

POTENTIAL GENDERED IMPLICATIONS OF AMENDMENT TO ARTICLE 6.0 (JHA) OF AGRICULTURAL *KHAS* LAND MANAGEMENT AND SETTLEMENT POLICY-1997

EXECUTIVE SUMMARY

The Agricultural *Khas* Land Management and Settlement Policy – 1997 is noted for its support and advancement of women's land rights. However, an amendment to Article 6.0 (Jha) of this policy published in July 2022 risks undermining the progress that has been made. Notably, the Char Development and Settlement Programme (CDSP) has almost 20 years of activities towards securing women's ownership, control, and access of productive lands. Based on the IFAD-funded Women's Resource Rights (WRR) Initiative's in-depth gender analysis, we hypothesize two, non-exclusive scenarios to capture the potential implications of the amendment for gender equality and rural development:

- 1 The decreased amount of public (*khas*) land distribution could increase the dominance of men's ownership, control, and access to land, which would decrease opportunities for women's productive use over land. This has economic, social, nutrition and health implications for all community members.
- 2 The amount of land distributed in the char areas may no longer ensure a livelihood and income that can support the whole family. This leads to greater out-migration from male family members. The result would be women's increased responsibility to farm, but without the necessary resources, authority, and social capital. In addition, households become more fractured and younger generations leave agriculture.

We recommend the Government of Bangladesh reconsider this policy change and continue to distribute and register 1.5 acres in the char areas. Based on our analysis, the complementary services and facilitation by CDSP maximize the development opportunities of having sufficient land for both men and women to participate productively and to have secure housing. However, regardless of the policy, there remains an opportunity to address the additional barriers to gender equality by integrating gender-transformative approaches to securing women's land rights, such as:

- Integrate masculinities training and community dialogue activities to engage men of all ages in the support of gender equality and women's control over resources.
- Hold community-based events that encourage shifting gender roles inside and outside the household and field.
- Build capacity and buy-in of project staff, government officials, and policy makers on the key concepts and approaches to transformational change for women's equality.

Introduction

OVERVIEW OF POLICY CHANGE

On 13 July 2022, in the additional issue of Bangladesh Gazette on 24 July 2022, an amendment to Article 6.0 (Jha) of Agricultural *Khas* Land Management and Settlement Policy-1997 was issued by the *Khas* Land-II Section of the Ministry of Land was published. In this amendment, subject to the availability of land, a maximum of 0.50 (zero decimal five zero) acre per family in the coastal char area can be settled by landless people; before the amendment of the policy, this was a maximum of 1.50 (one decimal five zero or one and a half) acres. The IFAD WRR Initiative in Bangladesh provides the following note, which presents the potential gendered implications of this policy change based on previous literature and our own data collection in the Char Development and Settlement Programme (CDSP) service area.

The Agricultural *Khas* Land Management and Settlement Policy-1997 has been an advancement toward gender equality in land rights in Bangladesh, requiring that the distribution of public lands the title of the land must be shared equally by husbands and wives. While the amendment does not change the requirement that married women receive dual title of land, changing the size of land distributed, not only directly and immediately decreases the amount of land to which women have title, but it could also potentially impact women's ability to access this land and benefit from it equally. Further, the important role of land in agricultural production for income and subsistence means that a decrease in the amount of land titled has greater implications for the health, well-being and stability of families in the char area.

01 BACKGROUND – CONTEXT OF GENDER AND LAND IN BANGLADESH

Bangladesh is among the most densely populated countries in the world with a population of over 171 million (1,277.59 people per square km), and is reportedly increasing (World Bank 2021). Of the population, 63.11% of all households are farming households (i.e., cultivating .05 acres of land or more) with the average small size smaller than half of that. This often does not result in adequate incomes, and the amount of land available for cultivation is declining (USAID 2010 citing World Bank 2009).

Within this context, 68.63% of household heads possess legal documents of agricultural land (BBS 2019). Inheritance is the main pathway to land ownership in Bangladesh, with the majority of land passing from the husband's family (54% of all land acquired). Personal Laws, or codified religious text regulate inheritance in Bangladesh. This means that the large Muslim majority follow inheritance laws where sons receive two thirds of the land; daughters in Hindu families do not formally inherit any land. According to the latest estimates (BBS, 2019), 32.04% of women household members in Bangladesh possess ownership of land, which is higher among Muslim women (34.26%) and lower among women of Hindu and other religions (11.64%). Compared

to previous reports (e.g., Kiernan et al. 2015), women's land ownership in Bangladesh is increasing. Policies, as well as social norms and behaviours, are all essential pieces to women's ownership and control over land.

Research shows that securing women's land tenure is critical to improving women's economic status, an essential pathway to overall improvement of social status and well-being (IFAD 2022). Land is a critical resource for agricultural production and economic self-reliance, as well as women's empowerment, as women's ownership and control over assets links to power over intra-household decision making and greater expenditures toward children and families (UN-HABITAT 2008; Villa 2017). Acquiring use rights through a male relative, often means that women's opportunities to access and use land is dependent on that relationship. Any changes to that relationship can jeopardize a woman's rights over that property as well as other assets (Solotaroff et al. 2019 citing Sarwar et al. 2007 and USAID 2010). This reinforces the importance of direct land ownership and title, such as through CDSP, to achieving women's equality and

women's empowerment.

02

GENDERED BENEFITS AND REMAINING GENDERED LAND VULNERABILITIES

The WRR initiative in Bangladesh conducted an in-depth gender analysis in the CDSP service area with over 70 focus group discussions and interviews with young and adult, men and women (Garner et al. 2024). This analysis concluded that there are significant benefits from the practice of dual titling of public, *khas*, land and a more comprehensive approach and programming. In addition to increased rates of women's formal land title, women said that this formal title also increased a sense of tenure security while also decreasing land conflicts and unlawful convictions, as well as physical violence. Interviews demonstrated an increased acceptance of women's land ownership of *khas* land. The deliberate inclusion of women in trainings programmes, field-level institutions and leadership roles has further supported the reduction of normative barriers that women face.

However, the practice of dual title has not expanded to land that is accessed through other means, and women's land is less secure than men's. For example, husbands may sell wives' land without their permission or knowledge, and single women may be disproportionately targeted by hostile neighbours. Despite the security that title can provide, divorced or widowed women still face challenges to completing the retitling process. In addition, land remains predominantly considered a resource controlled by men and land ownership is central to men's identity. In practice, this reinforces men as the main decision-maker, which may limit women's ability to realize the potential of her land.

Dual titling has increased acceptance and interest in daughters' inheritance. Despite the Personal Laws, mothers and fathers make special arrangements to share land with their daughters for financial security, in particular for cases when daughters are living with a disability, or in the case of divorce, separation, or abandonment with children. However, this may not include formal retitling of land in the daughter's name. Training for women and community leaders on human and land rights has also ensured that women and community leaders are aware of their rights, including at inheritance. While both young men and young women agree with the current legal provisions, young men justify that they should receive a larger share of inheritance due to their normative position as breadwinners of the household. Young women often experience familial pressure to decline their inheritance, and may prefer to maintain relationships with male relatives despite acknowledging that land ownership provides security.

CDSP's impact on women's land ownership has been critical. However, it is unclear whether this impact can continue, and whether decreasing the amount of land distributed could exacerbate the current points of gender inequality and women's land vulnerability.



03 ATTITUDES TOWARDS THE LAND POLICY CHANGE IN THE CHAR AREAS

As part of the WRR Initiative's gender analysis, additional questions were asked of 52 individuals (28 women; 25 men) in the CDSP service area to explore the potential impact of CDSP granting legal title to .5 acres instead of 1.5 acres. Questions were asked to understand respondents' greatest concerns of this policy, and hypothetical impacts on their use of land, and potential gender differences.

Participants identified that the smaller land would make it difficult to use the allocated land for multiple purposes. Living on the land as well as having a pond and doing agricultural production are not possible with 50 decimals. Participants said that they would not be able to use the land for any other purposes than living and homestead/garden production.

"[Under the new policy,] there will definitely be problems. It will be difficult to cultivate and live in such a small land" – Young Male, Char Mozid

The significantly smaller land also means a limitation on the variety of crops and flexibility in ways to use the land for agriculture. This decrease in production will also impact settlers' ability to make the land more fertile. Without agricultural production or tree plantation, the areas will be more proven to river erosion. Respondents also mentioned that less land would lower productivity and therefore lower financial benefits from the *khas* land.

"Due to the limited amount of land, I can't grow whatever I want. When I get a lot of land, I can grow many types of vegetables and fruits. It will increase my income as well as reduce my expenditure[...] I don't have to go outside for extra income. When more than half of my property will be decreased by the government, I will have to go outside for extra income to support my family." - Adult Male, Char Nangulia

Respondents mentioned that it would be very difficult for them to live with their family on 0.5 acre of land. Larger families live together and work together in their agricultural field to lessen their expenditure on labour and other resources. Participants noted that those with less land and multiple sons already fracture the household in order to settle additional land, noting the requirement to marry before receiving legal title.

"You will see these cases in Urir Char. The people who have so much land there and have mature sons, or sons of 17 years, go to the chairman and get a certificate made that says they are 18 years old. Then they get their sons married to get hold of more lands." - Key Informant Interview



04 POTENTIAL SCENARIOS OF IMPLICATIONS OF LAND POLICY

Based on previous research and analysis of the current context of gendered land use in the CDSP-service areas, a decrease in the land size from 1.5 acres to .5 acres has several potential implications specific to women and that could undermine the Government of Bangladesh's gender equality goals and the progress that has been made so far.

The policy change could result in at least two scenarios in the char area; both are possible and could even happen simultaneously:

- 1 First, the decreased amount in *khas* land could increase the economic and social value of property. In response, men could feel that this resource is scarcer and that their ability to provide for their families is threatened without having enough land. This could tighten the dominance of men in decision making and control over land. As a result, the opportunities for women to own, access and use land, especially productively for nutrition and/or income, could be narrowed.
- 2 A second scenario is that the smaller amount of land decreases the opportunity for production. In this scenario, the land is no longer considered productive enough to ensure a livelihood that can support their family in the char areas. As a result, men perceive that the better livelihood options are to migrate. Given the differences between men and women in terms of mobility, as well as the cultural responsibility for men to be the main income earner, men are also more able and more likely to migrate than women. This is also considering that the younger generation men are already migrating when there is not enough land to inherit/split across children.

Within these scenarios, the following are non-exclusive potential policy implications of the amendment to Article 6.0 (Jha) of Agricultural Khas Land Management and Settlement Policy-1997:

01

WOMEN WILL OWN LESS LAND

The decrease in the distribution of *khas* land, assuming it continues to be dual-titled to husbands and wives according to the 1997 policy, will decrease married women's land ownership by one-third, from .75 acres to .25 acres. In this case, not only will women own less land because of the changes in distribution, but also for households who acquire additional land outside of the formal distribution to supplement the *khas* land. Women are not likely to share title to that additional land.

Not only does this decrease the amount of land owned by the direct title recipients, but it will also significantly decrease women's share of the legal inheritance. Mothers will have less land to appropriate to daughters, of those who are able to voice this and make decisions on this, and daughters may be less likely to claim the inheritance they are legally allotted. This impacts all Char residents, but, under Islamic (Sharia) law, the percentage inherited by daughters will automatically decrease as Personal Laws regulating inheritance determines that daughters inherit one half the land of sons. For Hindu daughters, the possibility of receiving land directly from parents is certain to decrease as well, given the decreased size of land that will be inherited by sons.

Daughters may also have increased incentive to defer their land to their brothers to keep their good will as their brothers' need for land will be greater in the context of being seen as providers for their family through agriculture. The decrease in land size to inherit will most likely increase the pressure on women to relinquish their inheritance to their male relatives, as well as decrease the incentive to hold onto the land.

02

WOMEN'S DECREASED PARTICIPATION AGRICULTURE AND NUTRITIONAL INSECURITY

Receiving title to less land also decreases the ability of larger families to live on the land together, which will also increase the need for second generation family members to seek and acquire land on their own. This can mean potentially acquiring land outside of public land distribution, which is unlikely to have dual title for wives, and/or a pressure to marry to be eligible to receive land through government distribution. This also increases labour pressures on remaining household members and/or increases the need to hire outside labour, as there is a great dependence on free labour from family members for agriculture.

This increased intrahousehold competition for land could also reinforce and most likely amplify the current dynamics that exclude women from participation in and decision making over agricultural production.

Less land for agriculture could reinforce men's control and dominance over agricultural production and decision-making. Many participants in our analysis emphasized the immediate impact on the decreased ability to produce food. Given the relation between women's empowerment and nutritional outcomes, the decreased opportunity to participate in agriculture and decreased production could impact nutritional outcomes.

03

INCREASED OUTMIGRATION BY MEN

Another potential is for increased male out migration as agricultural livelihoods become less productive and in the context of women's limited mobility. This could increase women's role in running the farm, as we have seen in the feminization of agriculture. But the decrease in land and therefore its total relative value to other income sources, may decrease the influence that the dual-title has had on the instances of divorce and abandonment that have been observed because of the dual-title in the project area so far.



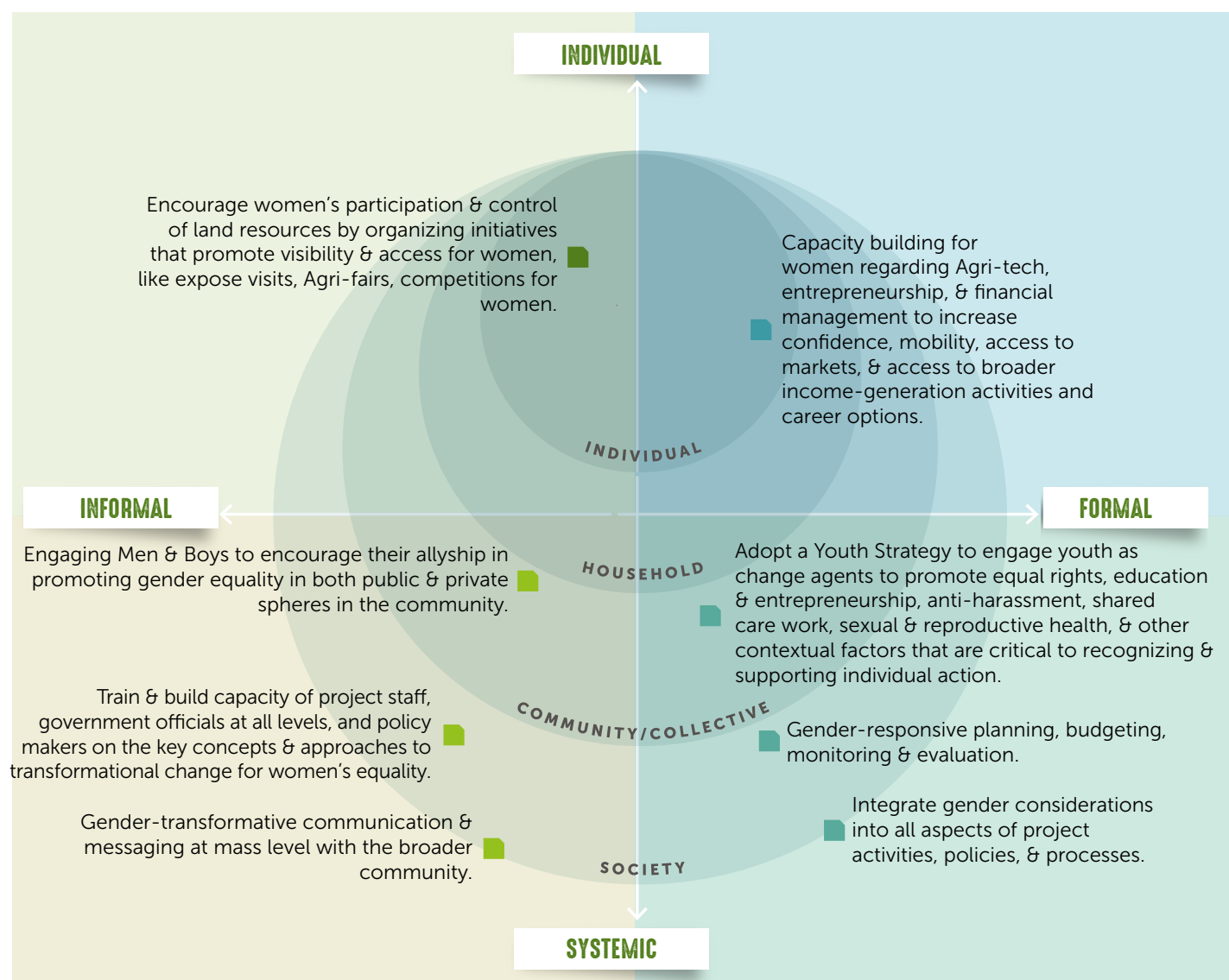
Conclusion

While the impact of the policy change is not certain, we have insights based on current dynamics around land. The major concern, based on our analysis, is that the decrease in land titled through CDSP and the formal *khas* land distribution process could exacerbate gender gap in land ownership with women's land more likely to be sold, women likely to decline inheritance, and women's name not likely to be on title. This will not only create significant impediments to achieving gender equality, but also create challenges to nutrition security, climate change resilience, and inclusive livelihoods.

While the ideal course of action would be for the Government of Bangladesh to reconsider this policy change in the CDSP service area, additional action is needed to minimize the gendered and differentiated impacts of the policy on marginalized communities. These activities need to follow the principles of gender transformative approaches, addressing barriers across multiples levels, formal and informal.

In collaboration with WRR, the CDSP technical team envisioned several activities that could facilitate the knowledge, attitudes, and practices necessary to secure women's land tenure.

CDSP's engagement in the Char areas has had a substantial and holistic positive impact on gender equality within Bangladesh. However, there remain vulnerabilities to this impact that can be exploited through a substantial decrease in khas land distribution. It is critical that this policy is reviewed through a gender and equity lens, so that the progress that Bangladesh has made toward achieving the Sustainable Development Goals is not only continued but is not lost.



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