENDA THROUGH THE SDGs

Currently, the number of registered CSOs in Kyrgyzstan, according to various sources, ranges from 8,000 to 12,000. Despite the large number of registered CSOs, there are no more than 600 to 700 actually operating throughout the country. According to experts, from 90 to 100 percent of CSOs are funded by international organizations.

Today, CSOs play an important role in Kyrgyzstan, forming a responsible civil society, actively participating in the political life of society, and providing a wide range of social services. CSOs help vulnerable groups, solve environmental problems, protect the rights and interests of citizens, among others.

CSO leaders are involved in supervisory councils created under each ministry of the Government. Therefore, in Kyrgyzstan, CSOs can support the land agenda through the SDGs through:

- *Research, provision of information.* CSOs often conduct various types of research and surveys that they need to carry out project activities. The results of such studies quite often turn out to be very useful for government agencies as an alternative source of information.

- *Cooperation with international institutions.* Women’s CSOs have extensive experience in preparing both government and alternative reports on the implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which are successfully presented at international forums. Using international institutions, CSOs have a real opportunity to lobby for their interests.
- *Impact through the media.* Organizing awareness raising, educational, or protest campaigns using the media is a long-standing NGO technique. Influence through the media draws the attention of the local and international community to the problem, expands the number of supporters, and activates officials for cooperation.
- *Conducting joint events* - Conferences, round table discussion, seminars, trainings on social issues, charity events, cultural campaigns, among others are also effective venues for rallying support.
- *Lobbying for bills*
- *Appeals, organization of peaceful pickets and other public actions.* NGOs repeatedly makes appeals to the President, leaders of political parties, and parliamentary factions on a wide range of issues.
- *Participation in government advisory bodies.* In February 2011, the Decree of the President of the Kyrgyz Republic On Amendments and Additions to the Decree of the President of the Kyrgyz Republic “On Improving the Interaction of Government Bodies with Civil Society” dated 29 September 2010 was issued. The decree provides for the creation of a local council under each ministry, in which representatives of NGOs are actively involved. The objectives of the creation of the Public Supervisory Board are: a) ensuring the participation of citizens in the management of State affairs; b) exercising public control over the activities of executive authorities; c) establishment of effective interaction of these bodies with the public; and, d) taking into account public opinion in the formation and implementation of State policy.

WAYS FORWARD

Within the framework of this report, the following recommendations are identified:

- Amend the Civil and Land Codes of the Kyrgyz Republic and the Law of the Kyrgyz Republic “On the Management of Agricultural Lands” to eliminate discrimination against women in divorce and inheritance of a land share (for example, provide an alternative mechanism, such as payment of life annuity on the woman’s share in the land share);
- Determine the procedure for the seizure of land plots and other real estate for State, public, and municipal needs by adopting a special regulatory legal act at the legislative level;
- Provide in the legislation an effective and simplified mechanism for registering land leases;
- Amend the regulations that “the owner of the land user must have the right without restrictions, the right to use, own and dispose of land: freely sell and buy, give and bequeath by inheritance, take loans secured by land”;

- At the level of national policy, decide on the adoption of effective and fair regulation of the issue of “unauthorized seizure of land” for individual housing construction;
- Create favorable conditions for investment in agro-industrial complexes;
- Develop and implement a program document for the development and State support of the land market, taking into account the responsible institutions for management, forecasting, monitoring, and reporting on the land market;
- Create an open and accessible electronic database, taking into account the gender, social status, age and other parameters of land users and landowners;
- Strengthen the implementation of national legislation in the field of observance and protection of legal rights of tenure and use of land, fishery, and forest resources in the context of national food security;
- Develop a procedure for the provision of lands of specially protected natural areas; and,
- Create an effective mechanism for assessing and pledging land, especially for agricultural purposes, in which landowners and financial and credit institutions will be interested in using them as collateral. □

Acronyms

ADB	Asian Development Bank
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CCP KR	Code of Civil Procedure of the Kyrgyz Republic
CSO	civil society organization
FAO UN	Food and Agriculture Organization of the United Nations
FC	Family Code
FC KR	Forest Code of the Kyrgyz Republic
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
LWA	Land Watch Asia
SFF	State Forest Fund
SRS	State Registration Service
HRC	Human Rights Committee
KAFLU	Kyrgyz Association of Forest Users and Land Users
KR	Kyrgyz Republic
LC KR	Land Code
LSG	Local Self-Government Bodies
MFA KR	Ministry of Foreign Affairs of the Kyrgyz Republic
MAFPM	Ministry of Agriculture, Food Industry and Land Reclamation
NAPU	National Association of Pasture Users
NGO	non-governmental organization
NLA	Normative Legal Act
NSC KR	National Statistical Committee of the Kyrgyz Republic
NUWUA	National Union of Water Users Association
PACE	Parliamentary Assembly of the Council of Europe
PC	Pasture Committee
PSC	Public Supervisory Council
RG KR	Resolution of the Government of the Kyrgyz Republic
RDF	Rural Development Fund
RLA KR	Regulatory Legal Acts of the Kyrgyz Republic

SDGs	Sustainable Development Goals
UN	United Nations
UN HRC	UN Human Rights Council
USA	United States of America
USRSU	Unified State Register of Static Units
VNR	Voluntary National Review
WUA	Water Users Association

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Terminologies

Peasant (farm) economy - an independent economic entity that has the status of a legal entity or carries out its activities without forming a legal entity, whose activities are based mainly on the personal labor of members of one family, relatives, and other persons jointly producing agricultural products, which is based on a land plot and other property belonging to members of a peasant farm on the basis of joint ownership or received for use (lease). If a peasant (farm) economy is created as a legal entity, it is a commercial organization (Law of the Kyrgyz Republic “On the peasant (farming) economy, dated 03.06.1999, No. 47).

Single forest fund - all forests and lands under State, communal, and private ownership, provided for the needs of forestry, form a single forest fund of the Kyrgyz Republic; all forests and lands provided for the needs of forestry, except for forests in communal and private ownership, form the State Forest Fund (Forest Code of the Kyrgyz Republic).

Household - the activity of a person or a group of persons living together in a dwelling and providing themselves with everything necessary for life through running a common household, fully or partially combining and spending their funds. These persons may be connected by marriage and family relations, kinship relations, or without the presence of such a relationship (National Statistical

Committee of the Kyrgyz Republic <http://stat.kg/ru/news/okolo-76-domashnih-hozyajstv-respubliki-postradali-ot-covid-19/>).

Land user - an individual or legal entity to whom/which the right to use a land plot has been granted, transferred or transferred for unlimited (without specifying a period) or fixed-term (temporary) use (Land Code of the Kyrgyz Republic).

The *Unified State Register of Static Units (USRSU)* - an automated data bank about all economic entities of the Kyrgyz Republic: legal entities, branches (representative offices), citizens engaged in entrepreneurial activities without forming a legal entity as an individual entrepreneur, as well as peasant (farm) farms. The procedure for maintaining the USRSU is determined by the Regulation on the Unified State Register of Statistical Units of the Kyrgyz Republic, approved by the Resolution of the Government of the Kyrgyz Republic dated 14 November 2003, No. 722.

The right to a land plot - the right of ownership of a land plot or the right to an indefinite (without specifying a period) or urgent (temporary) use of a land plot (Land Code of the Kyrgyz Republic).

The right to use a land plot - a property right of individuals and legal entities that are not the owner of a land plot (Land Code of the Kyrgyz Republic).

Ownership of a land plot - the right of individuals and legal entities at their discretion to own, use and dispose of the land plot belonging to them, recognized and protected by the Constitution of the Kyrgyz Republic, the Land Code, and other legislative acts, with the restrictions established by this Code (Land Code of the Kyrgyz Republic).

Granting rights to a land plot - granting by an authorized body to individuals and legal entities the ownership or use of a land plot that is under State or municipal ownership (Land Code of the Kyrgyz Republic).

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CSOs Have Yet to Make Nepal's Land Agenda SDG-Accountable: 2020 CSO Report on SDG 1.4 - Secure Rights to Land and Resources in Nepal

Dharm Raj Joshi
Binod Gautam
Jagat Basnet, PhD



Community Self Reliance Centre (CSRC)

OVERVIEW OF THE STUDY

Land tenure security is a fundamental component to realize the 2030 Agenda for Sustainable Development particularly to reduce the poverty in rural areas and essential element of combining the three dimensions of sustainable development: the economic, social and environmental.

Land rights need to be placed at the center of all the sustainable development efforts in Nepal now and in the future. Land has been the important livelihood resource for 65.5 percent of the country's population and there are estimates that the percentage of the land-dependent population might have increased in 2020 given the unprecedented impact of COVID-19 pandemic on the existing socio-economic system across the country.

Land is a key economic resource that facilitates the access to, use of, and control over other economic and productive resources that have a direct bearing on the global effort to halve the world's poverty by 2030. The increasing pressure on land from the growing population, changing climate, and land degradation has led to calls for strengthening tenure security for all. Indicators 1.4.2 and 5.a.1 in the Sustainable Development Goals (SDGs) agenda have indicators on land ownership and rights in the SDG framework. These are aimed at establishing a core set of land indicators that have national application and global comparability to see the progress in securing land tenure.

The SDGs have provided an opportunity for governments, including civil society organizations (CSOs) and other change agents, to routinely generate comparable, gender-disaggregated data to support evidence-based decision making on responsible land governance for sustainable development.

Objectives of the study

This report serves to fulfill the following objectives:

- to contribute in sustaining the reporting processes of the Government of Nepal (GoN) on SDGs, with emphasis on land-related targets;
- to lobby the GoN to use the CSO report as inputs to its Voluntary National Review (VNR) and SDG Country Report; and,
- to pursue the policy work of CSOs on land rights by optimizing the SDGs as a space for dialogue with various stakeholders.

Scope and methodology

The participatory method of research is used in this report. Qualitative study techniques including Focus Group Discussions (FGDs), Key Informant Interviews (KIIs), and Semi-Structured Interviews (SSIs) were employed to explore the current status and future prospectus of the reporting on the progress on SDGs 1.4.2 and 5.a.1, the key land indicators included in the 2030 agenda of sustainable development. Relevant literature previously published were likewise used as additional reference materials.

The scope of the study is also limited to the key land indicators included in the SDGs, especially the target 1.4 under the Goal 1: Ending poverty in all its

forms everywhere. It also slightly touches upon the target 5.a.1 to see the legal frameworks pertinent to the land rights of women in Nepal.

COUNTRY EFFORTS TO PURSUE SDG TARGET 1.4

The Government of Nepal (GoN) demonstrated a strong commitment to the Sustainable Development Goals (SDGs) 2016 to 2030 by launching the national SDG roadmap in the early stage of its implementation and has guaranteed its full commitment to the principle of “leave no one behind” through the remarkable efforts to mainstream SDG targets in its national plans in the last five years. In addition, the GoN presented the second Voluntary National Review in 2020 at a High Level Political Forum (HLPF).

The Government, through its current Constitution (2015), provides a broad policy framework to implement the 2030 Agenda of Sustainable Development. Long-term plans and policies, like the 15th Plan (2019/2020 to 2023/2024), have been formulated based on the gradual progress achieved related to the SDGs. In addition, the country has made a number of political commitments to achieve land-related SDGs through the sectoral strategies, such as the Agriculture Development Strategy (ADS) 2015 to 2035. Nepal is one among the few countries reporting proxy data related to documentation rates (SDG 1.4.2.a) (Joshi et al., 2021).

SDG 1.4 seeks to 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.

The GoN has taken a number of specific policy actions to address the land-related SDG targets under SDG 1.4. Equal inheritance and property rights for men and women, housing rights, right to food, and land rights for landless *Dalits* are enshrined in the Constitution.

Since the adoption of the SDGs in 2015, Nepal enacted a number of key policy provisions such as the Right to Food and Food Sovereignty Act, 2018; the Right to Housing Act, 2018; the National Land Policy, 2015; the Land Use Act, 2019, the 8th Amendment to the Land Related Act, 1964; and, the 18th Amendment to the Land Related Regulation, 1964. Government provided tax rebate on land registration for women, including single women, based on the geographic locations. A Land Issues Resolving Commission (LIRC) was formed in March 2020 with the aim of providing land to the landless people, including *Dalits*, and facilitate land ownership for informal settlers.

All these provisions seek to increase the ownership of land by all men and women, particularly those from vulnerable communities. According to the Expert Member of LIRC, “Joint Land Ownership (JLO) certificates will be awarded to the landless and informal settlers receiving land from LIRC,” as provided for in the 18th Amendment to the Land Related Regulations, 1964.

In the 15th Plan (2019/2020 to 2023/2024) and the Agricultural Development Strategy (ADS) (2015 to 2035), the GoN has made a number of political commitments to land and land governance. Reducing the proportion of landless farmers to zero in 2030 from 26 percent in 2015 [SDG1], and increasing women’s ownership over property/tangible assets to 40 percent by 2030 from 19.7 in 2015

[SDGs 1 and 5] are some of the targets set by the Government. Similarly, the percentage of agricultural land owned by women or Joint Ownership will be increased to 50 percent by 2030 from 10 percent in 2010 [SDGs 1 and 5].

The current progress assessment includes data for only 218 (44 percent) indicators as Nepal has not been able to submit data for all 492 indicators proposed for SDG monitoring and evaluation (NPC, 2020). It has also recognized the limitation of the available data related to periodicity, disaggregation, standardization, reliability, and quality assurance. One of the felt needs is to strengthen the database that has been posing significant challenges to the monitoring efforts of the Government. During the focus group discussion (FGD) organized on 24 March 2021 in Kathmandu among high-level government officials, representatives of UN agencies, and CSOs, a representative from the Central Bureau of Statistics (CBS) said, “It is very difficult to have data as exactly as asked by the 1.4.2 of the SDG, because all major data are provided by the CBS through the National Surveys like, national population surveys, living standard surveys and agricultural survey, do not have such questionnaires.”

Nepal’s current five-year plan encompasses several programs in line with the SDGs. The goals and targets set require integrated planning and intervention. Although there is an overlap among goals and targets, goal-specific and crosscutting interventions must be clearly specified, implemented, and monitored. A representative from the Food and Agriculture Organization of the United Nations (FAO) office in Nepal opined that, “National efforts taken on a yearly and periodic basis are the best mediums to feed the data into the dataset to monitor progress, therefore, the national priorities can be redefined in the upcoming plans in such a way that they can contribute to the progress reporting on land-related SDG targets.” The representative from the UNHABITAT in Nepal suggested the Government review its priorities as “it has incorporated unrelated indicators in its plan which are not contributing to the SDGs targets.”

Land-related SDGs in national policy frameworks

Land-related SDGs included in the national policy frameworks, especially in the 15th Plan (FY 2019/20 to 2023/24) and the Agriculture Development Strategy (2015 to 2035), are presented in Table 1.

Table 1. Land-related SDG targets and commitments of the government

SDG Target	Specific commitment of the government
1	<ul style="list-style-type: none"> Reduce the proportion of landless farmers to zero in 2030, down from 26 percent in 2015
1, 5	<ul style="list-style-type: none"> Increase women’s ownership over land and houses from 26 percent in 2015 to 40 percent in 2030
2	<ul style="list-style-type: none"> Increase the proportion of agricultural land owned by women or jointly to 50 percent by 2030 from 10 percent in 2010
	<ul style="list-style-type: none"> Increase land productivity to six metric tons per hectare by 2030, up from 3.6 in 2015
	<ul style="list-style-type: none"> Arable land with irrigation capacity will be increased from 40 percent in 2015 to 80 percent in 2030
5	<ul style="list-style-type: none"> Increase the proportion of budget directly benefiting women from 22 percent in 2015 to 30 percent in 2030
5, 1	<ul style="list-style-type: none"> Increase women’s ownership over property and tangible assets from 19.7 percent in 2015 to 40 percent by 2030

13, 15	<ul style="list-style-type: none"> • Increase forest areas under community management from 39 percent to 45 percent
	<ul style="list-style-type: none"> • Increase protected land to from 23 percent to 25 percent of the total land area
	<ul style="list-style-type: none"> • Reduce rate of forest loss and desertification to zero in 2030, from 1.9 percent in 2015
	<ul style="list-style-type: none"> • Conserve 5,000 watersheds by 2030, up from 3,346 that were under conservation in 2015
	<ul style="list-style-type: none"> • Increase the number of conserved lakes, wetlands, and ponds from 1,727 to 5,000
	<ul style="list-style-type: none"> • Rivers and rivulets conserved will increase to 10,000 square kilometers in 2030, up from 1,675 square kilometers under conservation in 2015

Adopted from: “NEPAL: Monitoring progress towards land rights in the SDGs (2021)”

Localization of SDG land targets

Nepal has considered SDGs from the very first year of their adoption in its program planning and resource allocation through the 14th three-year plan (2016/17 to 2018/19). The five strategic priorities for development – infrastructure, social, economic, governance, and crosscutting issues – were broadly aligned to specific SDGs, meanwhile comprehensive and consistent contribution of the proposed programs to SDGs was expected in the 15th Plan. However, the 15th Plan again included very few land-related indicators, while there is a discernible disconnect between national indicators and those accepted at the global level. According to one of the participants in the FGD, “The Government of Nepal has put the indicators in its policy document without associating the implication of one SDG to another, but the government can add well-thought and relevant indicators by removing those that do not reflect the reality.”

Localization of the SDGs at the sub-national level has been critical, considering the weak institutional structures and problems related to data availability as well as quality (NPC, 2020). However, the process of localization and mainstreaming the SDGs at sub-national levels is advancing gradually at all three levels of government, as per the roles and responsibilities specified in the Constitution.

So far, only a few of the provinces are reported to have prepared their baseline report, while the effort to localize the SDGs at the municipal (*palika*) level has remained very limited. The Voluntary National review (VNR) 2020 notes that provinces have not followed the guideline prepared for localization of SDGs in integrating them in the medium- and long-term plans.

Therefore, taking stock of data requirements for SDG planning and creating the database at the local and provincial levels are highly recommended.

Mechanism for reporting of SDG land targets and indicators

The Government has a mechanism in place to report land-related targets and indicators. “The Ministry of Land Management and Poverty Alleviation (MOLMCPA) has a responsibility to report progress towards land-related SDG targets and indicators to the national authority, the National Planning Commission (NPC),” says a representative from the Central Bureau of Statistics (CBS). NPC is not only designated to monitor and evaluate national projects and initiatives, but also to facilitate the monitoring and evaluation of provincial SDG targets to track progress, identify problems and issues, and help solve the problems of implementation (NPC, 2020).

Meanwhile, the CBS is an apex statistical agency for the collection, standardization, and quality assurance of national data. In addition, there is a provision of the National Development Action Committee (NDAC), chaired by the Prime Minister, to facilitate the coordination and project complexities at the highest levels giving special attention to initiatives that influence achievement of the SDGs. Furthermore, a national strategy is also designed and implemented to address the issues related to data collection, reliability, and standardization of the statistical system.

The Government of Nepal has launched various initiatives and formed a number of institutional structures for effective implementation and management of the SDGs. A Steering Committee for Implementation and Monitoring of the SDGs, led by the Rt. Hon. Prime Minister has been established, which provides policy directives, facilitation for partnerships and manages the financial, human, and technical resources required for the implementation of the SDGs.

The Vice-chair of the NPC directs the SDG Implementation and Monitoring Committee below the Steering Committee, which mainly provides guidance to the federal ministries, province and local levels on how to implement and mainstream the SDGs in their respective development plans and policies. The committee also facilitates inter-ministerial coordination in resource mobilization. It also monitors and evaluates the achievement of SDG targets on an annual basis and prepares the periodic national SDG reports for submission to the Steering Committee.

The Implementation and Monitoring Committee comprises seven thematic committees, each coordinated by a member of the NPC as presented Box 1.

Ideally, these Committees facilitate the preparation of plans, programs, and budgets as well as follow up and monitor SDG activities and programs at more substantive levels. They are expected to provide trimestral reports to the

Box 1: The seven thematic committees for specific SDGs

- Coordination Committee (Goal 17)
- Economic Development Committee (Goals 8, 10 and 12)
- Agriculture Development and Drinking Water Committee (Goals 1, 2 and 6)
- Social Development Committee (Goals 3 and 4)
- Infrastructure Development Committee (Goals 9 and 11)
- Energy Development and Climate Change Committee (Goals 7, 13 and 15)
- Governance and Gender Empowerment Committee (Goals 5 and 16)

Implementation and Coordination Committee.

Government presented the second Voluntary National Review (VNR) in June 2020. Until now, Nepal has not submitted any data on the key land indicators. However, it has submitted proxy data for SDG 1.4.2.

According to the VNR 2020, households with assets (land and house) in the name of women account for 33.93 percent, much higher than the target of 25.1 for the year 2019 (NPC, 2020). Meanwhile, it does not provide clearly the percentage of women legally owning land only,

given the data is incompatible with the requirements of SDG indicator 1.4.2 (Joshi, et al., 2021). The VNR 2020 notes the number of problems related to disaggregation, standardization, reliability, and quality assurance of data (NPC, 2020).

CSOs efforts related to SDG reporting on land

Civil society organizations (CSOs), community based organizations (CBOs), non-governmental organizations (NGOs), and international non-governmental organizations (INGOs) have been actively engaged in promoting the SDGs in Nepal. The SDG Forum was also formed to advocate for the proper and timely implementation of the Sustainable Development Agendas. Only the Community Self Reliance Centre (CSRC) in collaboration with the National Engagement Strategy (NES), a national multi-stakeholder platform working on land governance, has been working specifically in monitoring the land-related SDGs with support from the International Land Coalition (ILC) under the Global Land Governance Index (LANDex) initiative.

ILC, in collaboration with NES Nepal and CSRC has prepared a report “*NEPAL: Monitoring progress towards land rights in the SDGs*” in 2021 based on the rigorous research conducted from September 2018 to December 2020 using the LANDex – an ILC tool for people-centered land monitoring that seeks to make land monitoring inclusive, accessible, and to overcome single-source data dependence, providing substantive information while capturing the complexity of land governance in a diverse context. The scope of the report is to assess a country’s political commitments to the land-related SDGs; review available data for key land indicators, and integrate a broader data ecosystem to contribute to land monitoring in Nepal. This report is solely prepared based on the findings of the LANDex initiative conducted in Nepal, so may not portray the complete picture of land and the SDGs in Nepal. The initial findings may be accessed at <https://www.landexglobal.org/en/news/nepal-landex-processes/>.

A summary of the key findings of the report indicate that progress towards people-centered land governance in the 10 SDGs has been reported based on the individual scores of corresponding LANDex indicators. Nepal has a land SDGs score of 52.97 on a scale of 100 (Joshi, et al., 2021). The report specifically presents findings on three key land indicators – 1.4.2; 5.a.1, and 5.a.2 – using the SDGs methodology as presented below:

- **1.4.2:** 96 percent of rural men and women have some form of documentation to prove their rights to land (1.4.2.a) while 82 percent of them perceive their land rights secure (1.4.2b);
- **5.a.1:** Data related to the proportion of the total agricultural population with ownership or secure rights over agricultural land by sex; share of women among owners of agricultural land by type of tenure depends on the official data; and, is currently unavailable for Nepal; and,
- **5.a.2:** Indicator 4A provides data on three of the possible six indicators. 5.a.2. proxies for women’s land rights: *joint land ownership is compulsory or encouraged, equal inheritance for women and girls is supported, and quotas for women’s participation in land management and administration exist in Nepal.*

Since the Government of Nepal has not been closely reporting on the land-related indicators, there is an important opportunity for CSOs to contribute to the monitoring of land-related SDGs; lead the national process to establish an inclusive and accessible land data ecosystem, and contribute to the VNRs of the government. It also presents a rare opportunity for advocacy for the inclusion of the land indicators in the national development plans and policies.

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

In the last six years, Nepal witnessed a paradigm shift in its political, governance, institutional, and legal domains that are of historic importance for smallholders and women in protecting and promoting their land rights. As the overarching legal framework, the 2015 Constitution contains progressive provisions that have a far-reaching impact towards safeguarding and institutionalizing land rights. In addition, the subsequent legal and institutional developments or reforms are key to ensure, protect, and promote land rights for smallholders and women in Nepal.

According to the National Population Census, 2011, out of 5,427,302 households, 76 percent (65.6 percent of the population) rely on agriculture to earn a significant portion of their livelihood resources. Among them, only 74 percent of the agricultural households own land. Land distribution in Nepal has been very unequal and presents a bleak picture for poor and marginalized communities. Around 53 percent of the agricultural households control only 18 percent of the arable land and are operating on less than 0.5 hectare, while 2.13 percent of the households (15,538 households) are completely landless (NPC, 2011) but rely on agriculture to earn life-saving resources. However, land continues to remain the most reliable source of social security for smallholders and land poor communities mostly in the rural setting of Nepal, given the context where only around 17 percent of the population has access to social protection programs (NPC & UNDP, 2020).

The Constitution, under Article 25, provides “property rights” where every citizen can acquire, enjoy, own, sell, have business profit, and otherwise utilize or dispose their property. In cases when the State acquires an area of land under the principle of eminent domain for public interest, there is a provision for a proper acquisition process and just compensation. Furthermore, equal lineage rights of women with no discrimination are also guaranteed by the Constitution, which allows women claim over parental property including land [Art. 38] (Government of Nepal, 2015).

Under Article 36, the Constitution ensures: 1) rights relating to food; 2) the right to be safe from the state of being in danger of life from the unavailability of food; and, 3) the right to food sovereignty for everyone. In addition, the Constitution provides every citizen the right to proper housing and disallows forced eviction from their residence under Article 37. Food rights and the right to housing are closely linked to secure land rights. Similarly, the Constitution safeguards the land rights of Dalits under Article 40 (5 & 6) that the State shall provide land to the landless Dalits and will arrange settlement for homeless Dalits in accordance with law.

Part 4 (e) of the Constitution includes provisions related to: 1) implementation of scientific land reform protecting interests of the farmers and ending dual land ownership; 2) carrying out land pooling to discourage absentee-land ownership and increase agricultural products and enhance land productivity; and, 3) pursuing land use policies for an enhanced agricultural sector while protecting and promoting the rights and interests of the peasant communities. If implemented properly, these constitutional provisions could promote the land rights of small agricultural households.

However, the Constitution has no explicit commitment to recognize and respect the land rights of indigenous peoples and to provide land to unregistered tenant farmers who have been tilling the land for generations and have no legal ownership over that land. The focus of the law seems to be on providing security to farmers in order to

enhance land productivity. Therefore, the challenge is to make such provisions work in favor of the smallholders, sharecroppers, and marginal farmers in Nepal.

In 2017, the government formulated a procedure for issuing Joint Land Ownership (JLO) Certificates, especially while providing land to tenant farmers, the landless, freed *Kamaiya* and *Haliyas*. JLO was actually first introduced by the Government in 2012 to promote women’s land rights in Nepal. Joint land ownership is further promoted by the 18th Amendment to the Land Related Regulation, 1964 enacted in 2020, as it ensures JLO for all the landless and informal settlers receiving land through the Land Issues Resolving Commission (LIRC). According to government estimates, there are 1.4 million landless and informal settlers that will be receiving land within the next three years.

Through the Budget Speech for fiscal year 2020/2021, the GoN announced various programs with an aim to benefit smallholders and women farmers. The GoN committed to issue land certificates for households previously registered under Village Blocks across the country and implement a “Land Bank” program in 100 local levels. The Land Bank program received strong criticism, however, as it seeks to protect the control of landowners over land rather than providing increased access to land with secure land rights to landless or smallholders.

Indigenous peoples and pastoralists are rarely mentioned in the existing policies and legal frameworks, therefore their specific needs related to land resources are largely unaddressed. To safeguard the needs and rights of these groups, the policies need to be further inclusive and formulated in robust participatory ways in future. Some of the key land-related acts and policies of the Government are summarized in Table 2 below:

Table 2. Major land-related legal instruments

Act/Law	Year of formulation	Year of latest Amendment	Remarks
Land Related Regulation (18th Amendment)	1964	2020	To implement the 8th Amendment of the Land Related Act, 1964, government has enacted the 18th Amendment to the Land Related Regulation, 1964. It has clearly mentioned the criteria and size of land for distribution and to award the land ownership certificate to landless and informal settlers. According to this Rule, land will be provided for housing purposes only in urban areas while the land for both housing and agricultural purposes will be provided in other areas for free. Meanwhile, informal settlers will have to pay a minimum of eight percent to a maximum of twice the price proposed by the government based on the criteria mentioned in the Rule, which may create a major hurdle if not handled properly while collecting the information of particular households.
Land Related Act (8th Amendment)	1964	2020	The 8th Amendment to Land Related Act, 1964 is a significant step in the policy reform that sets solid ground to fulfill the constitutional commitments to provide land to landless people including landless <i>Dalits</i> , and to legalize land ownership of informal settlers. To do so, it has a provision to form a Commission, which was formed in 2020 and has already begun its work in all 753 local levels. The amendment also includes a significant provision to facilitate the process to conclude dual land ownership over land in the form of the tenancy system

			across the country. However, the provision of exemptions on the land ceiling seems controversial as it enables the elite and rich people to misuse their political connections.
Land Use Act	2019		The Land Use Act aims to achieve maximum and long-term benefits through classification that will ensure the proper management and effective utilization of the available land resource. It seeks all local governments to formulate land use maps, and sustainable land use plans based on the "long-term land use plan approach paper." This also aims to control the haphazard use and rapid fragmentation of agricultural land.
National Land Policy	2019		The National Land Policy directs the State to make proper use and management of land resources so that sustained prosperity could be achieved, while ensuring the easy access to land by marginalized peasant communities through secure tenure and good governance of the land sector – landless people will be provided land for agriculture and housing only once and informal settlers will have their rights over land recorded and recognized legally. It also seeks to strengthen the land record system with provision to keep land-related data at all three levels of government.
Right to Housing Act	2018		<p>As per the fixed dateline to formulate required legal and policy instruments within the three years of the commencement of the Constitution, the Government has formulated "Right to Housing 2018" along with several other Acts the day before the deadline with minimal consultation among wider stakeholders.</p> <p>This Act aims to fulfill the constitutional commitments expressed in Article 37 on the "right relating to housing" and is also expected to indirectly contribute in implementing the provision of Article 40 (5 and 6), although many loopholes remain which may cause bottlenecks during implementation. The responsibility to implement the right to housing is given to all levels of government [3(3)], without clear and specific roles for the Federal, Provincial, and Local government. This Act seems weak, as it remains silent about how it will acquire land so that the settlement can be established. CSOs and rights advocates are pressuring the government for amendments.</p>
Right to Food Security and Food Sovereignty Act	2018		This Act aims to ensure and maintain food security by providing farmers adequate access to land.
Land Use Policy	2012	2015	This Policy was amended to incorporate diverse needs that emerged after the earthquake in 2015 in terms of safe settlement and land use. The objective is to protect agricultural land by promoting land pooling and cooperative farming. It seeks to promote integrated settlements.

Land (Measurement and Survey) Act	1977		This law aspires to provide land tenure security to all landowners by registering their land and providing land certificates. However, informal and non-formal land tenures along with customary tenure are neither recognized nor recorded by the legal tool.
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HOW DOES GOVERNMENT REPORT ON OR MEASURE INDICATOR 1.4.2?

The Government reports progress against the SDGs targets based on secondary reviews of the medium- and long-term plans and strategies, Economic Surveys, Sectoral plans, policies and strategies.

The indicators are modified and do not directly report what is exactly required by SDG 1.4.2 globally. The indicators used by the GoN are as presented in Table 3.

Table 3. Indicators in measuring SDG 1.4.2 in Nepal

Target 1.4	By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources	
1.4.2	Proportion of total adult population with secure tenure rights to land	
	Global Indicators	Used in Nepal
1	with legally recognized documentation,	share of bottom quintile in national consumption (%)
2	who perceive their rights to land as secure, by sex and type of tenure	households having property/ tangible assets in women's name (% of total)

As shown in the table, indicator 1.4.2a requires data on “legally recognized documentation.” However, the GoN collects data on the “share of bottom quintile in national consumption (%).” Similarly, indicator 1.4.2b requires data on “who perceive their rights to land as secure by sex and type of tenure,” but the GoN collects data on “households having property/tangible assets in women’s name.” Due to this, the Government’s efforts in collecting the data does not contribute towards creating globally comparable data and therefore does not directly contribute in the SDG monitoring efforts.

Tenure security in Nepal is defined as having the land registered in the name of one or more persons within a family.

How does Government gather and report information?

The data is mostly collected from secondary sources including the statistical, survey, and progress reports produced by the Central Bureau of Statistics (CBS), the National Planning Commission (NPC), and the relevant Ministries and Departments.

- **On legally-recognized documentation**

Data related to legally-recognized documentation is collected from the statistics of the CBS. However, there is a problem with the data that is being reported in the VNR, as it is not compatible with the SDG indicators. According to a representative from CBS, “CBS does not have exact data related to the proportion of total adult population

with secure tenure rights to land but such data may be available from the database of the Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLMCPA), since all District Land Revenue Offices (DLRO) have started digitizing all the land records.”

- **On disaggregated data by sex and type of tenure**

So far, there is no disaggregated data reported by sex and type of tenure. However, Land Survey Departments and Land Revenue Offices keep records of land registration manually. Thus, these are not systematically stored in a database and are therefore not easily accessible.

- **On perception of tenure security**

Government does not collect data on how people perceive their tenure security. However, a recent report from the ILC shows that 96 percent of rural men and women have some form of documentation to prove land rights (1.4.2.a), while 82 percent of rural men and women felt their land rights were secure (1.4.2.b) (Joshi et al., 2021). This data points to the fact that, merely having high rates of land documentation does not necessarily ensure land tenure security in the field.

Data Availability

- **On legally-recognized documentation**

The GoN has not submitted data required by the key land indicators. As per the Voluntary National Review (VNR) 2020, one of the challenges in reporting the data is the limitation of the baseline established for SDGs in 2015. There have been problems related to disaggregation, standardization, reliability, and quality assurance (NPC, 2020).

According to VNR 2020, the percentage of households with assets (land and house) in the name of women is 33.93 percent, much higher than the target of 25.1 for the year 2019. Meanwhile, it is not possible to separate the percentage of women owning land only, given that the data is not compatible with the exact requirements of SDG indicator 1.4.2 (Joshi et al., 2021).

- o **On farmers and smallholders**

Nepal has 65.5 percent of its population practicing subsistence agriculture, and are hardly able to maintain year-round food for their families from their farm. Fifty-three percent of agricultural households have 0.5-hectare land, while 2.13 percent of the households (15,538 HHs) are landless (NPC, 2011) but are heavily dependent on agriculture for their living. Despite poor access to land, these resources remained the most reliable form of social security for majority of the smallholders and land-poor communities in rural Nepal, given the context where only around 17 percent of the population has access to social protection programs (NPC & UNDP, 2020).

- o **On indigenous peoples**

Indigenous peoples constitute more than 35 percent of Nepal’s population, but the national legal framework and land administration does not recognize their land tenure practices.

- o **On women (Indicator 5.a.1)**

In the last seven years, Nepal has made significant progress in advancing the legal framework that ensures equal land rights for women through promoting joint land ownership, mandatory quotas to ensure participation of women in land management, and providing equal property and inheritance rights for women and

girls. Almost 34 percent of women have land and properties in their name as of 2019, but it is still not clear how many women own how much agricultural land and whether they are able to exercise their full rights over that land.

The decision-making power of women seems very limited. Figures of land and asset ownership do not capture the status of women's empowerment. To capture this dimension, there should be proper reporting regarding the advancement of the women's agency.

Despite these progressive provisions, Nepal has yet to make advances in land administration, particularly towards establishing a robust database that provides clear figures of the proportion of women among agricultural landowners by tenure types (Joshi et al., 2021).

- o **On pastoralists, water-users, forest dwellers**

Furthermore, there is no data available for pastoralists, water users, and forest dwellers despite these groups constituting a significant portion of the national population. They are scattered across the country, with their main concentration in the hill and Himalayan districts of Nepal. Most of the land rights of pastoralists and forest dwellers have no special policy attention as Nepal has no adequate policy focus to protect rangelands and promote pastoralism, although these would have direct bearing on the livelihoods of people living in the mountainous areas, on biodiversity, and on climate change. Instead, almost all of the related policies, strategies, and legislations concerned with the issue of bio-diversity conservation focus on expanding the areas of national parks.

The inability of the State to recognize the importance of rangelands and their contribution to the livelihoods of pastoralists and ecosystem services — in light of the latest introduction of conservation practices — has undermined pastoralists' land and resource rights, tenure security, and traditional land use rights. There is very little or no understanding systematically documented regarding pastoralists and forest dwellers in Nepal.

- **On perception on tenure security**

Given the sound legal frameworks and higher rates of some form of land documentation, more than 80 percent of Nepal's people feel land tenure security and live without the fear of sudden and forced eviction (Joshi et al., 2021).

In an initiative of the CSO, according to the LANDex data, 96 percent of rural men and women have documents as evidence for their right to that land. Perception of tenure security seems good but rural women feel less secure (79 percent) compared to their male counterparts. Meanwhile, the perception of secure tenure among the residents of community lands is at 86 percent (Joshi et al., 2021).

The Government does not report land data under SDG Target 1.4, so there appears to be a need for immediate action from the relevant government authorities to modify the associated indicators. Regarding the report produced by the ILC under its LANDex initiative, it largely assembles the existing data from CSOs and Government, so they are also not adequate to present the actual situation on the ground.

Data Quality

- **On legally-recognized documentation and perception of tenure security**

Higher rates of legal documentation of land rights alone does not guarantee tenure security for all in the rural setting, as many factors such as social status, sex, economic and political power often have direct or indirect implications. As a result, women

and settlers in community land feel comparatively less secure in comparison to men. Similarly, smallholders and poor agricultural households sharing boundaries with powerful neighbors have a sense of insecurity that they might have to leave that land or may lose part of that land. Therefore, a strong monitoring system for law enforcement needs to be in place.

Regarding government data, there is a huge gap as the reported data do not exactly support the indicators as per the requirements of SDG Target 1.4. Alternatively, CSOs can include in their reporting the indicators that are in line with the target in order to contribute to the SDG monitoring initiative.

HOW DO WE ENSURE THAT THE METHODOLOGIES AND DATA COLLECTED FOR SDG 1.4.2 TRULY REFLECT TENURE ISSUES?

Informal and customary recognition of land rights:

- Tenure security over land for marginalized peasant communities, including the landless, small holders, agricultural workers, such as ex-Haliyas, ex-Kamaiyas, Harawa, and Charawas, has been of paramount importance as it is the most reliable form of social security that they can use in times of difficulties and the resource that provides them with their food and other daily needs. However the control over and ownership of the productive land of such group is very weak or non-existent. Informal and customary tenure systems are not safeguarded or protected by the legal frameworks. Therefore, people operating under such tenure arrangements live with the constant fear of forced eviction without their free, prior, and informed consent.
- In Nepal, only formal land rights have legal protection. Informal and customary rights to land may or may not have sustained security as it depends on the specific social context of a particular area. Therefore, the Government should take informal and customary rights to land into consideration to ensure tenure security for all, which will also uphold the constitutional commitment. Among the many ways in which the Government can recognize such tenure practices includes the implementation of international guidelines such as the Voluntary Guidelines of Tenures of Land, Forests, and Fisheries in the context of National Food Security (VGGTs) and employing the fit-for-purpose land administration approaches.

Women's tenure security

- There is an increasing trend to register land, mainly housing plots, in urban areas in the name of women to qualify for a discount in the government tax. With regard to how the joint land ownership (JLO) and other progressive legal provisions are contributing to the tenure security of rural as well as urban women, especially those engaged in the agricultural sector, remains little known in the case of Nepal. Therefore, it is recommended that a comprehensive impact study be conducted on the pro-poor and pro-gender land policies in Nepal.

Land conflicts and land rights defenders

- According to the Land Conflict Monitoring Report prepared by the CSRC in 2020, the most common form of conflict in the study area (six districts) is forceful eviction of landless and informal settlers with no legal land titles living in squatter areas

or any other public lands. Altogether 1,110 households in these six districts were affected by 14 cases of forceful evictions. Among these, 12 cases had the direct involvement of Government and its agencies. Landlessness, marginalization, and use of land by people or government entities are the major causes of land conflict (Gautam, 2020).

- Land conflicts are increasing day by day as the land is being rapidly commodified and the market value is much higher compared to its use value. Land conflicts are seen in many different forms, ranging from boundary issues to ownership-related disputes. In this context, it is recommended that land records be kept accurately in the latest land administration system at the local, provincial, and national level.

Transparency and enforceability of land governance

Transparency and enforceability of land governance in Nepal has been improving but very slowly. This is further evident in the summary of the study entitled “*When One Private Firm Reigns Supreme over the Many: State of Land Grabbing in Nepal*” by CSRC. In principle, land leases or purchases should be fully transparent, and the revenues should be used by the State for the benefit of the public. However, in practice, there are several examples of land deals done secretly in which the land is leased at very low rental fees, sold below market prices, or even given away to powerful people, business owners, and the corporate sector with vague promises of employment creation or transfers of technology. This is in violation of the provision of the Declaration on the Right to Development (UNGA resolution 41/128 of 4 December 1986) that the State should “formulate appropriate national development policies to improve the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom” (Art. 2.3).

This requires that States ensure the adequate participation of the local communities affected by land leases or purchases, and that the decision-making process is fully transparent (Art. 6.3 and 8.2). After the abolition of the monarchical system in Nepal, private investors and foreign governments have shown a growing interest in the acquisition or long-term lease of large portions of land acquired from the Royal Family. The Government is not transparent in issuing notice and conducting the competitive bidding process, and has in fact awarded public land to the same company several times.

For example, Yeti Holdings, having strong political ties, is the largest travel and tourism group of Nepal established in 1995 by two Sherpa brothers — Ang-Tshering and Sonam Sherpa — for the promotion of tourism and travel. Now Yeti has multiple business companies, including Thmserku Trekking. This group received 142.09 hectares of public land on lease for 30 years through the decision of the Council of Ministers on 9 December 2019. Thamskerku Trekking, one of the sister companies of Yeti Holdings, has been awarded another huge land plot in the capital city of the federal government, also for 30 years. As per a lease agreement with the Nepal Trust, the land will be used for a commercial building.

The Government has likewise been accused of misusing its power to lease out former royal property to Yeti Holdings. It had reshuffled the Nepal Trust Committee (NTC) and revised the Trust Act to open the way for the Gokarna Forest Resort lease. Going against the general practice, the Trust extended the lease for this resort for another 25 years even before the existing lease has expired.

In addition, private investors accumulate land for construction of housing and related infrastructures. Big investors acquire land for commercial purposes (intentionally

holding the land for some years to sell it at higher prices and/or for building infrastructure), buying or leasing hundreds of hectares of land.

Government agencies provide land to the private sector on lease by not following the true essence of the objectives of the existing laws using loopholes in related laws and policies.

Land in Nepal is highly commodified and is being marketed massively in an informal market. Corporate control over valuable land and forest resources is increasing by influencing the political and administrative leadership of the Government. High-level government officials and political leaders are being accused of land fraud. The corporate sector and powerful business families, including land mafias, are influencing the policy makers to formulate regressive policies that allow them to protect their vested interests. Therefore, it is recommended to strictly implement the existing progressive policy tools to safeguard the rights of agriculture-dependent families and strengthen land governance in the country.

RECOMMENDATIONS

COVID-19 continues to intensify its attack on the land sector and it has attracted the interest of stakeholders worldwide towards agriculture and food security, which also broadly relates to land governance in Nepal.

Land reform in its real essence has not truly happened in Nepal for the last 70 years. In the last 12 months, a huge number of people who lost their jobs because of the pandemic, either domestically or abroad, have moved into the rural areas but are not really part of the agriculture sector. Meanwhile, both pristine and unused lands in the rural areas are increasingly being taken over by the corporate sector through land leasing, as the Government has introduced the Land Bank and opened Foreign Direct Investments in the primary agricultural sector. This has made it even more difficult for smallholder farmers, agricultural workers, indigenous peoples, *Dalit*, and pastoralist communities to maintain the usual control over and access to productive land.

In order to protect land rights and promote tenure security of land-poor peasants, family farmers, informal settlers, IPs, and rural men and women, the Government of Nepal should implement people-centered provisions – a number of which are already included in the Constitution, policies, and laws related to land and agrarian reform.

Given the huge data gap, the Government does not have data to rely on for robust prediction that could help in alternative planning amidst the ever-changing crisis. There has not been any study to show actual land use patterns. There is no recent data on how much arable land the country has. Local governments should start working on gathering such evidence before initiating any ad-hoc steps in the name of enhancing production and utilizing fallow land.

There are still an estimated 1.4 million people who remain landless — for whom the LIRC has started working to formalize their land titles. Furthermore, the Government needs to plan for land restoration, as the land in the mid-hills and Tarai region is being rapidly degraded. Government should also address the current situation where management and governance responsibility and authorities related to land resources are distributed among different ministries of the government.

Despite the above priorities, the GoN has been introducing regressive policy measures like Land Bank programs and the opening of Foreign Direct Investment on Primary Agriculture Sector by amending the Foreign Investment and Technology Transfer Act,

2019 amidst the COVID-19 pandemic. Such types of policy moves need to be corrected and countered with pro-poor policies.

REFLECTIONS ON HOW CSOs CAN SUSTAIN THE LAND AGENDA THROUGH THE SDGs

CSOs play a very important role not only to sustain but also to promote the land agenda through the SDGs. This can be done by regularly producing alternative reports, in case governments are not reporting properly, to advocate for the inclusion of the SDGs' land-related targets in the national policy and plans, and to ensure their robust implementation and monitoring.

In addition to that, NES Members in Nepal have often been engaged with the CBS and the NPC to include questionnaires related to land rights, tenure security, and land ownership in the national level surveys, i.e., the National Population Survey, 2021 (currently on hold due to the COVID-19 situation) and the Agricultural Census that will be conducted in 2022. A few modifications were made in the land-related questions, but not all the questions could be included as expected due to many technicalities. Nevertheless, the relevance of the land data to be collected for SDG reporting has been very well communicated to the relevant authorities and so they were open to partnering with the CSOs through initiatives like LANDex.

Collective efforts of the CSOs at the national, regional, and global level need to be further strengthened to keep the land agenda visible, which may in turn facilitate increased efforts as well among diverse change makers in the land sector.

Governments, especially in the less-developed and developing economies like Nepal, tend to accept the advice of their international development partners. Given this situation, CSOs need to influence international donor communities to include country-specific land agendas in their development programs. □

Acronyms

ADS	Agriculture Development Strategy
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CBI	Commitment Based Initiatives
CBS	Central Bureau of Statistics
CSO	civil society organization
CSRC	Community Self Reliance Centre
DLRO	District Land Revenue Office
FAO	Food and Agriculture Organization of the United Nations
FGD	focus group discussion
GoN	Government of Nepal
HLPF	High Level Political Forum
ILC	International Land Coalition
JLO	Joint Land Ownership
KII	Key Informant Interview
LANDex	Global Land Governance Index
LIRC	Land Issues Resolving Commission

MOLMCPA	Ministry of Land Management, Cooperatives and Poverty Alleviation
NDAC	National Development Action Committee
NES	National Engagement Strategies
NPC	National Planning Commission
SDGs	Sustainable Development Goals
SSI	Semi-structured Interview
VNR	Voluntary National Review

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Jagat Basnet
Executive Director, CSRC

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Getting A Fuller Picture: 2020 CSO Report on SDG Target 1.4 – Philippines



OVERVIEW OF THE STUDY¹

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 previous Millennium Development Goals (MDGs) targets. 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.

Unfortunately, at the global level, the land agenda has **not** been prominent in recent SDG reporting processes of governments. In most cases, States do not report on land rights in their SDG Country Reports and Voluntary National Reviews (VNRs).

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 land-related SGD targets.

As Civil Society Organizations (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.

Target 1.4 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.

Under Target 1.4, the indicator on secure tenure rights is Indicator 1.4.2:

SDG Indicator 1.4.2: 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.

¹ This document is an abridged version of the full report. See <https://angoc.org/portal/>

This indicator and the related indicator on secure rights to agricultural land for the sexes (Indicator 5.a.1²) 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,³ UN member-countries do not regularly produce such data.

A number of civil society organizations have been pointing out inherent issues with the targets and indicators agreed on at the global level. According to the Indigenous Major Group: “The targets under SDG Goal 1 do not fully reflect the special situations of Indigenous Peoples...” (De Luca, 2017).

Further, CSOs have observed that there is also a disconnect between Target 1.4 and the chosen indicators to represent progress towards it – of particular interest is in how the Indicator 1.4.2 lacks in capturing the complex dimensions of tenure security.

In the case of fisheries, their tenure is not necessarily land, but rather is related to access to common resources, therefore they are not reflected in either Target 1.4 or Indicator 1.4.2. Discussions on fisherfolk are often subsumed under SDG 14 (Life Below Water), particularly Target 14.B (Support small-scale fishers).

It is however important to discuss these issues under the broader context of SDG 1 – **ENDING POVERTY**.

The inclusion of “access and control over land and resources” under SDG 1 reflects the global realization that vulnerable populations’ access to land and resources is key to addressing poverty.

Objectives

This CSO Report on SDG 1.4 is a regional initiative of the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and its CSO partners in the Land Watch Asia campaign in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, and the Philippines.

The report provides a CSO perspective on the land rights and tenure security of *rural populations* as a contribution towards assessing the performance of countries in relation to meeting SDG Target 1.4.

The study also reviews data available for SDG indicators on land rights, and gives recommendations on how government should report on SDG 1.4.

Aside from the official indicators, it will also discuss other issues that may not be captured by the SDG indicators (ex. land conflicts, informal and customary tenure, transparency, and implementation issues in land governance).

Finally, this paper provides recommendations on land rights policies and programs.

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://glt.n.net/2019/08/27/measuring-individuals-rights-to-land/>

In addition, this report is being prepared to:

- contribute to sustaining the reporting processes of governments on SDGs, with emphasis on land-related targets;
- lobby governments to use the CSO reports 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 2020 CSO Report on SDG 1.4 in the Philippines uses secondary land-related data from government as well as civil society organizations and other sources.

Primary data from sectoral focus group discussions among farmers, fisherfolk and indigenous peoples have been incorporated as well.

An online validation workshop CSOs and people's organizations (POs) was conducted on 6 October 2021 to validate the findings and formulate the recommendations included in this draft report.

Finally, a dialogue with the National Economic and Development Authority (NEDA) on 13 October 2021 to discuss findings and recommendations was organized.

COUNTRY EFFORTS TO PURSUE SDG TARGET 1.4

In President Rodrigo Duterte's memorandum on the formulation of the 2017 to 2022 Philippine Development Plan (PDP), the SDGs were identified as a key consideration, together with the President's 10-Point Socioeconomic Agenda and the *Ambisyon Natin 2040* (Office of the President Memorandum Circular 12 of 2016).

By 2040, it is envisioned that the Philippines will be a predominantly middle-class society where people are deeply rooted in family and community [*“matatag”*], nobody [no one] is poor [*“maginhawa”*] and everyone feels secure in their future [*“panatag”*].

The Philippine Development Plan (PDP) 2017 to 2022 is founded on three pillars: a) enhancing the social fabric [*“Malasakit”*], b) increasing growth potential [*“Patuloy na Pag-Unlad”*], and, c) inequality-reducing transformation [*“Pagbabago”*].

Chapter 8 of the PDP, entitled “Expanding Opportunities in Agriculture, Forestry, and Fisheries and Ensuring Food Security” is one of the chapters focused on reducing inequality.

The PDP was updated in 2021 to reflect strategies that would enable the country to cope with and overcome the continued disruption brought about by the COVID-19 pandemic.

In this updated version, Chapter 8 consists of three sector outcomes (SO):

- SO 1: Sustainable and Resilient Production and Food Availability Ensured;
- SO 2: Access to Markets of Small Farmers and Fisherfolk Increased; and,

- SO 3: Access of Consumers to Nutritious, Affordable, and Safe Food Improved.

Specific to SDG 1.4, SO 1 includes “fast-tracking and completion of the parcelization of collectively-titled awarded lands and generation of individual titles.”

The National Economic and Development Authority (NEDA), the country’s socioeconomic planning agency, is in charge of SDG monitoring. NEDA monitors the achievement of the SDG targets by overseeing the implementation of the PDP. In performing its task, the agency works closely with the Philippine Statistics Authority (PSA), which governs and coordinates the decentralized Philippine Statistics System (PSS), composed of the different statistics offices in various government agencies.

An SDG website, SDG Watch, was launched by NEDA to promote further public engagement on the goals (NEDA and PIDS, 2019).

SDG Watch contains the baseline and updated data, including the data source agency for each indicator. The country’s progress in achieving the SDGs can also be viewed on this website.⁴

NEDA also leads the process of reporting on the SDGs by undertaking periodic voluntary national reviews (VNRs).

In the Philippines, NEDA has undertaken VNRs in 2016 and 2019, involving regional and sectoral consultations. The 2019 VNR focused on empowering people and ensuring inclusiveness and equality. The report highlighted Goals 4 (Quality Education), 8 (Decent Work), 10 (Reduced Inequalities), 13 (Climate Action), 16 (Peace, Justice and Strong Institutions), and 17 (Partnership for the Goals).

Because the participation of civil society groups in the crafting of the VNR was perceived to be limited,⁵ Social Watch Philippines (SWP), together with partner CSOs such as the Global Call to Action against Poverty (GCAP), Save the Children, and Philippine Alliance of Human Rights Advocates (PAHRA), organized a broader consultation workshop on the SDGs.

The objective of the consultation was to come up with a parallel report that would provide “an alternative lens to the official reading of the status of SDGs in the country” (Social Watch Philippines, 2019).⁶

Although the consultation focused primarily on six SDGs – SDGs 4, 8, 10, 13, 16, and 17 - agricultural sector issues were also touched upon.

The discussions noted the low productivity of the sector, which could be attributed to the continuing concentration of land in the hands of a few due to the stalled agrarian reform program.

The recommendations included completion of the agrarian reform program, and continuous support for the agricultural sector to improve the income and productivity of small farmers (Social Watch Philippines, 2019).

⁴ SDG Watch: <https://psa.gov.ph/tags/sdg-watch>

⁵ Only one consultation was conducted with CSOs in the Philippine VNR process according to the 2019 VNR

⁶ The Civil Society Organizations that participated in the consultation have also been previously involved in monitoring the implementation of the MDGs, and now the SDGs, and promoting relevant policies for its full realization.



CSOs also recommended the improvement of the country's data collection, analysis, and dissemination systems and processes. In particular, they cited the need for reliable, disaggregated data – i.e., age, gender, race, ethnicity, disabilities, education, geographic location, migratory status, and other relevant factors – to allow for better-targeted pro-poor programs, policies, and investments (Social Watch Philippines, 2019).

In 2022, the government will prepare another VNR, focusing on SDGs 4, 5, 14, 15, and 17.

According to NEDA, this VNR will adopt a future-oriented thinking and scenario planning approach. This means that government will undertake efforts to ensure that optimal conditions exist for the country to achieve the SDGs, and contingency programs will be put in place in case unfavorable scenarios unfold.

This approach is being adopted in response to the COVID pandemic – an unforeseen event that continues to adversely impact the country's progress towards achieving the SDGs.

The VNR will also be accompanied by an SDG Acceleration Plan, which will include, among others, a financing plan and a communications and advocacy plan to support the achievement of the SDG targets (Provido, 2021).

LEGAL POLICIES AND FRAMEWORK ON LAND RIGHTS

The 1987 Philippine Constitution provides the overall legal framework on access to land. The general principles on access to land can be found in Article II, Declaration of Principles and State Policies.

Section 21 declares that the State will “promote comprehensive rural development and agrarian reform.” Recognition of the rights of indigenous cultural communities is provided for under Section 22.

The following provisions in the Constitution further underscore these principles (Ravanera, 2018):

- *Protection of property.* Property can be taken away, but only with due process, and in certain cases, with just compensation (Article III, Sections 1 and 9).
- *Promotion of social justice and human rights.* The use of property must be regulated in the interest of social justice (Article XIII, Section 1 and Article XII).
- *Promotion of rural development and agrarian reform.* The State must undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of its fruits (Article XIII).
- *Promotion of the rights of indigenous communities* establishes the rights of indigenous communities to their ancestral lands. Section 6 of the Article on National Economy and Patrimony requires the State to protect the rights of indigenous cultural communities to their ancestral lands (Article XIII).
- *Promotion of a self-reliant and independent national economy.* The national economy must create a more equitable distribution of opportunities, income,

and wealth and refers to agricultural development and agrarian reform as the basis for industrialization and full employment (Article XII, Section 1).

- *Protection of the right to a balanced and healthful ecology.* Ecological considerations were made as bases for the State’s prioritization and setting of retention limits in undertaking agrarian reform. Congress must determine the boundaries of forest lands and national parks. Such forest lands and national parks are to be conserved. Congress shall provide measures to prohibit logging in endangered forests and watershed areas (Article XIII, Sec. 4). Requirements for conservation, ecology, and development, shall be considered by Congress in the determination of the size of lands of the public domain which may be acquired, developed, held, or leased (Article XIII, Sec. 3).

Thus, the 1987 Constitution articulates “a consistent policy that links land ownership and use to equitable distribution of wealth and to a balanced ecology” (Ravanera, 2018).

Corollary to this main policy are the restrictive policies on the alienation of lands and on the use of alienated and private lands, the policies on the conservation and protection of resources, and the recognition of the rights of farmers, indigenous communities and other marginalized groups” (Ravanera, 2018).

Farmers and Smallholders

The Comprehensive Agrarian Reform Program (CARP) was instituted by virtue of RA 6657 enacted in 1988.

The program sought to acquire and distribute public and private agricultural lands to all qualified agrarian reform beneficiaries (ARBs). Provisions for support services to beneficiaries and just compensation to landowners are included in the law. It prohibits transfer, conveyance of awarded lands except through hereditary succession (Ravanera, 2018).

The Department of Agrarian Reform (DAR), the government agency responsible for implementing the CARP, failed to complete the program’s target of land acquisition and distribution (LAD) within the specified 10-year period.

Thus, the law was extended for another 10 years through RA 8532 (1998), and again, for another five years through the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) Law (RA 9700 in 2009) (Ravanera, 2018).

Section 14 of RA 6657 and section 13 of RA 9700 also provide for integrated delivery of support services to ARBs, including subsidized credit, extension services and infrastructure.

Indigenous Peoples

The Indigenous Peoples’ Rights Act of 1997 (RA 8371 or IPRA) is a landmark legislation that recognizes the rights of indigenous peoples over their ancestral domains.

It went beyond the decades-long practice of contract-based resource management agreements by issuing ownership titles to the indigenous communities. The law provides for a process of titling of lands through the issuance of Certificates of Ancestral Domain Titles (CADT) (Ravanera, 2018).

Four substantive rights of IPs are addressed by the IPRA, to wit: (i) right to ancestral domains and lands, (ii) right to self-governance; (iii) right to cultural integrity; and, (iv) right to social justice and human rights.

The principle of self-determination enshrined in the IPRA recognizes the right of IP communities to document and delineate their own ancestral domain claims. They are also free to formulate their own Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs), based on their indigenous knowledge systems and practices.

Contracts, licenses, concessions, leases, and permits within the ancestral domains shall be subject to free, prior, and informed consent (FPIC) of the IP community, free from any external manipulation, interference or coercion, and in accordance with their respective customary laws and practices.

Under IPRA, self-delineation is the guiding principle in the identification of ancestral domain claims.

Republic Act 11038 or the Expanded National Integrated Protected Areas System (ENIPAS) was enacted into law on 22 June 2018, amending Republic Act No. 7586 or the former NIPAS law.

The NIPAS law established a system of protected areas (PAs) in the country, in furtherance of the mandates of the Philippine Constitution on State ownership of resources in the public domain, and the people's right to a balanced and healthful ecology (De Vera, Lingating, Dagdag, et al., 2019).

Essentially, ENIPAS supports the rights to land, territory, and resources of indigenous peoples provided under IPRA. It has also established an additional 94 PAs in the country and expanded the definition of PAs (De Vera, 2021).

Women

The Comprehensive Agrarian Reform Law of 1988 (RA 6657), Section 40 (5) states that “all qualified women members of the agricultural labor force must be guaranteed and assured equal right to ownership of the land, equal shares of the farm's produce, and representation in advisory or appropriate decision-making bodies.”

DAR Circular No. 18 s. 1996 mandated the issuance of Emancipation Patents and Certificates of Land Ownership Award (CLOAs) in the names of both spouses as co-owners.

It was only through the CARPER Law (RA 9700), however, that an expressed provision (RA 9700, Section 1) recognized women's right to own and control land “independent of their male relatives and of their civil status.”

CARPER law also mandated the provision of “equal support services for rural women” (RA 9700, Section 15). These rights are aligned with the provision under RA 9710 or the Magna Carta of Women, and its corresponding implementing rules and regulations (IRR) issued in 2010.

Forest Dwellers

Executive Order 263 establishes community-based forest and mangrove management as the national strategy in recognition of the indispensable role of local communities in forest protection, rehabilitation, development and

management. BFAR Fisheries Administrative Order (BFAR FAO) 197-1 gives preference to fisherfolk organizations as well as micro, small, and medium enterprises (MSMEs) on the lease of public lands for fishponds and mangrove-friendly aquaculture through the issuance of Fishpond Lease Agreements (FLAs) and Mangrove Aqua-Silviculture Contracts (MASCs) (Rodriguez, 2018 as cited in Ravanera, 2018).

Fisherfolk

The Philippine Fisheries Code (RA 8550) of 1998, as amended by Republic Act No. 10654, provides the framework for the utilization, management, conservation, and protection of the fishery resources.

Among the Code's multiple objectives are: (i) conservation, protection and sustained management of fishery and aquatic resources; (ii) poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk; and, (iii) improved productivity in the industry through aquaculture, optimal utilization of offshore and deep-sea resources, and upgrading of post-harvest technology (Rodriguez, 2018 as cited in Ravanera, 2018).

Section 18 of the Fisheries Code states that all fishery related activities in municipal waters (measured at 15 kilometers from the shoreline) shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk.

Small scale fishers in the Philippines are what the Fisheries Code identifies as municipal fishers.

Municipal fisherfolk are persons directly or indirectly involved in municipal fishing and other related fishing activities (Sec 4.56). Municipal fishing on the other hand, refers to fishing within municipal waters using fishing vessels of three gross tons or less, or fishing not requiring the use of fishing vessels (Sec 4.57).

As of 2019 there were 1.9 million registered fishers, the majority of which are in ARMM region (Rodriguez, 2021).

GOVERNMENT MEASUREMENT AND REPORTING OF INDICATOR 1.4.2

In 2017, the Philippine SDG Indicators were assessed through a series of technical workshops and bilateral meetings, and the result was an SDG Assessment Matrix.

In the assessment conducted, 102 out of the 244 SDG indicators were classified as Tier 1, 55 indicators fell under Tier 2, 74 indicators were classified as Tier 3, and 13 indicators were considered not applicable to the country (PSA, 2021).

Indicator 1.4.2 was one of the indicators classified under Tier 3 at the national level (same as the global level). However, the global-level IAEG-SDGs re-classified SDG indicator 1.4.2 from Tier III to Tier II status in November 2017 (IISD, 2021).

Nevertheless, it has remained under Tier 3 in the Philippines.

Indicator 1.4.2 is defined as “the 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” (UN Habitat and World Bank, 2021).

However, in the Philippines, the Philippines Statistics Authority (PSA) still uses the following proxy indicator, which was in use even prior to the adoption of the SDGs (Salomon, 2018):

Proportion of families which own house and lot or owner-like possession of house and lot; rent house/room including lot; own house, rent lot; own house, rent-free lot with consent of owner; rent-free house and lot with consent of owner.

Using this proxy indicator, the proportion of families with access to secure tenure is 96.4 percent. This is based on PSA’s Annual Poverty Indicators Survey (APIS) of 2019, and is reported in the SDG Watch of 26 March 2021.

The PSA does not conduct surveys on land tenure and/or other land issues per se. Some housing tenure data are collected and analyzed through the Annual Poverty Indicators Survey (APIS), the Family Income and Expenditure Survey (FIES), the Census of Population and Housing (CPH), the Census of Agriculture and Fisheries (CAF), and the Integrated Farm Household Survey (IFHS), among others. The PSA may derive data on slums and informal settlements using data from national surveys and censuses of population and housing.

In addition, the PSA also consolidates administrative data from land agencies such as the Department of Environment and Natural Resources (DENR) and DAR to report on land tenure for 5.a.1 on women’s ownership of agricultural land, which can be inputs to reporting for SDG indicator 1.4.2. (Salomon, 2018).

Table 1 presents the sources and frequency of land data collection.

Table 1: Sources of Land Data and Frequency of Conduct

Sources	Collected Land Data	Frequency of Collection
Housing and Residential Land Tenure		
Annual Poverty Indicators Survey (APIS) of 2020	Tenure status of dwelling and lot Size of dwelling	Annually
Family Income and Expenditure Survey (FIES) of 2018	Tenure status of dwelling and lot Size of dwelling	Three years
Census of Population and Housing (CPH) of 2020	Tenure status of dwelling and lot Size of dwelling	10 years
Census of Population (POPCEN) of 2015	Tenure status of dwelling and lot Size of dwelling	In-between decennial censuses
DENR Administrative Data	Men and women with residential free patent	Annually
Agricultural Land Tenure		
Census of Agriculture and Fisheries (CAF) of 2012	Ownership of farm holding Size of farm holding Cropped/Cultivated/Irrigated area (by various disaggregation)	10 years
DENR Administrative Data	Men and women with agricultural free patent	Annually

Sources	Collected Land Data	Frequency of Collection
Women and Men in the Philippines: 2016 Statistical Handbook	Emancipation Patent (EP) holders by sex Certificate of Land Ownership Award (CLOA) holders by sex	Not regular
Integrated Farm Household Survey (IFHS) of 2003	Ownership of farm holding Size of farm holding Cropped/Cultivated/Irrigated area (by various disaggregation)	Not regular

Source: Salomon, 2018

Legally Recognized Documentation

Data are available on legally documented rights, and these are available through the administrative agencies issuing tenure instruments (i.e. the DENR, DAR and National Commission Indigenous Peoples/NCIP).

On the other hand, the land data collected through censuses and surveys are usually based on self-declarations, and no verification of legal documentation is done (ANGOC and LWA, 2019).

In relation to Indigenous Peoples (De Vera, 2020)

- As of December 2020, a total of 247 Certificates of Ancestral Domain Titles (CADTs) have been approved, covering a total area of 5,741,389 hectares of ancestral lands and waters, benefitting 1,326,332 individuals. This is by far the most commendable accomplishment of IPRA in the past 23 years. No other country in the world can lay claim to a similar accomplishment. This was achieved with very limited resources and deserves commendation.
- Ancestral waters are also a key part of IP domains. Ancestral waters comprise at least 15 percent of the total coverage of CADTs in the Philippines. There are over 805,000 hectares of marine areas covered by ancestral water claims.
- For CADT registration: only 54 CADTs are registered, 193 are for registration.
- For Certificate of Ancestral Land Title (CALT) registration: 154 are registered, 70 for registration, 25 have been transmitted for registration.
- However, the current delineation process is expensive, long and tedious, focuses more on the technical acceptability of spatial data. In most situations, the process leaves very little participation to the affected communities, and rarely accommodates critical spatial information from the perspective of the local people.

In relation to Farmers (Demaisip and Alvarez, 2021)

- The DAR has distributed 90 percent of its total land acquisition and distribution (LAD) working scope of 4,790,234 hectares out of its 5,351,365 hectares LAD target. The remaining balance as of 01 January 2018 is 561,131 hectares, most of which are from the Bicol, Eastern Visayas, Western Visayas and Autonomous Region in Muslim Mindanao (ARMM) regions. As of 31 December 2018, DAR indicated that its LAD balance is about 544,327 hectares. This does not include the total area of Government Owned Lands (GOLs) which is covered under CARP based on E.O. No. 75, Series of 2019 estimated to be 150,269.49 hectares.

- Despite the enabling laws, DAR 2015 data show that only 29.5 percent of the 2.4 million ARBs are women. Moreover, women compose only 13.8 percent of ARBs with Emancipation Patents (EP) and 32.8 percent women ARBs with Collective Land Ownership Award (CLOA). This emphasized the need for programs and implementing mechanisms focused specifically on women's land rights.

In relation to Fisherfolk (Rodriguez, 2021)

- As of 2019 the total number of fisherfolk engaged in fishing activities by sector is 1,953,696.
- As of 9 July 2018, there are 1,926,416 registered municipal fishers.
- As of 13 April 2018, there are 201,886 registered boats and 29,504 register gears.

For fisherfolk, registration and licensing in the municipal registry serves as their proof of preferential rights – to be allowed to fish within the 15 kilometers of municipal waters.

Gender Disaggregation of Data

Gender disaggregation of data is done by several government agencies for specific sectors (i.e., DAR for farmer sector, DENR for farmer and fisherfolk sectors).

However, gender disaggregation of data is not applied in all datasets of the government, and not available in all agencies (e.g., NCIP does not provide readily processed gender disaggregated data for indigenous peoples) (Salomon, 2018).

The Province of Cavite participated in the tool development and pilot testing initiative called Evidence and Data for Gender Equality (EDGE)⁷ in 2015 that seeks to improve the integration of gender issues into the regular production of official statistics for stronger evidence-based policy.

In this tool development project, land tenure data was gathered from the principal couple, from both the husband and wife of a household, allowing for meaningful disaggregation of data on land tenure by sex.

Perception of Security of Tenure

Currently, the Philippine government does not measure perception of security of tenure.

CSO COMMENTS ON THE METHODOLOGY AND DATA ON SDG INDICATOR 1.4.2

Specific Issues on Proxy indicator

The Philippine Statistical System (PSS) Reports, on which the land tenure rights are based, pre-date the 2017 launch of the globally agreed methodology for SDG Indicator 1.4.2. As of the third quarter of 2021, the methodology as proposed by

⁷ EDGE is supported by the UNSD, UN Women, the Food and Agriculture Organization (FAO), International Labor Organization (ILO), Organization for Economic Co-operation and Development (OECD), the African Development Bank (AfDB), the Asian Development Bank (ADB), and the World Bank.

the custodian agencies for SDG 1.4.2 has still not been incorporated in the PSS data gathering.

The SDG Watch reported that 96.4 percent of all households have security of tenure, which includes housing that is under rent and lease. If the definition of security of tenure will not include housing/ home lots under rent and lease, the baseline figure reported on Filipino households with secure tenure over land used for housing may drop to 64.1 percent (PSA, 2020).

In addition, data collected may potentially be over-reported as the census on population and housing also relies on self-declaration on land tenure.

The PSA noted that census/survey respondents are likely to overstate their tenure rights when self-declarations of ownership are not validated through formal documentation.

Respondents are likely to assert their land rights even without legal recognition, and they do this to avoid the threat of eviction from their homes. Censuses/surveys are administered by the Philippine government, which has in the past, evicted informal settlers from their homes, especially those living on public lands.

This practice of claiming ownership even without legal documentation can affect the accuracy of data collected through surveys and censuses (ANGOC and LWA, 2019).

There have been efforts to produce more accurate and updated data through projects such as EDGE (Evidence and Data for Gender Equality) and SPLIT (Support to Parcelization of Lands for Individual Titling).

However, the biggest criticism of CSOs regarding this proxy indicator is that it is clearly inadequate in terms of measuring types of tenure security.

First, farmlands are excluded from the concept of “house and lot,” and therefore are not covered in this indicator. Secondly, security of tenure should not include rent or lease. Lastly, the proxy indicator, with its emphasis on individual ownership of house and lot, excludes common resources such as ancestral domains and municipal fishing grounds.

More broadly, Peoples Organizations (POs) and CSOs who are active in tenure security issues have reflected on the issue, and realize that tenure security has different implications for farmers, IPs, and fisherfolk.

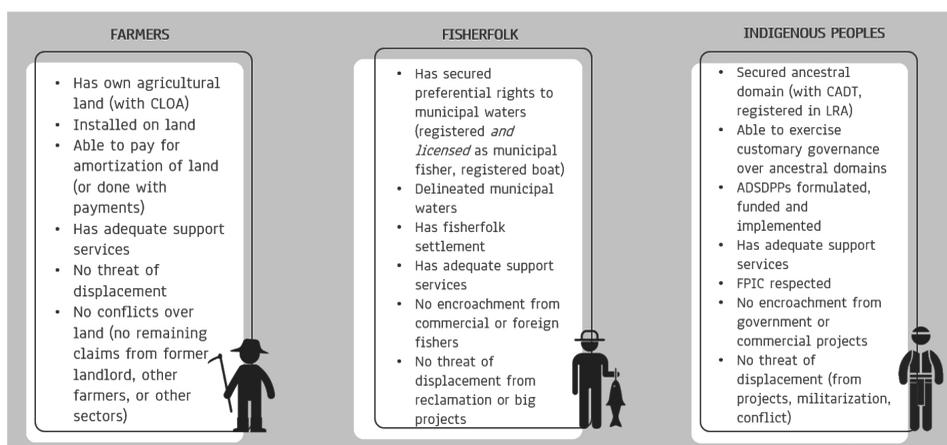
Participants of a focus group discussion (FGD) conducted as part of this study believe that tenure issues in rural areas are much broader than tenure over house and lot.

Broadly speaking, there are key dimensions of secure tenure that are common to farmers, fisherfolk and IPs. These three sectors require legally-recognized rights to resources.

For farmers, it is secure title to and occupation of agricultural land. For fisherfolk, it is preferential rights to municipal waters that have been delineated as such. They also need fisherfolk settlements in which to live. For IPs, it is possession and governance of ancestral domains that are covered by CADTs and registered with the Land Registration Authority.

Figure 1 presents some of the relevant considerations with regard to resource tenure in the rural areas, based on the FGD with POs and CSOs:

Figure 1: Partial List of What Constitutes “Secure Tenure” for the Sectors⁸



This aspect of tenure security is discussed more fully in sections “Legal Policies and Framework on Land Rights” and “Policy and Program Recommendations on Strengthening Land Rights” of this paper.

A second key dimension involves measures to ensure that these resources are productive, thus ensuring that the people and communities concerned can derive a decent livelihood.

In the case of farmers, this means adequate support services such as credit, post-harvest facilities and the like, which will help ensure that they are able to pay the land amortizations. For fisherfolk, support services include community organizing, skills training, capacity building and enterprise development to support the viability of fisherfolk settlements. For IPs this means access to education, health, livelihood projects and other services according to the unique needs of the communities.

A third dimension is freedom from various threats to the enjoyment and exercise of tenure.

Farmers, fisherfolk and IPs are all threatened by encroachments of various commercial interests. Also, due to uncoordinated government policy implementation, resource claims of various communities sometimes overlap, leading to confusion and conflict. These threats are discussed more extensively in “Policy and Program Recommendations on Strengthening Land Rights.”

Comments on Available Data on SDG 1.4.2

As mentioned, the principal sources of land-related data are the line agencies concerned with resource tenure and management.

The following is a listing⁹ of available data, as well as concerns regarding the data, for certain key agencies.

⁸ As presented and discussed during the dialogue between CSOs and NEDA on 13 October 2021.

⁹ The list of government agencies included in this section is not comprehensive

- **In relation to data from DAR**

On land distribution data

- Data on CLOAs distributed are available at the national level
- Women who have CLOAs are reflected as their male counterpart's spouses, but CLOAs do not indicate whether the women till the land
- Unavailable or outdated data on CARP coverage, CLOA registration at the local level
- No registry of farmers per crop who are eligible for land distribution, how many are not yet installed on distributed land

On support services

- *Data on support services are either scant or not updated*
- *In most cases, data are not sex-disaggregated, type of services are not specifically defined, and not readily accessible*

Other concerns

- *Inconsistent or unavailable data on converted and convertible lands*
- *Inconsistent data at municipal, provincial, and national levels*
- *Inconsistent data between and among CARP-implementing agencies (DAR, DA, LBP, NIA)*
- *No data on overlapping claims*
- *Data not updated since 2018*
- There are currently no mechanisms on gathering perceptions of tenure security

- **In relation to data from NCIP**

- Only estimates on the number of IPs are available
- Data on number of indigenous peoples living within titled ancestral domains are available, but may not be sex-aggregated
- Data are not consolidated at the national level
- Data have not been updated since 2018
- There are currently no mechanisms on gathering perceptions of tenure security. There was one study (NSCB CAR in 2013) commissioned by the government to assess perceptions on IP tenure security and resource governance – however this was only done once for a particular project
- No data on how many ASDPPs have been funded and implemented
- No data on how many ASDPPs have been harmonized with Comprehensive Land Use Plans (CLUPs) and other relevant resource management plans of local government units (LGUs), as supported by a council (*Sanggunian*) resolution
- Inconsistencies between data gathered by LGUs (which are defined by political boundaries) and data gathered by NCIP (which cut across political boundaries, such as in the case of CADTs)

- **In relation to data from the Bureau of Fisheries and Aquatic Resources (BFAR)**

- National-level fisherfolk registration is available from BFAR, disaggregated by region and province

- National data on boat registration and catch per unit also available
- However, LGUs and CSOs lack access to updated data, disaggregated by gender
- BFAR faced challenges in integrating data from FishR¹⁰ and from Juan Magsasaka¹¹
- Data on municipal water delineation are available, but must be collected from different agencies
- Although fisherfolk settlements are mandated to be established under the Fisheries Code, there are presently no guidelines to implement this. Hence, there are no available data on such settlements.¹²

Broader Land Data Issues

Aside from the data available (and unavailable) from the various land- and resource-related agencies, there are broader issues regarding land data in the Philippines.

Data sets within and among government agencies are inconsistent with one another. In addition, agency websites are at times slow, return errors, and do not contain updated information.

Available government data on violations on land and resource rights are gathered using different methodologies per agency and come in different formats.

In some agencies, cases of violations are filed as individual reports which are not digitally encoded nor summarized. In addition, there are no official data on landlessness in the Philippines, and data on informal settlers are only estimates.

Also, while there are some data on forest users and communities whose tenure rights are recognized, there is no census of forest dwellers.

CSOs also experience various problems when accessing government data. In most situations, CSOs are unable to access pertinent data despite letters and follow-ups.

Requesting data from the government's Freedom of Information (FOI) portal does not ensure access to data and does not even ensure responses from concerned agencies, despite what is contained in Executive Order No. 2 (on peoples' constitutional right to information) and despite the procedures stated in FOI portal.¹³

¹⁰ FishR is a registry system for municipal fisherfolk, which integrates data from the National Statistics Office's basic sector registry system and from the existing registration system of BFAR.

¹¹ Juan Magsasaka is a government project which aimed to update the National Farmers and Fisheries Information System (NFFIS).

¹² There are, however, several local initiatives on establishing fisherfolk settlements – such as in Aroroy, Masbate.

¹³ Executive Order No. 2 was issued in 2016 to operationalize the people's constitutional right to information. For this purpose, the Freedom of Information portal – www.foi.gov.ph – was set-up. Requests made through this platform are automatically sent to the agencies concerned for immediate processing. According to the FOI portal, the standard processing time for data requests is 15 working days, but agencies may extend the processing time to no longer than 20 working days.

HOW THE COVID-19 PANDEMIC HAS AFFECTED LAND RIGHTS

Presently, COVID-19 is not just a health issue but it has turned into an economic issue as well.

Those who were greatly affected were the poor – the farmers, fisherfolk, agricultural workers, landless people, indigenous peoples, and slum dwellers.

The nationwide lockdowns and restrictions have affected food supply chain. People were forced to stay at home, thus making secure housing and land tenure crucial especially now.

There were reported incidents of people taking advantage of this situation through illegal logging, illegal mining, and land grabbing.¹⁴

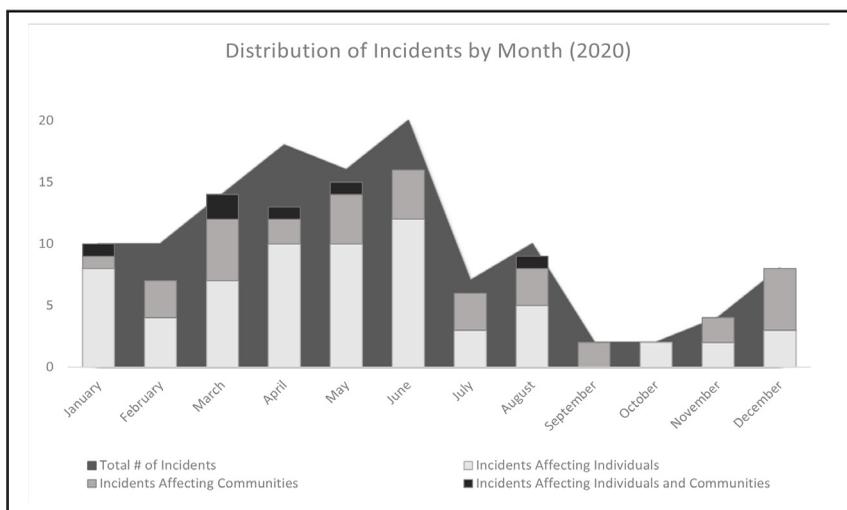
In the 2020 Land and Resource Conflict Monitoring done by ANGO (Salcedo, 2021), 147 incidents of human rights violations which were linked to defending land rights were recorded.

These incidents, which included killings, arrests, and harassment of smallholders and activists, affected 287 individual victims and 58,295 households.

The monitoring also found that the incidents of human rights violations were highest during the first four months (March, April, May, and June) of implementation of lockdowns and community quarantines to curb the COVID-19 pandemic (see Figure 2).

In an international webinar jointly organized by the Association for Land Reform and Development (ALRD) and The Daily Star held last 18 December 2020, Antonio Quizon, former Chairperson and former Executive Director of Asian NGO Coalition for Agrarian Reform and Rural Development, said,

Figure 2. Human rights violations per month, according to ANGO’s 2020 Land and Resource Conflict Monitoring Report



¹⁴ Quizon, A.B. (2021, January 25). Ensuring land and food rights at the time of COVID-19 and beyond. The Daily Star. Retrieved from <https://www.thedailystar.net/round-tables/news/ensuring-land-and-food-rights-the-time-covid-19-and-beyond-2033181>

“In the Philippines, more than two million hectares of lands have been contested in the last nine months which is way more than the normal times. An estimated 252,241 households have been adversely affected by these conflicts” (ALRD, 2020)

COVID-19 has also affected the farmers as food producers. With strict travel restrictions, it became difficult for them not only to distribute their goods, but also to access their land and the natural resources.

There were also reports of an increase in illegal mining, together with increased militarization in areas with land disputes, especially in territories of indigenous peoples (The Daily Star, 2021).

The COVID-19 pandemic has also exposed the problem of limited access of fisherfolks to the market. Even if they were allowed to fish, they were not able to market their produce. Meanwhile, traders and buyers were also not able to access their harvests. With the lack of storage facilities, the fishers were forced to sell their harvests at lower price, leading to low income (Rodriguez, 2021).

RECOMMENDATIONS FOR GOVERNMENT TO PRODUCE A MORE ACCURATE REPORT ON LAND TENURE SECURITY

Four sets of recommendations on measuring and reporting SDG 1.4 are identified through the consultation processes with the farmers, indigenous peoples, fisherfolk, and CSOs.

In relation to “Tenure Security” Indicators

CSOs, NEDA, and PSA should work together to develop a consensus working definition of “tenure security” for the different basic sectors, and to discuss how to produce accurate nationally consolidated tenure security data.

This will be a challenging process involving many consultations and discussions; however, it is necessary, considering the centrality of land tenure issues in addressing the country’s problems of poverty and disempowerment.

NEDA and PSA, in consultation with CSOs, must also discuss the appropriateness and feasibility of implementing the methodology for producing data on 1.4.2 and 5.a.1, as proposed by the global custodian agencies.

Lastly, the PSA, in consultation with CSOs, DAR, DENR, NCIP, BFAR and the LRA, should consider the implementation of a survey on perceptions on tenure security. At the same time, CSOs can provide studies on this issue as well, to provide additional perspective.

In relation to the 2022 VNR of the Philippines

The situation of land rights is recommended to be included, noting that secure land rights are vital for an agricultural population like the Philippines, are key to addressing poverty, and considering how secure tenure will enable many Filipinos to be resilient in the face of climate change and pandemics.

Since the next VNR will be focused on selected SDGs prioritized by the High-Level Political Forum for 2022, Table 2 presents how land rights may be highlighted in the pre-selected priorities (SDG 4, SDG 5, SDG 14, SDG 15, and SDG 17).

Table 2. Land rights and the 2022 VNR

HLPF Priority	Land/Resource-Related Target Under the SDG	Information That May Be Included or Issues That May Be Tackled in the 2022 VNR of the Philippines
SDG 5 – Gender Equality	5.a - 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	Women’s ownership of agricultural lands under the CARP/ER Registered women fisherfolk Women indigenous peoples with CADT
SDG 14 – Life Below Water	14.b - Provide access for small-scale artisanal fishers to marine resources and markets	Fisherfolk and boat registration Threats to municipal fishers (foreign and commercial encroachment) Non-establishment of fisherfolk settlements
SDG 15 – Life on Land	15.1 - By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements	IP issues, noting the linkages between customary governance and resource conservation CADTs issued and registered, number of beneficiaries FPIC issues
	15.2 - By 2020, promote the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally	IPs with sustainable development plans Issues with ancestral domains and protected area overlaps Forest dwellers with sustainable management plans
SDG 17 – Partnerships for the Goals	17.19 - By 2030, build on existing initiatives to develop measurements of progress on sustainable development that complement gross domestic product, and support statistical capacity-building in developing countries	Progress towards addressing data issues in the Philippines Data convergence and harmonization initiatives Government-CSO data sharing and partnerships

In relation to the Country’s SDG Reporting Process

CSOs are willing to partner and engage with NEDA, with the latter being the lead government agency in preparing the country’s VNRs and other SDG-related reports.

The 2022 VNR of the Philippines is a starting point. It is recommended that NEDA convene a workshop among the various land and natural resource agencies (DAR, NCIP, BFAR, DENR, LRA, etc.), PSA, peoples’ organizations, and CSOs, to discuss land and resource rights in the context of the SDGs. This will be an opportunity for the agencies to present their accomplishments on land and resource tenure security and for which CSOs can provide feedback.

In relation to the Overall Data Landscape

To address data inconsistencies across land agencies, it is recommended that NEDA and PSA convene regular inter-agency meetings to provide updates on data convergence and reconciliation.

To address the various problems faced by CSOs in accessing land-related data from State agencies, it is proposed that government strengthen the implementation of the Executive Order on Freedom of Information (FOI), and ultimately enact a law on FOI.

It is also proposed that the timeliness, accessibility, and local disaggregation of data repositories in government agency websites be improved and regularly updated. During this pandemic, citizens will access government data mostly through the websites of the various departments.

POLICY AND PROGRAM RECOMMENDATIONS ON STRENGTHENING LAND RIGHTS

In reporting land rights, the following policy and implementation issues should also be considered:

On Indigenous Peoples' Land Rights

Land and justice agencies must establish an efficient and practical system to address overlapping claims on land.

Upon the recommendation of indigenous peoples, the DAR-DENR-LRA-NCIP JAO 1 series of 2012, which makes ancestral lands/domains very vulnerable to encroachment as it exacerbates the delay in processing and registration of CADTs, should be nullified.

In lieu of JAO 1, a multi-sectoral conflict resolution mechanism should be established at the local level (*barangay*, municipality) to immediately respond to community grievances (Salcedo, 2021).

Another threat to IP ancestral domain rights is sec.13 of the IRR of the ENIPAS law, which provides that in cases of overlaps between ancestral domains and protected areas, only the ADs covered by CADTs and CALTs will be recognized and respected.

This contradicts the provisions of the IPRA law and the ENIPAS law itself, which guarantee recognition of IP ancestral lands, and their rights to govern these lands, by virtue of their presence in these territories since time immemorial (De Vera, et al., 2019).

Perhaps a better basis for the recognition and respect of ancestral domain tenurial security is by declaring the indigenous territory as part of conservation areas based on their traditional practices.

A new conservation scheme tagged as the “Indigenous Community Conserved Areas” (ICCAs) refer to natural and/or modified ecosystems containing significant biodiversity values, ecological services, and cultural values, voluntarily conserved by indigenous cultural communities/indigenous peoples through customary laws or other effective means (Ravanera, 2018).

Identified under the ICCAs are the protected areas and sustainable indigenous forest resource management systems and practices.

Recognized also are the rights of the IPs to the sustainable use, management, protection and conservation of the land, water, air, minerals, plants, animals and organisms.

Likewise, the areas of economic, ceremonial and aesthetic value based on their traditional knowledge, beliefs and practices – are respected. ICCA practice has been gaining ground in the Philippines and worldwide as well as efforts at institutionalizing them at the national level.

On Women's Tenure Security

There are three national laws that specifically mention women's land rights.

These are the Indigenous Peoples' Rights Act of 1997 (IPRA) for indigenous women, the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) for women farmers, and the Fisheries Code for fisherwomen.

In the Magna Carta of Women and several administrative orders from the DAR (AO 1-11) and the DENR (AO 91-04, AO 96-24, AO 96-29), it is mandated that titles be issued in the name of both spouses, under a provision known as joint titling. However, there are no specific provisions on titling for fisherwomen and indigenous women (ANGOC, 2015).

In addition, gender-disaggregated data should always be gathered wherever possible to promote better-targeted policymaking.

As previously mentioned, the Evidence and Data for Gender Equality (EDGE) project was pilot-tested in the province of Cavite. To address the data gap in SDG Targets 1.4.2 and 5.a.1, it is proposed that the EDGE Project be replicated nationwide with recommended improvements based on the report that was released in 2018 by PSA.

On Land Conflicts and Land Rights Defenders

Land conflict is an issue that the Philippine government needs to monitor and address more effectively.

These conflicts are rooted in historical injustices, poor implementation of asset reform laws, the encroachment of big business in rural areas, and the government's own infrastructure projects.

The country has become a global hotspot with regards to land conflicts and the resulting human rights violations.

In 2019 alone, Global Witness (2020) recorded 26 murders related to agribusiness in the Philippines, that is 90 percent of all agribusiness-related attacks in Asia, and the highest share of agribusiness-related killings globally.

In the same report, it was also found that mining was the sector with the highest incidents of deaths worldwide and Philippines had the most mining-related killings with 16 deaths (Global Witness, 2020, in Salcedo, 2021).

A 2020 study by ANGOC was able to document a total of 223 ongoing cases of land conflict taking place within 5.59 percent (1,695,397 hectares) of the total territory of the Philippines. The most frequent was between smallholder farmers/producers against private companies/corporations (36.2 percent)

followed by ICCs/IPs against private companies/corporations (13.1 percent), and ICCs/IPs against the government (7.96 percent).

In terms of type of conflict, the study identified six types, as well as the percentage of cases falling under each type: private investment (56.6 percent), clashing tenure systems (11.2 percent), public-private partnership (9.4 percent), resistance to land reform (9.4 percent), resource conflict (6.4 percent), and government projects (7.1 percent).

Thus, it is clear that the most frequent conflicts were those between marginalized sectors and the private sector, in the context of the latter's investments such as plantations and mining operations (Salcedo, 2021).

There is a need for land agencies to enhance and intensify monitoring and documentation of land and resource conflicts in implementing resource reform programs and to make the data on land conflicts available to the public. A joint monitoring tool on monitoring conflicts may be explored between government agencies and civil society organizations.

Enforcement of fishery laws and policies has also been weak resulting in intrusion of commercial fishing vessels inside the municipal waters; poaching in marine protected areas; rampant use of illegal fishing gear and practices such as dynamite and poisonous/noxious substances; continued conversion of mangrove forests into fishpond areas, and illegal wildlife trade.

Illegal, unreported and unregulated (IUU) fishing in the Philippines is believed to be widespread, although its actual magnitude remains to be quantified (Rodriguez, 2021).

Needless to say, all of these violations have led to numerous conflicts between and among fisherfolk communities, government, and various commercial interests.

On Improving Land Administration

There is a need to discard the country's Torrens System and adopt a fully administrative approach to the recognition of land rights and the resolution of land disputes.

This includes streamlining the land administration system and possibly, forming a single land administration agency with clear roles and responsibilities, and setting forth institutional reforms towards efficiency, transparency, and accountability.

This should be accompanied by the adoption of a citizen-focus rather than a process- and regulation-focus in the delivery of land administration services. Where possible, commitments on quality, turnaround time, and cost of key services should be made clear.

There is a need to adopt a mass program to systematically register rights to land, bearing in mind social justice principles as laid down in the 1987 Constitution (Ravanera, 2018).

In addition, CSOs need to closely monitor the implementation of SPLIT and other government programs related to land rights and land tenure.

In 2016, the ICCA bill was filed in the 17th Philippine Congress. Once passed, the legal system will likewise fully recognize the ICCAs and ICC/IP rights to their

ancestral domains as well as their right to maintain, protect, regulate access, and prohibit unauthorized intrusion.

With regards to agrarian reform, the need for support services should not be neglected. These services, such as post-harvest facilities, credit, irrigation, and the like, are essential in making the awarded lands productive and profitable, and thus ensuring that farmers will be able to have a secure livelihood and retain the property over the long-term.

The provision of support services is built into the agrarian reform legislation. Unfortunately, these support service programs remain severely underfunded and poorly implemented. CARP implementing agencies have varying processes, and requirements for farmers to access support services, and the mechanisms to coordinate and deliver support services are inadequate. When the service delivery function of the Department of Agriculture (DA) was devolved to Local Government Units (LGUs) under the Local Government Code, very limited funds were allocated to agriculture extension (Demaisip and Alvarez, 2021).

CONCLUDING REMARKS

This paper focused on monitoring SDG 1.4.2. However, the overall objective is to ensure tenure security for farmers, indigenous peoples and fisherfolk, in line with the SDG slogan of “Leave No One Behind.”

The basic sectors and CSOs are one with the global community in the effort to achieve the SDGs. In this undertaking, partnerships between government and non-government actors are essential.

It is therefore a major step forward that, during the October 2021 dialogue with POs and CSOs, NEDA expressed its willingness to work with the aforementioned sectors and expand stakeholder participation in the SDG monitoring and reporting processes.

It is hoped that this collaborative process will promote a broader conversation on the full meaning and significance of tenure security, and how it should be measured and attained. □

Acronyms

ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AO	Administrative Order
APIS	Annual Poverty Indicators Survey
ARBs	Agrarian reform beneficiaries
BFAR	Bureau of Fisheries and Aquatic Resources
CADT	Certificate of Ancestral Domain Title
CAF	Census of Agriculture and Fisheries
CALT	Certificate of Ancestral Land Title
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program with Extension and Reforms
CPH	Census of Population and Housing
CSO	civil society organization
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
ENIPAS	Expanded National Integrated Protected Areas System
EO	Executive Order

FAO	Fisheries Administrative Order
FIES	Family Income and Expenditures Survey
FOI	Freedom of Information
FLA	Foreshore Lease Agreement
FPIC	free, prior and informed consent
IAEG-SDGs	Inter-agency and Expert Group on SDG Indicators
ICCs	indigenous cultural communities
ICCA	indigenous community conserved areas
IFHS	Integrated Farm Household Survey
IPs	indigenous peoples
IPRA	Indigenous Peoples' Rights Act of 1997
IRR	Implementing Rules and Regulations
IUU	Illegal, Unreported and Unregulated Fishing
LAD	Land and acquisition distribution
LBP	Land Bank of the Philippines
LGU	local government unit
NAMRIA	National Mapping and Resource Information Authority
NCIP	National Commission on Indigenous Peoples
NEDA	National Economic Development Authority
NIPAS	National Integrated Protected Areas System
PDP	Philippine Development Plan
PSA	Philippine Statistics Authority
PSS	Philippine Statistics System
RA	Republic Act
SDGs	Sustainable Development Goals
VNR	Voluntary National Review

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People's Organizations:

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- Calumangan Yusay Farmers Association (CAYFA)
- Damayan ng mga Manggagawa, Magsasaka at Mangingisda sa Bansa (DAMBBA)
- Laghit Alicante Agrarian Reform Beneficiaries Association (LAARBA)
- National Anti-Poverty Commission (NAPC) - Farmer Sectoral Representative
- National Anti-Poverty Commission (NAPC) - Fisherfolk Sectoral Representative
- National Anti-Poverty Commission (NAPC) - Indigenous People Sectoral Representative
- Negros Occidental Federation of Farmers Association (NOFFA)
- Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)
- Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK)
- Pambansang Katipunan ng mga Samahan sa Kanayunan (PKSK)

Civil Society Organizations

- Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)
- Center for Agrarian Reform and Rural Development (CARRD)
- Center for Empowerment and Resource Development, Inc. (CERD)
- John J. Carol Institute of Church and Social Issues (JJCISI)
- Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan (Kaisahan)
- Non-Timber Forest Products-Philippines (NTFP-Philippines)
- Oceana Philippines
- Pangangisda Natin Gawing Tama (PaNaGaT) Network

- Philippine Association For Intercultural Development (PAFID)
- Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA)
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Disclaimer

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ASIA

The International Land Coalition (ILC) is a global alliance of civil society and intergovernmental organizations working together to put people at the center of land governance. The shared goal of ILC's over 250 members is to realize land governance for and with people at the country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

ILC's network in Asia is a coalition of 54 organizations working on land issues across 13 countries. The ILC Asia network comprises of regional, national, and local civil society organizations, producers and farmers, indigenous peoples, pastoral organizations, as well as research institutes, non-governmental organizations, and constituency-based organizations. ILC-Asia is committed to monitoring national governments' adherence to the Sustainable Development Goals (SDGs), promoting the Voluntary Guidelines on Responsible Governance and Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), to supporting World Forum on Access to Land, to putting forward the principles of Food Sovereignty, and to developing a space for dialogues on the UN Guiding Principles on Business and Human Rights through the National Action Plans (NAPs).

ILC Secretariat

c/o IFAD: Via Paolo di Dono 44

00142, Rome, Italy

Tel. +39 06 5459 2445

Email: info@landcoalition.org

Web: <https://www.landcoalition.org/en>

ILC Asia Regional Coordination Unit

c/o CIFOR: Jalan CIFOR, Situ Gede, Bogor Barat

16115, Bogor, Indonesia

Tel: +62 251 8622 622

Email: asia@landcoalition.info

Web: <https://asia.landcoalition.org/en>



Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. The campaign involves civil society organizations in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, Pakistan and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and, encourage the sharing of experiences on coalition-building and actions on land rights issues.

Trustable land information systems are fundamental for responsible land governance. There is a need for sustainable, transparent, reliable data on land rights to empower people and communities to defend their land rights. Thus, the Land Watch Asia Land Monitoring Working Group (LWA LMWG) provides a platform for civil society organizations from seven countries in Asia to discuss, enhance each other's capacities, and develop tools towards monitoring global commitments as well as governments' policies and programs on land and resource tenure.

Target 1.4 of the UN Sustainable Development Goals (SDGs) seeks to ensure that “all men and women, particularly the poor and vulnerable, have equal rights ... to ownership and control over land and other forms of property.”

This target's inclusion under SDG Goal 1, on “ending poverty in all its forms,” signifies a new global recognition that secure land tenure should be a central strategy in combating poverty. However, this land agenda has not been prominent in recent SDG reporting processes of governments.

This publication was therefore prepared by civil society organizations (CSOs) working on land rights in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, and the Philippines, to identify potential gaps in reporting on land under the SDGs. It gauges the progress made by governments towards addressing land rights under SDG 1.4, not only through the lens of official data and global indicators, but also through studies and feedback from CSOs and rural communities.

