**Decriminalization of homelessness and poverty**

**Background note and questionnaire**

In many countries persons experiencing homelessness, living in poverty or situation of vulnerability are disproportionately subjected to fines, deportation, arbitrary arrest, or detention for petty offences or conduct that is necessary to survive, such as informal street vending, waste collection, sex work, begging, sleeping, cooking or eating in public places. Persons who are unable to pay fines for petty offences, such as riding public transport without a valid ticket, continue to be imprisoned in many countries. Such sanctions do not only raise human rights concerns; they also congest the criminal justice system with issues that should be better addressed by policies addressing the root causes of homelessness, poverty, and social exclusion.

Information submitted will inform a joint report by the UN Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights to the Human Rights Council in 2024.

The **Guiding Principles on Extreme Poverty and Human Rights** ([A/HRC/21/39](http://www.undocs.org/A/HRC/21/39)), adopted by Human Rights Council resolution 21/11 in September 2012 underline that States should "repeal and reform any laws that criminalize life-sustaining activities in public places, such as sleeping, begging, eating or performing personal hygiene activities." Furthermore, States should "review sanctions procedures that require the payment of disproportionate fines by persons living in poverty, especially those related to begging, use of public space and welfare fraud, and consider abolishing prison sentences for non-payment of fines for those unable to pay."

The **Guidelines for the Implementation of the Right to Adequate Housing** ([A/HRC/43/43](http://www.undocs.org/A/HRC/43/43)), specify that "States should prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living." They further recommend that "States should provide, within their justice system, alternative procedures for dealing with minor offences of homeless people to help them break the cycle of criminalization, incarceration and homelessness and secure the right to housing. Police should be trained to interact with homeless persons in a manner that respects and promotes their dignity and rights. "

In June 2020, the Human Rights Council resolution [43/14](http://www.undocs.org/A/HRC/RES/43/14)called on States to "take all measures necessary to eliminate legislation that criminalizes homelessness."

**Questionnaire**

The Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights invite States, local Governments, civil society organizations, National Human Rights Institutions, and national associations working with the homeless, to submit information concerning:

1. Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places (please kindly include the wording of these laws and regulations and specify whether they are effectively enforced).

According to the Dhaka Metropolitan Police Ordinance III, 1976, begging is prohibited. Ordinance Number 81 states that "Whoever in any street or public place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object or exciting charity or obtaining alms shall be punishable with imprisonment for a term which may extend to one month."[[1]](#footnote-1) On 2 February 2011, the high court issued a Suo Motu rule and directed the police authorities to strictly enforce this law against begging in Dhaka city. [[2]](#footnote-2) The ordinance (82) also states that "Whoever bathes or washes in or by the side of a public well, tank, pond, pool or reservoir not set apart for such purposes by order of the Police Commissioner shall be punishable with fine which may extend to two hundred taka."

Vagrants and Shelterless Persons (Rehabilitation) Act 2011 gives power to the police and judicial officers to capture suspected "vagrants" and detain them for up to two years in rehabilitation centres. The law prescribes a punishment of up to three months of imprisonment for detainees who escape from these centres. The rehabilitation program is expected to be financed by money earned by the detainees. Also, the Children Act, 2013 (Section 71) penalizes the employment of a child in begging.

The 2011 Disadvantaged Act and the Prevention and Suppression of Human Trafficking Act 2012 define engaging someone in begging as a punishable offence.[[3]](#footnote-3)

The Children Act 2016 prohibits child begging. Article 71 states that "If any person employs any child for the purpose of begging or causes any child to be or if any person having the custody supervision or care of a child indulges or encourages his employment for the purpose of begging, or gives him away for begging the person shall be deemed to have committed an offence under this act and shall for such offence, be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to taka 1(one) lac, or with both."

Nari o Shishu Nirjatan Damon Ain, 2000 also prohibits Child begging. Article 12 states that “If a person damages hands, feet, eyes or any other limb of a child, or makes disabled or disfigured by any means, for the purpose of making him/her a beggar or to sale any part thereof, he or she shall be punished with death or rigorous imprisonment for life and also with fine.”

1. Laws or regulations that allow the detention or imprisonment of individuals who are unable to pay the fine imposed for petty offences.

There is no specific information on this type of law or regulation that allows the detention or imprisonment of individuals who cannot pay the fine imposed for petty offences in Bangladesh. However, when an individual is sentenced to pay a fine for any offence but cannot pay, the relevant court could provide directives on the detention or imprisonment of the said individual.

1. Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping or performing personal hygienic activities in public places.

The Constitution of Bangladesh, Part III contains a section titled "fundamental rights" to define a set of "human rights' comprising a set of civil and political rights. Articles 26-47A are those sets of human rights in Bangladesh that the constitution protects by ensuring judicial enforceability. Eighteen fundamental rights have been enshrined in the Bangladesh Constitution. Among these eighteen fundamental rights, a set of rights are guaranteed to all persons living in the territory of Bangladesh irrespective of citizenship, which includes rights guaranteed under Articles 32 (protection of right to life and personal liberty); 33 (safeguards as to arrest and detention); 34 (prohibition of forced labour); 35 (protection in respect of trial and punishment); 41 (freedom of religion); and 44 (enforcement of fundamental rights). Another set of rights are guaranteed exclusively for the citizens of Bangladesh, which includes Article 27( equality before the law); 28 (discrimination on the ground of religion, etc.); 29 (equality of opportunity in public employment); 30 (prohibition of foreign titles); 31 (right to protection of law); 36 (freedom of movement); 37 (freedom of assembly); 38 (freedom of association); 39 (freedom of thought and conscience, and of speech); 40 (freedom of profession or occupation); 42 (rights to property) and 43 (protection of home and correspondence). Enforcement of these rights is guaranteed under Article 44 of the Constitution through Writ Jurisdiction of the High Court Division of the Supreme Court of Bangladesh under Article 102.[[4]](#footnote-4)

Part -II of the Constitution of Bangladesh Contains "The Fundamental Principles of State Policy," which states that the State will take measures to secure the provision of the basic necessities of life, including food, clothing, shelter, education and medical care; [Art-15(a)].

Also, Bangladesh is a signatory of major international human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which guarantees the human rights of all citizens in Bangladesh.

In 2010, the government considered banning begging and making it a punishable offence. However, as the move was regarded as a human rights violation, the government focused on rehabilitation. In 2010, the government launched a rehabilitation and alternative employment programme under the Department of Social Service of the Social Welfare Ministry for rehabilitation and alternative employment for people engaged in begging.[[5]](#footnote-5) The Ministry of Social Welfare has taken up the program “Rehabilitation and Alternative Employment for the People Engaged in Begging" to alleviate poverty and prevent people from beggary and for the rehabilitation and alternative employment of beggars. The beggar rehabilitation program started in 2010, but it did not get much widespread. In 2017-2018, money was sent to 58 districts of the country for beggars' rehabilitation and alternative employment. To prevent beggary in Dhaka city, the government has initially declared some areas of the city as begging-free zones. To keep the beggar-free zones of Dhaka city free from beggars, regular miking, advertisement, distribution of leaflets and repairing of damaged/installation of new plug stands are going on in different places. In the 2018-19 fiscal year, as many as 220 professional beggars were ‍arrested with 20 mobile courts in the Beggar-free areas of Dhaka city, of whom 69 were trained and rehabilitated during detention in the government shelter home. The remaining 151 were rehabilitated in the family. A guideline has been formulated for the process of rehabilitation of beggars systematically.[[6]](#footnote-6)

The government enacted The Vagrants and Shelterless Persons Rehabilitation Act 2011 to rehabilitate the vagrants, shelterless and people engaged in begging.

However, the CSOs and rights activists have criticized the Act as a "tool" to put the shelterless behind bars. As per the rights activists, the law brands homeless people as possible criminals gives law enforcers the authority to pick up any vagabond anytime, and keeps them behind bars for up to seven days, both needing no grounds. The law enforcers are also accused of different forms of human rights violations against the vagrants. [[7]](#footnote-7)

On the other hand, the Hawker and the Disadvantaged (Rehabilitation) Act 2011 provides for the detention of vagrants at government or private shelter homes for a maximum of two years and creating employment or source of income through skill development before release. A detainee can also be handed over to his relatives or any socially well-known person willing to take the responsibility.[[8]](#footnote-8)

The Vagrants and Shelterless Persons Rehabilitation Act 2011 and the Hawker and the Disadvantaged (Rehabilitation) Act 2011 should be amended or reformed based on the human rights-based approach as guided by the constitution and international human rights instruments. The police personnel also need further capacity building to comply with human rights while dealing with such issues. The government should formulate appropriate policies and laws to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping or performing personal hygienic activities in public places.

Regarding sex work, according to a report published by the Ministry of Law, Justice and Parliamentary Affairs, “Prostitution by an adult woman (above eighteen) is not prohibited by any law of the land as yet.” Brothel-based sex workers, at least, can be recognized under the law. They can register for licences with a first-class magistrate court, stating that they are working in the brothel of their own will and are over eighteen. However, the Dhaka Metropolitan Police Act (DMPA) prohibits soliciting another person in public for prostitution and renders at least some forms of street-based sex work illegal. The same provision exists in the Metropolitan Police Acts of the five other divisional towns: Rajshahi, Sylhet, Chittagong, Khulna, and Barisal. Another law, the Suppression of Immoral Traffic Act (SITA), makes it illegal to keep or manage a brothel or to buy, sell, or live off of a prostitute. However, SITA does not criminalize the sex workers themselves. Sex workers are sometimes confined in vagrancy homes under the vagrancy act, but a report published by the Ministry of Law concludes that sex workers do not fall under the Vagrancy Act's definition of vagrancy. A 2000 High Court judgement states the same. In 1999, after a complicated fallout between some influential thugs and politicians, the approximately 2,500 sex workers in the Tanbazar and Nimtoli brothels were forcibly evicted. Some 300 of these sex workers were detained in vagrancy homes. Human rights groups challenged the evictions and detentions in the High Court. In 2000, the court ruled, among other things, that the evictions violated the right to life guaranteed by Article 31 of the Bangladesh Constitution and that the Vagrancy Act does not support the detention of sex workers. [[9]](#footnote-9) The Metropolitan Police Acts should be amended or reformed to bring harmony with international human rights standards and Bangladesh's constitution. Also, the members of law enforcement agencies require further knowledge, capacity and attitude building on a human rights-based approach so that they can deal with such issues, complying with human rights standards.

Although, in response to the adverse effect of the COVID-19 pandemic on the economy, the government has expanded the social safety net programme to meet the basic needs of vulnerable people, including the workers in the informal sector, there is no policy to ensure the rights of street vendors. The informal sector has no formal approval from authorities since they cannot comply with the legal procedures and obtain official documents. The government has no alternative policy or process to provide an authoritative document to the street vendors or hawkers. The lack of legal recognition creates problems such as a lack of rights and proper working conditions, including constant threats of eviction. Due to the lack of legal recognition, the government needs a mechanism to work toward hawkers' rights. It also diminishes the government's incentive to work in this area, as financial allocation and resource mobilization are difficult.[[10]](#footnote-10) The government should formulate proper policies and regulations for the informal sector and street vending and protect the rights of the people involved in the informal sector.

1. Information concerning initiatives to change the response of law enforcement officials and of the criminal justice system from penalization, punishment or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness.

Although there is no available concrete information concerning the initiatives to change the response of law enforcement officials and of the criminal justice system from penalization, punishment or detention towards facilitating social inclusion of persons living in poverty or experiencing homelessness, there are different interventions to develop the capacity of law enforcing agencies, in terms of considering human rights of the vulnerable and marginalized peoples.

According to the Bangladesh Police official website, the agency aims to enhance the capacity and willingness of all its members to contribute in a collaborative manner to the creation of a safer and secure environment based on respect for human rights, equitable access to justice, and the rule of law in accordance with the spirit of our constitution and the principles of the universal human rights."[[11]](#footnote-11) The members of police forces undergo human rights training and other professional training. [[12]](#footnote-12)

Along with development partners and UNDP, the Bangladesh government also undertook different programmatic interventions to develop the capacity of Bangladesh police in terms of professional needs and human rights compliance. The goal of the Police Reform Project, Phase II (2009-2015) of UNDP was a safer, more secure and stable Bangladesh, where the human rights of citizens, particularly the vulnerable and marginalized, are promoted and protected to accelerate progress on the Millennium Development Goals, economic growth and social justice. The programme aimed to improve safety, access to justice and human rights for all citizens, particularly disadvantaged and vulnerable groups. The targeted beneficiaries of Phase II are the Bangladesh people, particularly the Bangladesh Police, who will benefit from increased capacity, job satisfaction, improved morale, image and social standing. [[13]](#footnote-13)

Also, the Human Rights Programme of UNDP (2016-2022) aimed to enhance the capacity of law enforcement agencies, in particular police, on human rights issues, among others. [[14]](#footnote-14) The 8th Five Year Plan also stipulates that capacity building of police will be continued through different activities.

In this regard, the Bangladesh government should develop more capacity development strategies for Bangladesh police and reform the criminal justice system following a human rights-based approach in terms of changing the response of law enforcement officials and of the criminal justice system from penalization, punishment or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness.

1. Measures and services available at national, regional or municipal level to support people living in poverty and in situations of vulnerability from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places, because they lack access to employment, social assistance, adequate housing, public showers and toilets.

The Constitution of Bangladesh is the prime protector of urban poor land and housing rights protection. According to Article 15, the government is responsible for providing access to fundamental rights, including shelter. In addition, Articles 11, 31 and 32 guaranteed protection of the right to life, which the High Court interpreted to include and incorporate the right to livelihood and shelter. In the Bangladesh Delta Plan 2100, GoB narrated its hope to reduce 60 per cent of urban migration by shrinking the coastal zone and river area out-migration, eliminating extreme poverty, creating more employment opportunities and the GDP growth of 8 per cent consistently up to 2041. According to the Perspective Plan of Bangladesh 2021-2041, disorganized and unplanned urbanization has been particularly problematic, especially regarding urban transport, housing, essential urban services (water supply, sanitation, drainage and solid waste management) and the urban natural environment (air and water pollution). The Perspective Plan highlighted the importance of developing secondary and emerging urban centres instead of Dhaka and Chattogram-centric urbanization. The Perspective Plan has emphasized the land-use planning improvements and allocation of urban areas. The plan aimed for an urban social structure with no incidence of absolute poverty and no low-income settlements, and every household has an essential minimum housing quality. In addition to national legal and policy instruments, GoB also acknowledged several international conventions which have implications for protecting the housing rights of the urban poor. GoB signed and ratified the Covenant of Social, Economic and Cultural Rights (ICSECR) and the United Nations (UN) Istanbul Declaration on Human Settlement (1996) to guarantee urban poor housing rights. According to Article 4 of ICSECR, forced evictions are incompatible with the requirements of the covenant, and they can only be justified in the most exceptional circumstances and following the relevant principles of international law.

Bangladesh Constitution theoretically warrants the housing and land rights of the people of the republic, but that is missing in practice due to various actors and factors. No legal or policy framework exists that discreetly deals with protecting and promoting poor urban people's housing and land rights. For example, Delta Plan 2100 sketched a plan to reduce rural-to-urban migration but did not illustrate how to foster urbanization. The Perspective Plan recognized the urbanization and poverty issues. However, it did not give any roadmap for developing planned, organized and articulated urbanization, including housing arrangements for all social classes, including people experiencing poverty in urban areas. National Housing Policy 2016, the premier policy document for national-level housing planning, suggests ideas like social housing for all social classes, including the urban poor. However, no strategy and action plans have been formulated to address those suggestions. National Land Use Policy also does not delineate how to manage housing and land rights of the urban poor. There are urges for dedicated housing and land policy focusing urban poor and expanding urbanization in Bangladesh. [[15]](#footnote-15)

In 1997, the Government of Bangladesh (GoB) introduced the Agricultural Khas (public Land, major source is alluvial land) Land Management and Settlement Ordinance to redefine the landless as anyone who owns fewer than 10 decimals of land. Only agriculture-based landless families in which one or more members are involved with cultivation are entitled to khas land. According to government policy, households having no satisfactory living home should receive priority, among others. [[16]](#footnote-16) Through the 8th Five-Year Plan, the Bangladesh government acknowledged that land reforms are required to promote farmers' rights, which need strong political will and motivation, along with safeguarding the rights of landless and marginal farmers. The government also stipulates that in the context of the rising agricultural land market and associated equity benefits, strategies are needed to protect the landholders against eviction and promote their pre-emption right in land transfer. Also, the Government's Khas land must be distributed among the landless and marginal farmers. Since the automation of land records and transfer will reduce the associated transaction cost and anomalies, the Ministry of Land is implementing 'Automation of Land Management Project' and 'Capacity Development of Land Records and Surveys to Perform Digital Survey Project' in this regard. [[17]](#footnote-17) The plan stipulated that the current practice of distributing khas land in the name of spouses of poor families and women's access to forestry resources through co-management groups should continue and expand. In disaster-induced migration, women should be considered a special group for housing or land support. On the other hand, under the Ashrayan Project, the government has provided housing facilities along with lands to the landless and homeless families. The target beneficiaries have been rehabilitated by constructing new houses with government funding. [[18]](#footnote-18) The project aims to improve the standard of living, ensuring basic education, health care and skill development on income-generating activities of the landless, homeless, distressed and rootless people. From 1997 to June 2023, 5,55,617 families have been rehabilitated under the project. [[19]](#footnote-19) Under the Ashrayan project and other programmes, a total of 829,607 families have been rehabilitated so far since 1997.[[20]](#footnote-20)

On the contrary, despite the government's efforts, the land problem remains an alarming issue in Bangladesh. Around 11.33 per cent of all households ( (40,24,189) in the country are landless. According to the Land Ministry's Annual Report 2020-2021, the government has more than 40 lakh acres of khas land (non-agricultural: 23 lakh acres and agricultural: 17 lakh acres) while the amount of leasable land is more than 5 lakh acres (non-agricultural: 1 lakh acres and agricultural: more than 4 lakh acres) across the country. Though landless people are eligible to receive agricultural land, the government has no policy framework to provide non-agricultural land to landless people for housing. Instead, The Government has been providing houses to landless people under projects like Guchhagram. In the fiscal year 2020-2021, the government provided 81,787 landless families with 3,224 acres of agricultural khas land, and the government has leased out more than 1 lakh acres of land while 40 per cent went to Economic Zones. The government has been leasing out non-agricultural land for industrial purposes, such as for constructing educational and religious institutions. The government has leased out more than one lakh acres of land. Of which, 40 per cent has been allocated for Economic Zones. Even though the government has distributed land among landless people, it is insufficient. In most of the districts, the government's efforts to distribute land have been postponed. The size of agricultural khas land is also under-calculated. There are many chars across the country where the diara survey has not been conducted yet. As a result, those pieces of land have not been included in the government data. Another problem is that people who are not supposed to receive khas land have taken possession of that land by forging documents or influencing corrupt government officials, and this practice has been going on for years. These sorts of incidents take place both in rural and urban areas. They include agricultural khas land as well as non-agricultural khas land.[[21]](#footnote-21)

According to research conducted by ALRD, about 20 per cent of the direct beneficiaries of khas land comprise those who are not entitled to receive the same. At the same time, corrupt government officials play a conservative role in information dissemination on the availability of khas lands. Lack of transparency and representation prevails in the beneficiary listing process, while local vested quarters dominate. The application process is also very complicated and time-consuming, while a discriminatory selection process continues due to corruption and the influence of vested quarters. Also, ignorance, inaccess and non-availability of appropriate information regarding the submission of "appropriate and complete" applications are factors which also resulted in unfair distribution. [[22]](#footnote-22) On the other hand, despite holding a deed of Khas land, the status of possession of land and control over crops remain an alarming issue. A significant proportion do not have full control, such as over deeds, land and crops of Khas land. On average, only 46.3 per cent had complete retention over khas land. It means that despite the Khas land distribution among the landless peasants, a significant number of Khas land recipients could not establish and retain their lands, indicating a lack of efficiency and effectiveness of the programme framework. [[23]](#footnote-23) The government should reform the policies and programmes so that real landless people can benefit from the Khas land distribution process.

Due to corruption and lack of accountability, a monitoring system and representation from NGOs working on land issues, and the government's negligence, the real landless people are deprived of government land. Despite the government's policy formulation to distribute agricultural land among the landless, the existing system does not support the landless in getting land. The government needs to overhaul the total land management system. In its 2008 electoral manifesto, the ruling party pledged to set up the National Land Reform Commission. It has been over a decade since the government came to power, but they have yet to come good on the promise, which would have benefited the real land less people. The National Land Reform Commission should be established for the distribution of land among the landless people through formulating plans along with conducting diara surveys of char areas quickly. [[24]](#footnote-24)

On the other hand, women's land rights are practically denied in Bangladesh, and women have little access to agricultural and non-agricultural land. Less than 13 per cent of women in rural land-owning households have formal title deeds, and only 4-5 per cent have effective control over land, particularly agricultural land. The Constitution of Bangladesh states, "Women shall have equal rights with men in all spheres of the State and of public life. Nothing in this article shall prevent the State from making special provision in favor of women or children or for the advancement of any backward section of citizens" (Article 28). Article 11, 15, 19 (1)(3), 20 (1) states the protection of fundamental rights, freedom, respect, and dignity worth of human person. Article 42 (1) states: "Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized, or requisitioned save by authority of law." Though there is a "National Women Development Policy 2011," there is no specific, comprehensive policy for promoting and protecting women's land rights, let alone any precise law. However, various land laws, policies, and regulations marginally address women's land rights. For example, Article 16 (8) of the National Women Development Policy calls for the State "to remove existing male-female disparities." However, the footnote of the policy states, "Notwithstanding anything contained in this policy, during the enactment of the law, anything contrary to the Holy Quran and Sunnah shall be void". However, to promote women's rights on land, property and inheritance, all personal laws/religious laws and inheritance laws should be harmonized with the country's constitution.

The Land Reform Ordinance in 1984, for the first time, focused on women's right to khas land. In 1997, the government formulated a comprehensive Khas Land Settlement Policy, which classified khas land as agricultural khas land, non-agricultural khas land and hat-bazar khas land. 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 that divorced women are to be prioritized, this clause is usually not utilized. The policy mandates the allocation of khas land in joint ownership of husband and wife. At first sight, the provision of joint ownership seems gender-friendly. However, it excludes single/unmarried women, widows (who don't have an able bodied sons), the most vulnerable section of society, and those in need of khas land most.

Poor, vulnerable people have very poor access to khas land as it is often controlled by Local influential people/powerful people. A study [[25]](#footnote-25) shows that only 11.5 per cent of the agricultural *khas* land remains under the control of the people who rightfully deserve it and that the remaining 88.5 per cent of agricultural *khas* land is held by powerful people, who are not eligible under any criteria of the policy. Another study (conducted by ALRD and S4HL) found that people often have access to non-agricultural *khas* landand water bodies, but very few of them have access to agricultural *khas* land as the surrounding agricultural *khas* lands are occupied by the local power elites. It also shows that where there is forest, there are vested interest groups who exclude the marginalized people from accessing forest resources. The study also reveals that even people’s private land becomes khas by influential people with the conspiracy of land office staff. When they find people's land tax/document is not updated, they take the opportunity of ignorance and turn the private land into khas.

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. The study shows that over Tk. 5,000 (USD 54) needs to be given for a plot of khas land.[[26]](#footnote-26) This micro-level reality is the same as the findings of a national-level study by Barkat et al. (2020), [[27]](#footnote-27)which shows that different levels of bribes - ranging from Tk. 100 to Tk. 20,000 (USD 1 to 214) - was required at various stages in the process of khas land distribution.

Finally, women's lack of knowledge regarding land-related issues also harms their ability to seek khas land. Land documents such as sales deeds, porcha (official entry in the record of rights), etc. are difficult to understand even for educated people, let alone for rural women who are illiterate or have low literacy.

Due to the collapse in the rural economy, there has been a large-scale influx of the rural population into urban areas in search of better livelihood opportunities, while most end up in the informal sector and live in poverty. According to the Population and Housing Census (2022), 31.5 per cent of the country's population currently live in Urban areas, while 44 per cent of the population is projected to live in Urban areas by 2050. The number of people living in poverty will also increase. In another forecast, the total urban population in Bangladesh will be 80-90 per cent of the country's total population in 2071. However, the increasing urban population does not transmit to urban growth due to unplanned, unstructured, unregulated urbanization. It does not play a role as an effective growth engine in Bangladesh, while rapid urbanization without planning and development control has led to massive degradation of the urban environment. [[28]](#footnote-28)

According to the research conducted by ALRD, 24.5 per cent of the household heads migrated to urban areas due to a lack of job opportunities, while 20.4 per cent migrated to urban areas in search of fortune. The agricultural production crisis is another crucial push factor for rural-to-urban migration, followed by river erosion. Also, the official figure of urban poverty suffers from undercounting. Though according to the official statistics, the urban poverty rate is 18.9 per cent (population below the upper poverty line), the actual rate would be at least 40 per cent. [[29]](#footnote-29)

The ALRD's research also demonstrates that 50.5 per cent of urban poor households reside in rented homes on either privately or publicly held land. Among them, 76 per cent reside on privately owned land, while 24 per cent reside in rented homes constructed on Government-owned land. 30.5 per cent of households live on land held by others (primarily the government), although they have constructed their own homes. Most urban poor have to stay in the slum or slum-like areas for a long time. Due to the lack of any land rights and legal status of their tenant, they live in constant fear of eviction and uncertainty. Only 14 per cent of households reside on their own land, and 28 per cent of urban poor households do not own any land. 94 per cent of urban poor are functionally landless (i.e. own land between 0 and 49 decimal), while the national average is 58 per cent. The land price hikes, resulting from increasing corruption and bribe-induced black money, limit the abilities of a typical household to buy land in urban areas. Notably, only 6 per cent of the urban poor households have some agricultural land in their villages, indicating a weak connection with agricultural activities. On the other hand, 82 per cent of the urban poor households live in food insecurity. [[30]](#footnote-30)

Land dispossession, displacement and eviction are common phenomena for Bangladesh's urban poor. There are also cases of surgical dislocation of urban poor from their shelters due to mega development projects like developing expressways, highways, flyovers and expansion of major roads. In the first large-scale eviction drive in 1975, about 200,000 urban poor were evicted, and only one-fourth were rehabilitated in Mirpur. Ministry of Home Affairs, GoB has driven out several low-income settlements/bostis of Kamlapur, Mohammadpur and Moghbazar from 1989 to 1998, which made over 100,000 urban poor living in Dhaka city homeless. During this time, twenty demolitions were carried out in different places. In this eviction drive, over 20,000 household shelters were vandalized. Officially, this massive drive was intended to break networks of anti-socials and criminals who used low-income settlements for their activity planning, gathering and hiding. Consequently, over 100,000 people came under the open sky roof within a few hours. These people have nowhere to go. Evicted urban poor households had spent between 5,000 to 10,000 Taka to rent in or form new slum units in different places, and earning members of urban poor households lost many wage days in managing rehabilitation. A study claimed that evicted working eligible urban poor's wage loss was BDT 6,558,300.[[31]](#footnote-31)

Several campaigns and media publicity occurred in response to GoB running unlawful and anti-constitution. Regarding legal action against GoB, human rights organizations filed a petition through veteran Barrister Dr Kamal Hossain on behalf of the evicted urban poor communities in the High Court. The High Court has given a path-breaking decision in favour of the urban poor. The court recognized the unfortunate realities and vulnerable conditions of the urban poor. The court also recognized the contribution of the urban poor in developing urban centres like Dhaka. The court defended the cause of urban poor people's rights to a livelihood. It stated that if people needed to be moved, it had to be done in phases according to the financial means of GoB to provide rehabilitation schemes for the urban poor living in the low-income settlements. Unfortunately, GoB did not accept the verdict proven by the eviction drive from 8 to 11 August 1999, which made 14,674 urban poor households homeless. The National Housing Authority (NHA) evicted more than 500 urban poor households in 2012. In 2016, 10,000 urban poor households were evicted from Kallyanpur. Just before the COVID-19 pandemic struck Bangladesh in 2020, more than 2,000 urban poor households were evicted by NHA from Bhasantek in 2019. Agencies of GoB are continuously evicting low-income settlements/ bostis without respecting the verdict of the High Court and Constitutional Directives narrated by Articles 15 and 11 along with Articles 31 and 32. Forced evictions without any prior notice or arrangement of rehabilitation infringe on urban poor rights to work, right to food, right to education, right to health, and overall, their right to an adequate standard of life. [[32]](#footnote-32)

The ALRD's research demonstrates that the COVID-19 pandemic worsened the condition of poor urban households while unemployment and starvation, decrease in wages and salaries, declining income from the informal sector and economic crisis are the common phenomena. The research shows that urban poor lack the right to adequate housing for a decent living. During the COVID-19 lockdown, the urban poor and some of the non-poor fell into a vulnerable situation while many of the "non-poor" became "New Poor". At the beginning of the nationwide lockdown, around 23 per cent of adult living in urban low-income settlements and slum areas experienced unemployment due to the COVID-19 pandemic. Approximately 48 per cent of urban dwellers did not receive salaries, and 78 per cent received reduced pay. While the expenditure increased and food insecurity in the low-income settlement increased to 52 per cent from 32 per cent before the lockdown. The nationwide lockdown decreased the average monthly household income by 40 per cent in the urban area.[[33]](#footnote-33) As per the government, to mitigate the adverse economic effect of the COVID-19 pandemic, the government responded by expanding the social safety net programme to meet the basic needs of people below the poverty line. The major interventions include free food distribution, sale of rice under the open market with a high subsidiary, cash transfer to the targeted vulnerable population, expansion of allowance programme (old age allowance, widow allowances, etc.) in 100 most poverty-stricken Upazilas and expedited construction of the house for the homeless people so on. [[34]](#footnote-34) The Social Safety Net Programmes (SSNPs) aim to improve the lives of low-income families, marginalized groups, and individuals. On the contrary, the ALRD's research reveals that only 12 per cent of the urban poor households received any benefits from the social safety net programmes of the government in 2022. In the surveyed households, only 28 per cent of the older people received old age allowances, despite their eligibility due to miserable financial conditions and living standards. There are many reported mismanagement and corruption related to their distribution. [[35]](#footnote-35) Therefore, the government should reform policies and beneficiary selection processes to ensure the inclusion of eligible persons in the social safety net programmes.

As per the 8th Five Year Plan, as a part of Infrastructure development in urban areas, the Local Government Division (LGD) alone has made 1042 public toilets during the 7th Five Year Plan (FY2016-FY2020). On the other hand, most of the urban poor still lack access to safe drinking water and sanitation despite various interventions from City Corporation offices and NGOs. Only 16 per cent of urban poor households have access to improved sanitation, whereas the national status is 65 per cent. An inadequate number of latrines, open defecation in some cases, lack of adequate privacy, and dirty surroundings with bad odour are common scenarios of the slums and low-income settlements in urban areas. [[36]](#footnote-36) The government should take necessary measures so that the urban poor can adequately access water and sanitation.

The Bangladesh government has been undertaking training programmes and rehabilitating vagrants and beggars in rehabilitation centres. Before the independence of Bangladesh in 1943, the Bengal Vagrancy Act 1943 was established to rehabilitate and reintegrate the vagrants into society through proper training and various types of facilities under the government. At first, a vagrant home was established in Chandpur in Comilla in 1947 for the children, boys and girls. After that, in 1961, two vagrant homes were established in the districts of Mymensingh and Gajipur. Then, the inmates of the first vagrant home were shifted to this centre from Chadpur, Comilla. After the emergence of Bangladesh, the number of vagrants increased. Therefore, in 1977, four vagrant homes were established. At that time, all the vagrant homes were running under the Bengal vagrancy Act 1943. In 2011, the 'vagrant and Shelterless Persons (rehabilitation) act 2011' was enacted, and then 'vagrants and shelterless persons (rehabilitation) rules 2015' was also formulated in 2015. All the vagrant homes are being conducted under the Vagrant Act, 2011 and the vagrant rules, 2015.[[37]](#footnote-37) At present, there are six vagrant homes in different places of Bangladesh, which include Dhola, Trisal, Mymensingh, Pubail, Gazipur, Godnail, Narangonj, Kasimpur, Gazipur, Betila, Maniakgonj and Mirpur-1, Dhaka. The rehabilitation centres are in operation to provide training and rehabilitation services by ensuring food, shelter, clothing, care, treatment, education and vocational training to rehabilitate and reintegrate them into society. There are 56092 rehabilitee in these centres as of November 2022.[[38]](#footnote-38) However, the CSOs and rights activists have criticized the Act as a "tool" to put the shelterless behind bars. As per the rights activists, the law brands homeless people as possible criminals gives law enforcers the authority to pick up any vagabond anytime, and keeps them behind bars for up to seven days, both needing no grounds. The law enforcers are also accused of different forms of human rights violations against the vagrants. [[39]](#footnote-39) In this regard, the Act should be harmonized with the principle of the constitution and international human rights instruments.

**Given this backdrop, ALRD would like to provide following recommendations:**

1. Implement land reforms and take necessary measures to protect the rural and urban poor's land rights. This involves formalizing land ownership and preventing land grabbing to ensure their access to housing and resources. The Government of Bangladesh (GoB), its responsible ministries, and the Bangladesh Parliament should recognize the housing and land rights of the rural and urban poor through legal arrangements following the direction of the Bangladesh Constitution (Articles 15, 11, 31 and 32).
2. **Social safety nets:** enhance comprehensive social safety net programmes for financial assistance, food security and health care for the distressed during crisis. Take measures to ensure the inclusion of urban and rural poor and homeless people in the social safety net programme.
3. Formulate laws/policies to protect the rights of hawkers/businesses in the informal sector.
4. Capacity building of law enforcement officials and of the criminal justice system and policy formulation in terms of penalization, punishment or detention towards facilitating social inclusion of persons living in poverty or experiencing homelessness
5. Reform laws and policies for rehabilitating the vagrants based on a human rights-based approach and principles of the constitution and international instruments.
6. The National Land Reform Commission should be established to distribute land among the landless people through formulating plans along with conducting diara surveys of char areas quickly. Develop policies to distribute Khas land among the eligible beneficiaries.
7. **Inclusive urban and rural planning:** develop policies prioritizing urban and rural poor (people living in poverty, landless, homeless, people involved in begging, sex workers, vagrants, people in the informal sector) needs, ensuring access to basic services, affordable housing and livelihood opportunities. Collaborate across relevant government agencies and engage development partners and NGOs for sustainable development strategies.
8. **Land tenure security:** implement land tenure reforms to protect urban and rural poor land rights, preventing land grabbing and securing housing access. Align policies with principles of the constitution and international human rights instruments.
9. **Land rights protection:** enforce laws safeguarding the urban and rural poor against land displacement and establish redress mechanisms for violations.
10. **Participatory governance:** foster urban and rural poor participation in local governance, ensuring actual representation. Empower community-based organizations for collective advocacy.
11. **Legal aid and awareness:** provide legal aid services to educate rural and urban poor about their rights and assist in legal matters.
12. **Primary basic service provisions:** ensure equitable access to clean water, sanitation, health care and education, tailored to rural and urban poor.
13. **Infrastructure development:** invest in improved infrastructure in low-income settlements, enhancing living conditions
14. **Livelihood opportunities:** leverage vocational training, create employment opportunities and job placement, and endorse micro-enterprises for enhanced economic prospects
15. Along with joint ownership, there should be the provision of owning and managing khas land by any woman independently. The 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;
16. Ensure fair, transparent, corruption and influence free khas land distribution system. The government should ensure that vulnerable and marginalized people can access khas land.
17. Disseminate knowledge on Khas land policy and laws among landless men and especially women through information sharing and awareness-raising programs;
18. Upazilaand district-level *khas* land distribution committees should be activated, in line with the 1997 policy, with the actual representation of marginalized communities, including women.
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3. https://www.thedailystar.net/frontpage/news/beggars-rehabilitation-govt-failure-writ-large-1734364 [↑](#footnote-ref-3)
4. <https://www.thedailystar.net/supplements/50-years-our-constitution-original-ideals-vs-reality/news/human-rights-the-constitution-bangladesh-3160256> [↑](#footnote-ref-4)
5. https://www.thedailystar.net/frontpage/news/beggars-rehabilitation-govt-failure-writ-large-1734364 [↑](#footnote-ref-5)
6. <https://dss.sherpur.gov.bd/en/site/page/8UPd-%E0%A7%A8%E0%A7%AA-%E0%A6%AD%E0%A6%BF%E0%A6%95%E0%A7%8D%E0%A6%B7%E0%A7%81%E0%A6%95-%E0%A6%AA%E0%A7%81%E0%A6%A8%E0%A6%B0%E0%A7%8D%E0%A6%AC%E0%A6%BE%E0%A6%B8%E0%A6%A8> [↑](#footnote-ref-6)
7. <https://www.thedailystar.net/news-detail-202904> [↑](#footnote-ref-7)
8. <https://www.thedailystar.net/frontpage/news/beggars-rehabilitation-govt-failure-writ-large-1734364> [↑](#footnote-ref-8)
9. <https://www.hrw.org/reports/2003/bangladesh0803/6.htm> [↑](#footnote-ref-9)
10. <https://www.thedailystar.net/views/opinion/news/the-perils-dhakas-street-vendors-3005961> [↑](#footnote-ref-10)
11. <https://www.police.gov.bd/en/human_rights> [↑](#footnote-ref-11)
12. <https://www.police.gov.bd/en/training> [↑](#footnote-ref-12)
13. <https://erc.undp.org/evaluation/documents/download/9347> [↑](#footnote-ref-13)
14. <https://www.undp.org/bangladesh/projects/human-rights-programme> [↑](#footnote-ref-14)
15. Urban Poverty in Bangladesh: Land, Migration, Basic Services, 2023, Association for Land Reform and Development (ALRD) and Human Development Research Centre (HDRC) [↑](#footnote-ref-15)
16. <http://www.uttaran.net/publications/khashlandsettlement.pdf> [↑](#footnote-ref-16)
17. 8th Five-Year Plan, Bangladesh [↑](#footnote-ref-17)
18. 8th Five-Year Plan, Bangladesh [↑](#footnote-ref-18)
19. <https://ashrayanpmo.gov.bd/site/page/5e75d465-34fa-48a6-b1af-54b983a666d7/-> [↑](#footnote-ref-19)
20. <https://en.prothomalo.com/bangladesh/e4ify8p7on> [↑](#footnote-ref-20)
21. <https://www.tbsnews.net/features/panorama/why-do-landless-people-not-get-khas-land-362494> [↑](#footnote-ref-21)
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 [↑](#footnote-ref-24)
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30. Ibid [↑](#footnote-ref-30)
31. Ibid [↑](#footnote-ref-31)
32. Ibid [↑](#footnote-ref-32)
33. Ibid [↑](#footnote-ref-33)
34. 8th Five-Year Plan, Bangladesh [↑](#footnote-ref-34)
35. Urban Poverty in Bangladesh: Land, Migration, Basic Services, 2023, Association for Land Reform and Development (ALRD) and Human Development Research Centre (HDRC) [↑](#footnote-ref-35)
36. Ibid [↑](#footnote-ref-36)
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38. <https://dss.portal.gov.bd/site/page/0bdd909e-22eb-4185-8af6-bcee9a525616> [↑](#footnote-ref-38)
39. <https://www.thedailystar.net/news-detail-202904> [↑](#footnote-ref-39)