



Policy Research
"Women Land Rights in Bangladesh:
Bridge the Gap in Law, Policy and Practices"



বাদাবন সংঘ
Badabon Sangho
(A Women's Rights Organisation)

Policy Research
**"Women Land Rights in Bangladesh:
Bridge the Gap in Law, Policy and Practices"**

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Submitted to

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SECTION ONE

Introduction

BACKGROUND AND CONTEXT

Over the past decade, Bangladesh not only has maintained steady overall macroeconomic growth, but has considerably improved many of the gender gaps that have prevented this growth from being inclusive. Girls' and women's greater participation in the public spheres of school, labor markets, and political systems signals the increasing presence and power of their voices in these arenas.

However, these have not been translated in the ownership of productive resources. Women in Bangladesh are always at risk of land theft or land robbery in context in which they are viewed as less valuable, subordinate or even as property themselves.¹ The aim of this paper is to review the existing laws and policies on women land rights and draw future course of action for the Badabon Sangho, a women rights and women-led organization based in southwest region of Bangladesh has been working on issues related with women rights in general and particularly women land rights in Bangladesh.

In order to initiate a strategic advocacy on women land rights, Badabon Sangho has been facilitating a network named 'Women's Land Rights Network' comprising 14 women's rights and women-led organizations across the country. These network members are facilitating local level campaign and collective movements linking with macro level policy practice changes. The findings of this investigative review on civil laws that are related with inheritance property rights in Bangladesh will be useful evidence for further advocacy and campaign. The purpose of this study is to sensitize and influence the policy makers including government officials particularly law commission, Ministry of Land, Ministry of Women Affairs and other networks and civil society organizations directly working for women rights will the key audience.

¹ Bangladesh Land Status Report 2017, ALRD

Land Legislation and Regulations in Bangladesh

The 1972 Bangladesh Constitution (last amended in 2018) was written shortly after independence, and states that all citizens have the right to hold, acquire, transfer and dispose of property (Article 42).² Specific land laws are largely based on legislation originating in the British Colonial and then Pakistan periods.³ From the colonial period, the Property Act of 1882 and Registration Act of 1908 set out procedures for the transfer and registration of private land ownership.⁴ In 1885, the Bengal Tenancy Act was enacted which established a process of recognizing tenancy rights to land. As part of Pakistan, the 1950 State Acquisition and Tenancy Act established a 33-acre land ceiling for private ownership, prohibiting the conversion of agricultural land.⁵ After independence, the 1984 Land Reforms Ordinance gave support to rural smallholders, placing a 20-acre ceiling on agricultural land, and increasing tenure security on state land for the landless and sharecroppers.⁶ National Land Use Policy from 2001 emphasised the prohibition to covert agricultural land to non-agricultural purposes, establishing agro-ecological zoning to maximise land-use efficiency.

There are two main agencies governing land in Bangladesh:

1. The Ministry of Lands is responsible for land administration through its divisions: the Directorate of Land Record and Survey, the Land Reform Board, and the Land Appeal Board.

² Bertelsmann Stiftung. (2020). *BTI 2020 Country Report Bangladesh*. Bertelsmann Stiftung. <https://landportal.org/library/resources/bti-2020-country-report-bangladesh>

USAID. (2010). *Property Rights and Resource Governance: Bangladesh* [USAID Country Profile]. USAID. <https://landportal.org/library/resources/landwiserecord1287item1315/property-rights-and-resource-governance-country-profile>

³ Islam, M., Moula, G., & Islam, S. (2015). Land Rights, Land Disputes and Land Administration in Bangladesh—A Critical Study. *Beijing Law Review*, 6(3), 720–726. <https://landportal.org/library/resources/doi-104236blr201563019/land-rights-land-disputes-and-land-administration>

⁴ Hasnat, G. N. T., Siddik, Md. A., & Zaman, A. K. M. M. (2018). Historical Evolution of Land Administration in Bangladesh. *International Journal of Innovative Research*, 3(3), 73–82. <https://landportal.org/library/resources/issn-2520-5919/historical-evolution-land-administration-bangladesh>

IFRC. (2017). *Disaster Law Housing, Land and Property Mapping Project: Bangladesh*. International Federation of Red Cross and Red Crescent Societies. <https://landportal.org/library/resources/housing-land-and-property-law-bangladesh>

⁵ USAID. (2010). *Property Rights and Resource Governance: Bangladesh* [USAID Country Profile]. USAID. <https://landportal.org/library/resources/landwiserecord1287item1315/property-rights-and-resource-governance-country-profile>

⁶ IFRC. (2017). *Disaster Law Housing, Land and Property Mapping Project: Bangladesh*. International Federation of Red Cross and Red Crescent Societies. <https://landportal.org/library/resources/housing-land-and-property-law-bangladesh>

LANDac. (2016). *Food Security and Land Governance Factsheet: Bangladesh*. LANDac. <https://landportal.org/library/resources/landac-bangladesh-factsheet-%E2%80%932016>

2. Through the Ministry of Law, Justice and Parliamentary affairs, the Directorate of Registration is responsible for changes in ownership and taxation.

Governance issues involve a lack of coordination between these ministries, while there are problems around the application of laws, such as land ceilings and multiple claims on land.⁷ The Delta Plan 2100 sets out long-term aims to alleviate such problems by the end of the century, modernising land administration, improving zoning, protecting agricultural land, and supporting landless peasants.⁸

Status of Gender Equality in Bangladesh

Bangladesh has demonstrated a firm commitment to gender equality and women's empowerment, evidenced by its gender-responsive policies and budgetary allocations. Indeed, gender equality is firmly cemented in the constitution of Bangladesh.

The Government of Bangladesh is committed to comprehensive development of women according to constitution. This commitment is expressed through article 27, 28, 29 and 65(3) of Bangladesh Constitution. Specially, Article 28(4) of the constitution provides for making specific law for the development of the under-developed women.

Apart from this, Bangladesh is a signatory to almost all international conventions and covenants for women development. The most prominent international instruments on women's development and equality are:

- The Sustainable Development Goals (SDGs)-2015,
- The UN General Assembly resolution on women's political participation-2011 (A/RES/66/130),
- The UN General Assembly resolution on women's political participation-2003 (A/RES/58/142),
- The Beijing Platform for Action-1995,
- The UN Economic and Social Council resolution-1990, and
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)-1979. Bangladesh signed on the CEDAW in 1984. Later, Bangladesh also signed on the Optional Protocol on CEDAW in 2000 at the UN Millennium Summit.

⁷ LANDac. (2016). *Food Security and Land Governance Factsheet: Bangladesh*. LANDac.
<https://landportal.org/library/resources/landac-bangladesh-factsheet-%E2%80%932016>

⁸ Ministry of Land. (2016). *Input of the MoL for the 'Bangladesh Delta Plan 2100 formulation Project'*. Ministry of Land.
<https://landportal.org/library/resources/input-mol-%E2%80%93bangladesh-delta-plan-2100-formulation-project-%E2%80%93>

The gender equality provisions in the Constitution are in line with those in the international instruments. Driven by the constitutional obligations and commitment to the international legal instruments. Apart from the Constitutional laws, the government of Bangladesh holds an official gender development policy titled the National Women's Development Policy 2011 with a view to improve the overall condition of women in the country. The Government has also accorded special emphasis on the programs to promote women's development in the 8th Five-year Plan.

However, these enhanced voices did not necessarily translate into greater choice and economic empowerment, as reflected in the WEF Gender Gap Report 2023. According to Global Gender Gap Report 2023 by the World Economic Forum (WEF), with a score of 72.2%, Bangladesh ranked 59th globally, indicating significant progress in achieving gender parity. Women across the country this year experienced a rise in overall gender parity, as reflected in a higher score and index ranking compared to 2022. Bangladesh ranked 71st globally in 2022 with a gender parity score of 71.4%. The Global Gender Gap Index annually benchmarks the current state and evolution of gender parity across four key dimensions: Economic Participation and Opportunity, Educational Attainment, Health and Survival, and Political Empowerment. The level of progress toward gender parity (the parity score) for each indicator is calculated as the ratio of the value of each indicator for women to the value for men. A parity score of 1 indicates full parity.

Bangladesh has made notable progress in the field of political empowerment, placing seventh worldwide and achieving a gender parity rate of 55.2%. The country has had a woman as head of state for 29.3 years out of the last 50 years, the longest duration in the world. However, this is ascribed, not fully achieved. The report shows the shares of women in ministerial (10%) and parliamentary positions (20.9%) in Bangladesh are relatively low. In terms of health and survival, Bangladesh achieved a parity rate of 96.2% due to higher parity in sex ratios at birth. In terms of healthy life expectancy, however, gender parity has been dropping as men's life expectancy has been increasing faster than that of women since the 2020 edition. Bangladesh demonstrated a higher parity in education as well, with a gender parity rate of 93.6%. "While there is now full parity in enrolment in secondary education, for literacy rate and enrolment in tertiary education, there remains a persistent gap," the report states. Bangladesh's performance in terms of economic participation and opportunity remained one of the

lowest globally. According to the latest report, Bangladesh ranked 139 globally, with a parity rate of only 43.8%.⁹

WEF Global Gender Gap Index 2023		
Dimensions	Rank	Score (0-1)
Economic Participation and Opportunity	139	0.438
Educational Attainment	122	0.936
Health & Survival	126	0.962
Political Empowerment	7	0.55

<https://www.weforum.org/publications/global-gender-gap-report-2023/in-full/benchmarking-gender-gaps-2023/>

Gender norms and practices in Bangladesh

Despite having commendable strides in Bangladesh towards gender equality in recent decades, entrenched discriminatory beliefs and practices continue to stifle women's access to resources and opportunities. This results in unequal access to education and jobs, limited participation in decision-making, and a persistent gender wage gap. Over 99 percent of Bangladeshis hold at least one bias against women, according to the 2023 UN Gender Social Norms Index (GSNI) by the UN Development Program.

Gender Social Norm Index 2023 (UNDP)					
Country	Period	GSNI share of people at one bias		Share of People with no bias	
		Women %	Men %	Women %	Men %
Bangladesh	2017-2022	99.1	99.63	0.90%	0.37%

Source: <https://hdr.undp.org/content/2023-gender-social-norms-index-gsni#/indicies/GSNI>

According to the report, with 69 percent in Bangladesh believing that men make better political leaders and 88 percent thinking that men are more capable business executives and are deserving of greater job opportunities. Even more concerning, over 99 percent of women hold biases against their own gender, perpetuating the very norms that hold them back. Women dedicate eightfold more time to unpaid care work compared to men. In 2022, the Labour Force Survey found that merely 42 percent of working-age women engage in the labor force, frequently earning less than their male

⁹ <https://www.thedailystar.net/news/bangladesh/development/news/bangladesh-leading-south-asia-gender-parity-wef-report-3353151>

counterparts. Additionally, a mere 13 percent of women possess land ownership.¹⁰ Hence, these gender norms shape power dynamics, thereby perpetuating inequalities in leadership roles and decision-making capacities.

Why does gender discrimination persist despite efforts by the government and other stakeholders? The crux of the issue seems to rest on deep-rooted social norms and biases that policies alone cannot dismantle. These norms need a fundamental shift, starting with attitudes.¹¹

Status of women Land Rights in Bangladesh

Inheritance is the main channel through which one gains access to land in Bangladesh. Whereas statutory laws on land rights and ownership are gender-neutral in the country, customary laws and cultural norms guide ownership in ways that favor men's ownership and control over land.¹²

Land in Bangladesh remains largely owned and/or controlled by men, which constrains women's decision making and productivity, as well as their access to extension services and credit. Women in both rural and urban areas still rarely own land. Among rural women, 12 percent solely or jointly own agricultural land and 7 percent own nonagricultural land, compared to 69 percent and 86 percent of rural men, respectively. 96 % of household land in rural areas still is owned by husbands alone (Quisumbing, Kumar, and Behrman 2017). According to Oxfam report (Jan. 2019), the proportion of men in terms of land ownership is six times higher than women in Bangladesh.¹³ The FAO's gender and land rights database shows that women own only 10.1 percent of Bangladesh's agricultural land in terms of area (FAO n.d.).

Despite the equitable share in agricultural labour, agricultural land ownership is rare for women, and even then, there are many cases of land grabs from women by men. A 2012 study states that land holdings for male-headed households are often more than twice the size of those headed by women.¹⁴ In 2013, FAO estimated that the proportion of agricultural land

¹⁰ <https://www.undp.org/bangladesh/blog/over-99-percent-bangladeshis-hold-least-one-bias-against-women>

¹¹ <https://www.undp.org/bangladesh/blog/over-99-percent-bangladeshis-hold-least-one-bias-against-women>

¹² Voices to Choices, Bangladesh Journey in Women's Economic Empowerment, World Bank 2019, <https://openknowledge.worldbank.org/handle/10986/30881?deliveryName=DM15148&locale-attribute=es>

¹³ <https://www.oxfam.org/en/research/public-good-or-private-wealth>

¹⁴ Masum, F. (2017). Rural Land Management in Bangladesh: Problems and Prospects. *Geomatics, Landmanagement and Landscape*, 4, 79–93. <https://landportal.org/library/resources/httpdxdoiorg1015576gll2017479/rural-land-management-bangladesh>

owned by women had shrunk from 3.5% in 1993 to 2%.¹⁵ It does not help that households headed by unmarried women or widows with only daughters, or no children are often excluded from land reform programmes.¹⁶

In Bangladesh, inheritance laws are influenced by different religions practices. These laws might treat women unfairly. For instance, in Hindu traditions, women often don't get land inheritance rights. In Islamic law, daughters typically inherit half as much land as sons, and it's common for daughters to give up their share to their brothers (Case 1). A widow usually gets one-eighth of her husband's property if she has children, and one-fourth if not. However, there's a risk that property ownership mainly benefits paternal relatives instead of passing to female family members directly.

Case 1: Jahedara Begum (61), a widow, residing in Dewanpara under Jamalpur district, has been facing challenges following her husband's death when she sought her rightful share of her father's land property. Unfortunately, during a land survey, her only brother unjustly claimed her portion, depriving her of her rightful inheritance. Despite her appeals to have her land returned, her brother insisted that she could build a house on it but refused to acknowledge her property rights. Efforts to resolve the matter through negotiation with other relatives and family members proved unsuccessful. Despite Jahedara's attempts to resolve the issue through negotiations involving other relatives and family members, her brother remained unyielding for the past decade. Throughout this period, Jahedara has experienced various forms of violence from her brother as she persists in claiming what is rightfully hers. Currently residing in a rented house due to the absence of her own land for construction. Determined to secure her inheritance property rights, Jahedara has decided to take legal avenues to claim her inheritance property rights.

Inheritance is the main channel through which one gains access to land in Bangladesh

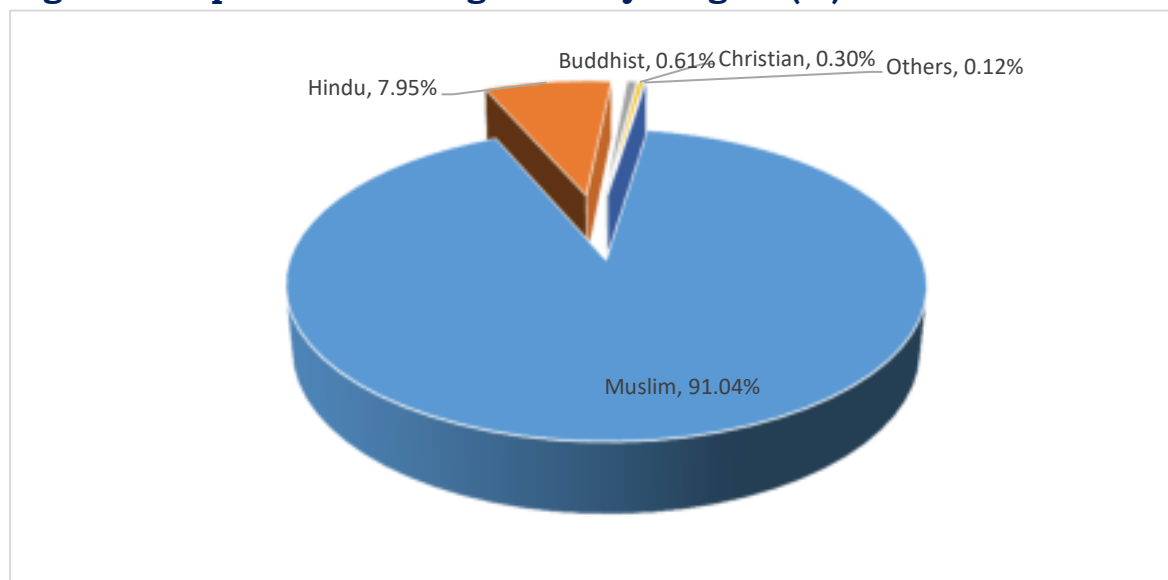
Although inheritance is the main source of households' land acquisition in rural Bangladesh, differences in how much land women versus men have the right to inherit, and in the extent to which women feel they can accept and use the inheritance, are key contributors to gender gaps. Khas land is public land owned by the government, often allocated to poor or landless households. The data suggest that women in rural Bangladesh rarely receive and retain inheritance in the form of land.

¹⁵ Ibid

¹⁶ FAO. (2010). *Eroding Rivers, Eroding Livelihoods in Bangladesh*. Food and Agriculture Organisation of the United Nation; UN-Habitat. <https://landportal.org/library/resources/eroding-rivers-eroding-livelihoods-bangladesh>

In Bangladesh, majority of the population are Muslim. According to the 2022 census report, the total population of Bangladesh is now 16 crore 51 lakh 58 thousand 616, including 8 crore 17 lakh men, 8 crore 33 lakh women and 12,629 third gender people.

Figure 1: Population of Bangladesh by religion (%)



Source: Census Report 2022, Bangladesh

According to the 2022 census, 91.04 percent of the country's population is Muslim, 7.95 percent Hindu, 0.62 percent Buddhist, 0.30 percent Christian and 0.12 percent others. In 2011, this was 90.39 percent, 8.54 percent, 0.62 percent, 0.31 percent and 0.14 percent respectively.¹⁷ Given the overwhelming Muslim majority in Bangladesh, inheritance is generally guided by Muslim Personal Law. Despite females having these rights to inheritance according to personal law, they are not necessarily receiving their rightful property shares.¹⁸

Resources are mainly managed and controlled by men and women's right to the resource is highly influenced by the relationship with men members. On one hand, women, themselves, sacrifice their ownership for various reasons, and on the other, becomes victims of different kinds of violence while claiming the right (Moni and Sumaiya, 2013; Ferdous, Uddin and Kabir 2017). Although there is no restriction on women's buying and owning land, the economic incapability, complex and time-consuming registration system,

¹⁷ <https://www.bangladeshlivenews.com/en/bangladesh/details/bangladesh-census-muslim-population-91-04-hindu-7-95>

¹⁸ Voices to Choices, Bangladesh Journey in Women's Economic Empowerment, World Bank 2019, <https://openknowledge.worldbank.org/handle/10986/30881?deliveryName=DM15148&locale-attribute=es>

male- dominated administration often makes the process and environment unfriendly for women (Islam, 2015). Moreover, just owning the land does not ensure women's control over it (Rahman et. al, 2020).

In order to reduce gender gap and facilitate empowerment of women, ownership and rights over land is important. There is a direct relationship between women's right to land, economic empowerment, food security and poverty reduction. How the ownership and rights over the land by women increases their empowerment is mentioned below.

Legal ground of the discrimination

In Bangladesh, discriminatory practices in accessing women's land or property rights are evident due to the absence of a uniform family code that treats all religions equally. According to the State Acquisition and Tenancy Act 1950,

[143B. (1) Person acquiring immovable property by inheritance according to their respective personal laws shall amicably effect partition of the property among them after the death propositus. After such partition, an instrument of partition shall be prepared and signed by all the concerned parties and shall be registered under the [Registration Act, 1908](#).

(2) Upon presentation of the instrument of partition prepared, signed and registered under sub-section (1), the Revenue-officer shall revise the Khatian in accordance therewith.

It is clearly mentioned that perspective personal laws shall amicably affect the partition among successors which positioned a legal ground for gender discrimination.

Relationship between control over land and empowerment of women

Women's control over productive assets, such as land, not only generates income but also facilitates access to capital and credit. Ownership and rights over land can significantly increase households' mobility and working capability. According to a report by the Food and Agriculture Organization (FAO) in 2011, if women globally were to use the same amount of resources as men on the same farmland, they could completely close the current 20–30 percent yield gap, thereby lifting 100–150 million people out of food insecurity.

Securing women's land rights, along with access to agricultural inputs and technology, has been shown to increase female farmers' agricultural productivity, crop yields, sales, and income, as highlighted by Buvinić and O'Donnell in 2016. Moreover, women's property ownership is closely

associated with power over intra-household decision-making and leads to greater expenditures on children and families, ultimately boosting their socio-economic empowerment.

Methodology

Keeping conformity with the ToR, both quantitative and qualitative data was collected and analyzed. Both secondary and primary data were collected and analyzed.

The secondary data was collected through desk review of relevant laws and policies of Bangladesh government related with land rights. Primary data and case stories were collected from network members, stakeholders and also from grassroots women through Focus Group Discussions (FGD) and interview.

Structure of the report

This report is divided into 3 sections.

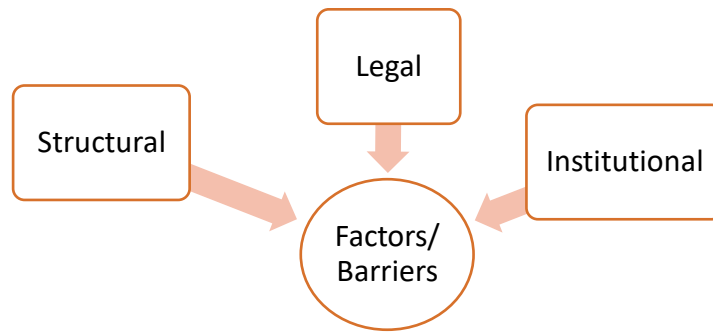
Section 1 introduces the context of the women land rights in Bangladesh. Section 2 presents laws and policies of women land rights; and analyzes the legal, structural, and institutional barriers against the ownership and control of women land rights in Bangladesh. Section 3 draws feasible recommendations for future advocacy and campaign.

SECTION TWO

Law, Policy, and Practices on Women Land Rights

The women in Bangladesh are heterogeneous in terms of religion, ethnicity, class, caste and rural-urban locations, which makes it difficult for generalized discussion on women land rights in Bangladesh. However, in general there are three major determining factors for gender discrimination in property and land rights in Bangladesh: a) structural; b) legal; c) institutional. The cultural norms, customs and practices are conditioned with these factors leads to different types of discriminatory gendered land rights practices.

Figure 2: Factors/Barriers of Women Land Rights in Bangladesh



Legal

Inheritance is the prime source for women to get property especially land rights in Bangladesh. Women's inheritance rights are mostly governed by formal and customary laws, and the primary formal laws are personal laws which in Bangladesh are based upon religion.

Personal laws are those laws that deal with matters pertaining to a person and his or her family. While women often gain property rights through personal laws that govern inheritance, the right to inherit is impacted by other personal laws and practices and sometimes customs as well such as polygamy, marital property rules, bride price or dowry and partition etc.

Women of different religious groups, such as Hindus, Muslims, and Christians are governed by their respective religious laws. Surprisingly though, Buddhists and adibasis in Bangladesh do not have any separate laws formally; they are covered by Hindu personal laws.

According to Islamic law. *“The provision in Islam is that the girl will get one portion from three, and the brother will get two portions from their father because women also inherit property from their husbands”*.¹⁹ Under the Muslim law, the wife (or wives taken together) get one –eighth if there is one child, and one fourth if there be no child from the estate of her husband though the husband gets exactly double. Mother gets from the estate of her sons one sixth-when there is child of her son or when there are two or more brothers or sisters or one brother or one sister of her son, and one third when there is no child and not more than one brother or sister of her son.

On the other hand, the father gets from the estate of his son one –sixth if there be child of his son and in the absence of any child of his son; he gets the entire residue after satisfying other sharers claim, and so on and so forth. It is significant that Muslim Law has provided that daughter, mother

¹⁹ . Interview with a Imam, local Islamic leader

and wife would under all circumstances be entitled to some share in the inheritance and are not liable to exclusion from inheritance; however, women are not treated equally with their male counterparts, i.e. son, father and husband and to these extent rules of inheritance are discriminatory.

Hindu women are deprived of equal rights due to the existence of the non-amended personal law, which does not allow equal rights of women in different aspects of life even though constitutionally women are bestowed with equal rights in social and political arena. Hindu law, culture and patriarchal society deny Hindu women's individual identity.²⁰

The inheritance laws in Bangladesh are generally discriminatory against women, although Muslim inheritance laws provide Muslim women with limited and conditional rights, whereas Hindu inheritance laws grant nothing at all to its women. The exceptions here are: first, Christian law which speaks of equal rights for both men and women, but in practice women are discouraged by custom, tradition, social pressures not to claim such rights in majority cases. Second, among the matrilineal *Garo* and *Khasi* communities, family property passes through female line. Accordingly, daughters inherit mothers' property, although there is a specific practice of entitling a specific daughter (most cases the younger one), who is selected to stay with the parents and look after them when needed, especially in old age, most or the whole of the family property, depriving the other daughters. Apart from inheritance, to a certain extent women's land rights can be impacted by laws/policies of government allocation, purchase, or lease. In fact, in absence of family property/land to bequeath for children, government allocation is the primary vehicle for poor women from landless families.

The distinct customary rules of each adibasi communities that in reality more in practice and guide their personal lives are not formally recognized by the state.

Moreover, there exists a considerable amount of legal plurality in case of personal laws as well as inheritance laws in Bangladesh.

Institutional

This is related to different unfavorable institutions/organizations of the society, poor implementation of laws, bureaucratic complications, weak implementation approach, corruption, and malpractices. In some cases legal and policy reforms though may be gender neutral and not explicitly

²⁰ Scoping Study on Women and Land Rights in Bangladesh, Land Watch Asia Campaign of ANGO, October 2013

discriminatory have nevertheless failed to benefit women equally to men due to these factors. Government functionaries often compounded by those problems, obstructing the implementation of laws in favor of women.

- In general, government institutions in Bangladesh are plagued by inefficient and corrupt practices. Land settlement office, revenue office, court- all are highly male dominated areas; women are likely to be particularly vulnerable to access these institutional services: where they may face unnecessary harassment, delay, bribery as well as processes and procedures unknown to them due to their limited experience of public and official dealings and ignorance. These creates difficulties for women for registering land on their names.
- Land registration remains highly gendered, with land purchased by families generally registered only in the name of the male heads of households. Registering land under women's names often creates a sense of threat for men that women will become "out of control" and that gender norms within the family will be upended, and women do not want to challenge these norms. Even when women purchase land, the brothers and sisters of husband create pressure to register under husband or sons name. Some husbands pressure their wives to register wives' property in husbands' names; otherwise threats separation or divorce.
- Land registration fees are high, which disadvantages women who do not work for pay and lack control over income. Even women who have been allocated land as part of their inheritance report that their inability to pay the registration fee prevents them from registering the land under their own names. Procedural obstacles also limit female land ownership in Bangladesh. Bangladesh's land titling and registration system is inefficient, expensive, and prone to corruption (USAID 2010).
- Gender norms against women owning property, as discussed in the above section, also prevent women from registering land under their names. These norms are encouraged by (a) women's perceptions that their husbands' assets are also their assets, and (b) the relative ease of transaction if property is registered under a male name.
- Illiteracy, ignorance about land administration and presence brokers / dalals perpetuate the deprivation of poor women from land rights.

- Women’s limited opportunity to generate support from state institutions, such as agricultural extension facilities, formal credit institutions or courts, however, has been considered by most authors an important factor in explaining women’s lack of control over land.

Structural

In the present paper, two major structures – the economic structure and patriarchal structures have been dealt. These two structures determine to a large extent the social relations between the classes, ethnicity and the sexes and, interrelated, they influence each, other. The economic structure determines the power relations between socio-economic classes; and the patriarchal structure determines the power relations between the sexes, the gender relations. Important elements here are the gender division of labor and socio-cultural institutions that regulate gender relations, such as marriage, and gendered norms and values.²¹

Gender norms and women land rights

The gender relations in Bangladesh are typified by classic patriarchy, under which “girls are given away in marriage at a very young age into households headed by their husband’s father. There, they are subordinate not only to all the men, but also to the more senior women, especially their mother-in-law. Classic patriarchy produces a system in which men and boys claim superiority to women and girls in nearly all aspects of life, exercising control over women and girls across the life cycle: girls are first subordinate to boys as sisters and to men as daughters, and later, after marrying, as wives or daughters-in-law. Gender norms related to religious and other cultural factors continue to constrain women’s mobility and use of transport, particularly in rural areas, which influences ownership, registration and control of land by women in Bangladesh (Case 2).

Case 2: Parul Hena (50), belongs to Moukoron, Potuakhali, is one of four sisters of her parents, faces a complex situation regarding the inheritance of her father's property. In adherence to Muslim law, she and her sisters are entitled to inherit 50 decimal lands from their father since his father has no son. However, societal and cultural norms have created dissatisfaction among their paternal cousins, who can have owned their lands if Parul and her sister can be deprived from the property.

Complicating matters further, neighbors often align themselves with the paternal cousins, making the situation more challenging for Parul and her sisters. Acts of violence perpetrated by other uncles and their sons have become commonplace, pressuring Parul's father not to allocate his full property to his daughters. Despite the father's willingness to pass on his lands and property to his daughters, his brothers and their sons actively oppose and threaten the family, fearing that if the daughters do not accept the inheritance, they will eventually claim it.

²¹ Janneke Arens, 2014, Women, Land and Power in Bangladesh, UPL, Dhaka

This scenario exemplifies the practical challenges that Muslim women encounter in asserting their property rights, even when legally entitled to land. Brothers or cousin brothers sometimes become adversaries seeking to deprive them of their rightful inheritance. Additionally, the prevailing societal and cultural norms and practices often fail to provide adequate support for these women in their pursuit of property rights.

The subordination of women gives power to the perception of women and girls as private property—and specifically commodities that can be sold, bought, or exchanged by men—who are wholly deprived of the rights and dignity enjoyed by men and boys. Yet globally women generally access land through male relatives (Klugman et al. 2014) and exercise only subordinate rights, making them vulnerable in the event of breakdowns in relationships, divorce, and male landowners' changing priorities (UN-HABITAT 2008). Even where women do have equal rights to land, religious and social or customary restrictions often prevent them from claiming or controlling the land. Land and other asset entitlements are generally issued to the head of the household.

Patriarchy, directly derives patrilineal, patrilocal culture. In fact, Bangladesh is a classic example of patriarchal, patrilineal, patrilocal social system, which cut across religion, ethnicity, class and caste. Women in Bangladesh, constructed socially as dependent wives and mothers, are expected to obey and serve men and the family through their life cycle, and as long as they perform this role, their rights are protected. Thus, division of sphere in gender lines creates public-private dichotomy where men are associated with public works/life, women with 'private'/domestic work/life. Land as an asset falls within 'public' category and considered as the domain and natural possession of men. In this context women with landed property are generally an aberration.

However, there are exceptions to it: Garo and Khasi Adibasi communities in Bangladesh have matrilineal and matrilineal social system; family property of these communities passes through female line, although it has not given birth to female domination in the society. Yet, women have more valued position than other women in the country.

The moral values have been influenced by a new form of globalization and the opening up of the village through improved communication and easier access to the market and to education, NGO activities, and poverty that forces women to work outside the house for their survival.

It is a myth that most women renounce their inheritance share in order to keep good relations with their brothers. Many women had inherited their share at a later age, only after their parents had died.

There were no indications that there is a class difference in rural areas in the percentage of women who received their land share. Class only made difference for women who belong to the powerful influential families as status protected against land grabbers.

The practice that inherited land is often not registered in the name of the lawful heirs for a long time after the death of the parents is another obstacle for women's control over their land. This makes it easier for a women's brothers to control her share and to deny her access to the land documents that are kept in their control. Women are sometimes cheated by their brothers, husbands or sons (Case 4). Thus, a women's relationship with them and their characteristics are individual factors that can either be constraining or facilitating.

The lack of land literacy is also a major determining factor for deprivation of women land rights.

In general, when women demand her land, a negotiation and settlements happen in the rural areas with half or more share of entitled land without homestead and fertile land; and sometimes with cash against the land lower than the market price. The local power structure and relatives remain in favor of the brothers.

Case 3: Rashida Begum (45), living in Moukoron, Potuakhali, a widow with only 40 decimal land inherited from her father, faced challenges after losing her husband at a young age. She lived with her brothers and another widowed sister, with their only brother being the sibling. Lacking formal education, Rashida had to sustain herself through labor.

However, the situation took a turn for the worse after their brother's marriage. Both sisters now face threats to vacate their property and home. Despite being entitled to their inherited land, the brother is unwilling to concede, attempting to take possession of the sisters' property. The sisters have been subjected to various forms of violence, pressuring them to abandon their residence.

In response, Rashida sought legal assistance to protect her and her sister's inherited land rights. While Muslim women theoretically have the right to inherit land from their fathers and husbands, practical challenges, as seen in Rashida's case, often arise. Many women, facing difficulties similar to Rashida's, find their brothers unwilling to acknowledge and honor their rightful inheritance due to patriarchal cultural practices.

Dominant gender relations and gender ideology make it difficult, not only for a woman to claim her share, but more importantly, to control and hold on to the land once received. One fourth women who had inherited land had lost their land again. They had mostly sold it to their brothers at a much lower price than the market rate or their husband or sons had sold it against their wish. Factors that constrain control are mostly related to the gender ideology that men are the producers and women the dependents, and gender norms and values, such as exogamous marriages and the gender division of labor. For women, control over land is in fact more important than ownership itself.

In relation to protection of the women's land rights, recently govt approved the Land Crime Prevention and Remedy Act, 2023. Two articles are clearly helping to protect the rights of the vulnerable landowners are as follows:

10. If any person damages the boundaries or boundary marks of the land lawfully occupied by another person or does any such act that causes any damage to the said land or the buildings, trees, or crops situated thereon, such act shall be an offense. He/she shall be liable to imprisonment not exceeding 2 (two) years and a fine (compensation).

8 (1) If any person is evicted or dispossessed from the land occupied by him/her (any person) without the order of a competent court or authority, he may apply to the Executive Magistrate of the concerned jurisdiction for recovery of possession.

However, specific crimes with the inheritance land partition by family members are not clearly mentioned in the newly enacted laws.

Gender Constraint in land ownership²²

- Family and society pressure sisters to give up their shares of inheritance to brothers.
- Fear of losing good relationship with natal families - brothers and sisters and sometime societal pressure as “*society don't recognize it if sister take inheritance share from brothers*”. “*Women usually do not claim their inheritance from their parents, unless they are compelled to. Those who do claim are not usually welcome at their brothers' houses, they do not want to risk jeopardizing their relationships with their brothers.*” “*We feel bad, but we have no choice*” said one participant during FGD.
- The general practice is that “*the brothers appeal to the sisters to accept an arbitrary amount of money in exchange for the sisters' shares of*

²² Interview and FGD during field visit

property. The brothers claim that they are unable to pay more and that the sisters should legally give up their claims in return for the money received. The sisters are asked to allow the land to be registered in the brothers' names. Usually the sisters cannot refuse.”

- The poor family own very small amount of land, if sister take her right share, brothers will be in difficulties, considering this factor sometime sisters don't claim father property.
- Some family says that the expenses of fathers during girl's wedding is high due to dowry; they treat dowry as substitutions for women's share of inheritance to justify not allocating the rightful share to daughters. Because dowry is paid by the bride's family to the groom's family in marriage, and the son's family traditionally is responsible for the care of parents, parents are reluctant to give land to daughters after they marry.
- The women told in FGD that they want to give equal share among girls and boys.
- Traditional masculine and feminine roles underlie the disapproval of communities and families toward women's control and ownership of productive assets, as these are traditionally men's roles.

Women and distribution of khas land in Bangladesh

'Khas land' means state-owned land which the government has lawful authority to give to landless people or the government can lease the land. Khas land is considered an important livelihood source for extreme poor and key to ensuring improving land productivity. Bangladesh can achieve significant progress in eradicating poverty if all of the khas lands are properly distributed among the extreme poor and if the lands are used productively. Studies suggest that if extreme poor households are provided with 0.50 acres of khas land, they can manage sustainable livelihoods (SHIREE, 2012). The Government has enacted the Land Reform Ordinance in 1984, which was revised as Land Reform Act 2023 in 2023.

In 1987 the Ministry of Land launched the Land Reform Action Program, an initiative to distribute khas land to landless families. Agricultural Khas Land Management and Settlement Policy was adopted in 1997 by the Government which mandates the allotment of khas land in the joint names of the husband and wife²³; indicates the gender friendly provisions, first time in Bangladesh. However, it excludes single /

²³ Women's Right to Land in Bangladesh, 2016, Eshani Chakraborti & Sheikh Hafizur Rahman, NIRAS-A/S Led Consortium

unmarried women, widows (who don't have able sons); those who are the most vulnerable and marginalized section of our society.

Governance of Khas land in Bangladesh

Ambiguity of official amount of Khas land

According to the Annual Report 2020-2021 from the Land Ministry, the government holds more than 40 lakh acres of khas land, as shown in Table 1. Despite these official statistics offering an overview, it's believed that significant portions of land are not recorded, especially in regions lacking surveys.

Table 1: Amount of Khas land in acre, 2021

Total Amount of Khas land			Total Amount of leasable Khas land		
Agricultural	Non-Agricultural	Total	Agricultural	Non-Agricultural	Total
1712033.9	2305591.3	4017625.2	466120.8	125921.1	592041.9

Source: Annual Report, Ministry of Land, Government of Bangladesh, <https://minland.gov.bd/>

Distribution of Khas land is delayed or postponed

Around 40 lakh, out of 1.65 crore, farmer families are landless while some 91 lakh agricultural labourers and around 67.63 lakh households are involved in cultivating other's land, either on lease as tenant farmers or as sharecroppers.²⁴ The government's allocation of khas land has been insufficient in addressing this issue. Only 81,787 landless families received 3,224 acres of agricultural khas land in 2020-2021, as shown in Table 2. The allocation process is often slow in several districts. Furthermore, the procedure to identify landless individuals is not transparent, which leads to manipulation by influential figures at the local level. As a result, khas land often ends up in the hands of affluent individuals who do not qualify for it. Moreover, the rate of full retention (45.3%) raises the efficiency and effectiveness of the program (ALRD 2019) within the existing political economic structure of Bangladesh. Theoretically, all agricultural khas lands are owned by the government,

²⁴ <https://www.dhakatribune.com/business/191597/one-fourth-of-country-s-farmer-families-landless>

in practice, khas lands remain occupied by many agencies or individual grabbers. 88% of agricultural khas land is illegally grabbed by the rich and the powerful (Barkat 2016).

Table 2: Amount of distributed Khas land in 2021, in acre

Amount of distributed Khas land in 2021, in acre			
Agricultural	No. of family	Non-agricultural	Total
3224.4	81787.0	14419.0	17643.3

Source: Annual Report, Ministry of Land, Government of Bangladesh, <https://minland.gov.bd/>

The government has not established a policy to distribute non-agricultural land to landless individuals for residential purposes, a situation that severely affects the impoverished, especially in urban areas. Contrarily, the government has leased over 100,000 acres of non-agricultural land, predominantly for industrial objectives, with 40% allocated to Economic Zones²⁵.

Women's access to Khas land in Bangladesh

According to the Khas Land Settlement Policy agricultural khas land can be distributed for a 99-year lease period. Under the policy, landless families (defined as those who own less than 0.10 acre) who work in agriculture should be the main beneficiaries with priority going to poor families of freedom fighters, families who lost their land due to river erosion, widows/ abandoned/ divorced women (only with an adult able-bodied son), landless families without a homestead, and families who have lost land due to government expropriation. While there is a clause providing which divorced women are to be prioritized, most of the time, this clause is not utilized.

Flaws of Existing Land Laws on Khas land distribution for women

The successive governments, since the independence of Bangladesh, have enacted many laws and policies to ensure better utilization of land and also to promote land reform. Government enacted Land Reform Ordinance 1984 and revised it in 2023 as Land Reform Act 2023; and also formulated Agricultural Khas Land Management and Settlement Policy 1997. There are some flaws and complications in these laws.

²⁵ Ariful Islam Mithu, *Why do landless people not get khas land?*, The Business Standard, 26 Jan.2022, <https://www.tbsnews.net/features/panorama/why-do-landless-people-not-get-khas-land-362494>

Firstly, these laws are also discriminatory which goes against the ‘Equality’ clause of the constitution of Bangladesh, are mentioned below in the following table. To remove discrimination and to ensure women’s, particularly poor women’s, right and access to land, the following amendments are proposed.

Laws / Policy	Existing Provisions	Proposed Amendments
Land Reform Act 2023	<p>Section 7.1: Settlement of khas land for homestead, where in the rural area any khas land fit for being used as homestead is available, the Government shall, in settling such land, give preferences to landless freedom fighter, landless farmers and laborers: Provided that not more than five decimals of such land shall be allotted for such purpose to any individual.</p> <p>(2) Any land settled under subsection (1) should be heritable but not transferable.</p>	<p>Section 7.1: Settlement of khas land for homestead – (1) Where in the rural area any khas land fit for being used as homestead is available, the Government shall, in settling such land, give special preferences to the landless women, landless freedom fighter, landless farmers and laborers.</p> <p>Provided that not more than five decimals of such land shall be allotted for such purpose to any individual.</p> <p>(2) Any land settled under sub-section (1) should be heritable but not transferable</p>
The Agricultural Khas Land Management and Settlement Policy 1997	<p>Section 11: <i>Priority list of landless families: (a) Poor freedom fighter’s family; (b) Family which has lost all its land due to river erosion; (c) Widow with a capable son or family abandoned by husband; (d) Family without agricultural land and homestead; (e) Family which has been landless due to acquisition of land.</i></p> <p>Section 11 (c) is clear violation of Article 27 of the Bangladesh Constitution, as this section sanctions that ‘a widow with a capable son’ will be qualified to get khas land. The section thereby excludes any ‘single widow’ or ‘any widow having daughter’, which constitutes clear transgression of the Constitution’s ‘equality clause’.</p>	<p>Section 11: Priority list of landless families: (a) Poor freedom-fighter’s family; (b) Family which has lost all its land due to river erosion; [(c) Any landless woman or widow or family abandoned by husband; (d) Family without agricultural land and homestead; (e) Family which has been landless due to acquisition of land.</p>

Secondly, women representatives are absent in the Khas land distribution committee. There are two khas land distribution committees at the local level: upazila and district committee. According to written guidance, the committees should include women representatives, but this is not the reality. Representation of marginalized people including Indigenous people is poor in the committees. The committees seem to work in secret, and the poor and marginalized section of the society of the functioning of these committees. Even local government representatives are also not aware of the functioning of these committees.²⁶

Thirdly, landless rural women do not have the money, power, or political patronage required to access khas land. Their inability to bribe land officials remains the prime reason they do not receive khas land. Apart from bribing, relationships with local elites and political parties in power play a key role in accessing khas land. According to land authorities, the lack of access for poor households was due to other reasons such as an error in the application, complexities of rules and regulation, failing to recover already grabbed khas land, third party influence in land related matters.²⁷

Poor men do not get khas land easily, let alone poor women. It is estimated that only 11.5 percent of the agricultural khas land remains under the control of the people who rightfully deserve it and that the remaining 88.5 percent agricultural khas land is held by powerful people, who are not eligible under any criteria of the policy (*Barkat et al., 2022*).

Adivasi / Indigenous women land rights and customary laws

There are 50 adivasi community living in Bangladesh in CHT and plain lands areas.²⁸ Adivasi women are regulated by their customary laws under which they are almost deprived of hereditary property, and they have limited control over household resources.

Customary laws and norms are not recognized by our state law except Chittagong Hill Tracts (CHT) regulation 1900 for the adivasis in CHT areas. The CHT Regulation 1900, follows the patriarchal nature in

²⁶ An analysis on women land rights in the rural community of Bangladesh, 2022, ALRD, Dhaka

²⁷ Ibid

²⁸ <https://www.thedailystar.net/news/bangladesh/news/ethnic-population-2022-census-real-picture-not-reflected-3090941>

practice which is discriminatory against women in the hill areas.²⁹ Adivasi women in CHT are deprived of land rights in general; except the Marma community under Bomang circle in Bandarban (Case 4). They daughter gets one fourth in Bandar Sadar areas in some cases, which is not the general practice. In CHT, marriage is not documented and registered, women have no control over land and property resources.³⁰

Case 4: Krako Marma (46), living in Kamalchhari, Khagrachhari, a financially struggling middle-aged woman, cares for her autistic child in a challenging situation. She used to reside with her in-laws on a khas land area for long years. According to government regulations in the Chittagong Hill Tracts (CHT), landless individuals are entitled to receive 30 decimal khas lands for habitation, and Krako's family had been living on 12 decimal lands. However, after the demise of her husband and father-in-law, Krako discovered that one influential relative had manipulated the system by bribing the community headman to transfer the land into his name.

This relative now pays land tax under his name, falsely claiming ownership of the land. He is pressuring Krako to vacate the premises and even attempting to erect a fence, threatening her with eviction. This small piece of land is crucial for Krako Marma and her autistic son as their sole means of livelihood. Without this land, they have nowhere else to live. The predicament is exacerbated by the fact that Marma women are not allowed to have land registered in their names, intensifying the challenges faced by Krako in securing her rightful place.

In general, the adivasi community in plain lands, descent and property are transmitted through patrilineal or male line. Women in general are deprived of hereditary rights and have limited control over household resources (Case 5). Only the Garo and Khasi communities follow favourable customary laws to women in terms of property rights as they follow matrilineal customary norms and practices where property and descent inherited by daughters though the control of property remains in the male member of the family.

Case 5: Mashe Rakhain (38), living in Kalapara, Patuakhali, an ethnic woman, inherited a 12-acre piece of land from her mother following the matrilineal system practiced in the Rakhain community. Residing there with her husband, their peaceful life took a turn for the worse after her mother's demise. Her maternal cousin, backed by influential local land grabbers, attempted to unlawfully remove her from the land, fabricating documents in his name.

The situation escalated when a group of burglars forcibly entered Mashe's crop land, attempting to seize the harvest. In the ensuing confrontation, Mashe and her husband tried to resist, leading to a serious injury for Mashe. Despite filing a case at the local police station, they received insufficient support from the authorities. With

²⁹ ALRD 2023

³⁰ Interview with CSO in CHT

the assistance of a local NGO, Mashe managed to elevate the case to the court, where she continues to fight for the protection of her inherited land against her cousin and the local land grabbers.

This struggle is exemplary of the challenges faced by ethnic minority individuals, especially women, who, even when they have property rights, encounter difficulties in safeguarding them. Social, cultural, political, and customary barriers often hinder the attainment of their property rights.

SECTION THREE

The Way Forward

Recommendations

Before drawing any recommendations to solve the problems of gender discriminated inheritance land rights among women, it is rationale to know what women are thinking to solve these problems. Such solutions were also collected from the members of women's land rights network. These are mentioned below.

Education and training for awareness raising

- Education, training on land literacy of women is the key for women for to fight against gender-based injustices on women land rights in Bangladesh. Extensive land literacy training programs should be organized by GO and NGOs for women and men, especially for the landless women farmers would be of their big support in accessing and protecting their land rights.
- For empowerment of women broader space should be created through training, meeting, formal/informal discussion, participation in different fora/networks, position in the local power structure so that they can achieve sufficient knowledge and power to assemble and mobilize the community and negotiate for their rights.
- Women who are already included into local government bodies should perform actively to solve the problems that the rural women face while accessing their inherited lands.

Address social norms against women's land ownership and registration

- Engage community and religious leaders in addressing social norms against women's asset ownership and inheritance by daughters per Muslim Personal Law;
- Offer discounted land registration fees for women;
- Establish legal protection of marital property
- Promote joint titling of land and property
- Institute automatic mechanisms that register inheritance in daughters' names.
- Specifically review the 143 (B) article of SATA 1950 and ensure equality in inheritance land by replacing the personal laws.
- Legal protection for daughters' rights to inheritance land by reviewing the 8(1) and 10 articles in Land Crime Prevention and Remedy Act, 2023
- Protection of women rights to inheritance land by reviewing the Survey and Settlement Manual 1937, confirming the succession certificate register at local government institution.

Inheritance right

- Aligning with the constitution of Bangladesh, it is recommended to institutionalize the equal rights of women in inherited property and accordingly **uniform family code** needs to be enacted.
- Following the experiences and instances of other Islamic countries, Muslim inheritance/personal laws need to be amended and special focus on single daughter/only daughter case.
- In order to ensure inheritance rights of Hindu and Bhuddist women, total reform of inheritance system needs to be initiated and women's equal inheritance rights relevant laws should be enacted.
- For indigenous / adivasi women, customary laws should be changed with the inclusion of provisions of women equal inheritance property rights
- In addition, women's name should be registered in the purchase deed of any marital property and should be strengthened the demand of equality in inheritance rights for Transgender's. And all kinds of discriminatory practices should be removed irrespective of class, caste, religion and ethnicity.

Khas Land

- Landless women farmers should be on priority list for khas land distribution; along with joint ownership there should be provision of owning and managing khas land by any woman independently.
- Discriminatory clause in the existing *khas* (public) land distribution policy against single and widowed women (that requires women to have an able-bodied son), must be removed.
- Under section 11 of The Agricultural Khas Land Management and Settlement Policy 1997, following amendments are recommended:
- Priority list of landless families:
 - (a) Poor freedom-fighter's family; (b) Family which has lost all its land due to river erosion; [c] ***Any landless woman or widow or family abandoned by husband;*** (d) Family without agricultural land and homestead; (e) Family which has been landless due to acquisition of land.

Under Section 7.1 in land reform act 2023 following amendments are recommended:

- Settlement of khas land for homestead – (1) Where in the rural area any khas land fit for being used as homestead is available, the Government shall, in settling such land, ***give special preferences to the landless women,*** landless freedom fighter, landless farmers and laborers.
 - 1.) Provided that not more than five decimals of such land shall be allotted for such purpose to any individual.
 - 2) Any land settled under sub-section should be heritable but not transferable
- Upazila and district level *khas* land distribution committee should be activated, in line with the 1997 policy, with the actual representation of marginalized communities including women.

The recommendations outlined in the paper are intended for both civil society and government policymakers. While some of these recommendations may not bring immediate improvements to women's land rights on the ground, they would equip women with the necessary knowledge and legal foundation to begin asserting and utilizing their rights. Conversely, certain recommendations, like amending legislation to mandate joint granting of government-allocated land, would have an immediate impact by granting women ownership rights to land.