



UN Guiding Principles on Business and Human Rights: A policy brief toward a Bangladesh action plan^{*}

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Land, Law and Conflict in Bangladesh

With globalization and the growth of multinational businesses, the adverse impact of corporate actors on human rights has been the subject of increasing attention. The deaths of over 1,100 Bangladeshi workers making Joe Fresh garments in a horrific factory collapse in 2013 brought these concerns to the forefront (Kim, 2018).

The UNGP BHR is especially relevant in Bangladesh where over 70 percent of the total land area is agricultural. Some 2,096 *bighas* (530 hectares) of farmland and water bodies are lost per day to non-agricultural uses in the decades since 2003, according to a study conducted by Barkat et al. (2014). Small, medium, and large business enterprises are gradually becoming involved in agricultural investments.

Land Law and Land Rights

Most of the cases pending at the courts of Bangladesh involve land disputes either directly or indirectly. However, the country's land system is largely based on the old laws enacted during the British and Pakistan period. The land administration, land management and land dispute settlement system have not developed in Bangladesh in the spirit of land governance and amicable dispute settlement. Land can be owned by an individual, a cooperative, and the State under various legislations in Bangladesh.

^{*} This is an abridged version of the policy paper prepared by Community Development Association (CDA) for the regional initiative "*Defending Land Rights and Human Rights Defenders.*" The document summarizes the major issues and recommendations emanating from the workshops organized by CDA in partnership with the members of the National Engagement Strategy-Bangladesh and National Human Rights Commission of Bangladesh (NHRCB). For more details, contact edcda08@gmail.com.

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Successive governments have passed many land-related laws over the years but these have failed to establish people's land rights. Barkat (2015) analyzed 146 land-related laws that are causing endless sufferings to people, because these are either too complex or contradictory to one another. Some land related laws and ordinances include:

- ❑ The Land Survey Act 1875;
- ❑ The Transfer of Property Act 1882;
- ❑ The Bengal Tenancy Act 1885;
- ❑ The Public Demands Recovery Act 1913;
- ❑ The Survey and Settlement Manual 1935;
- ❑ The Non-agricultural Tenancy Act 1949;
- ❑ The State Acquisition and Tenancy Act 1950;
- ❑ The Land Development Tax Ordinance 1976;
- ❑ The Acquisition and Requisition of Immovable Property Ordinance 1982;
- ❑ The Land Reforms Ordinance 1984;
- ❑ The Land Reform Board Ordinance 1989;
- ❑ The Land Appeal Board Ordinance 1989;
- ❑ The Land Management Manual 1990 (Islam, Moula and Islam, 2015).


Land Administration

Land administration deals with the creation, transfer, and extinguishment of land rights. However, land administration in Bangladesh includes the administration of land revenues, surveys, and certificates. The land administration system is outdated and characterized by inefficiencies and corruption.

Land Governance

Bangladesh is one of the world's most densely populated countries, and recently, competition for land and resources has made it a hotspot for land conflicts.

The country's weak system of land governance, rooted in the British colonial administration, contributes to these conflicts through its inefficiency. Three-quarters of all pending court cases in Bangladesh are related to land, costing an estimated 10 percent of the country's GDP. The conversion and transfer of agricultural land, often through forged documents is a major concern, with one



percent of farming land being lost each year (Land Portal and Uttaran, 2017).

Consequently, the existing land governance system is unable to protect the rights of women and the poor under the current land market dynamics.

Challenges in the land governance of Bangladesh include industrialization, economic growth, and establishment of export processing zones, power plants and infrastructures. Government's unwillingness to fulfil its commitments under international conventions and treaties (i.e., CEDAW, ICESCR, and ICCPR) is also a problem. This is compounded by the lack of coordination among ministries.

Lastly, the shrinking democratic space for CSOs is an additional constraint.

It is imperative to implement the UNGP BHR in the country, with emphasis on agricultural investment, so that business enterprises can be made more accountable in respecting human rights.

Pertinent Business and Land Rights Issues

Very often, people are evicted and even displaced forcefully. Indigenous people are often forced to migrate from their ancestral lands. Land rights defenders are killed and women are raped by land grabbers. For its part, the State neither protects victims nor formulates mechanisms to do so, due to the lack of legislative measures.

Vested groups have grabbed lands of thousands of Hindu families, taking advantage of the Vested Property Act (Barkat, 2015). The reality on the ground is that many poor citizens and ethnic people had been evicted from their land by continuous land grabbing.

Landlessness and lack of access to land are among the major problems in Bangladesh. The government also acquires its owned fallow land (*khas* land) for establishing export processing zones. The number of landless people is increasing due to continuous land acquisition by the government on the pretext of industrialization or so-called "public interest."

UNGP BHR in Bangladesh

Status of UNGP BHR Implementation

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accountable in respecting human rights. Implementation of the UNGP BHR, formulation of the National Action Plan, publication of annual state reports, and multi-sectoral monitoring are imperative. Unfortunately, the Bangladesh government is yet to be

aware of the Guiding Principles and its implementation in the country.

Bangladesh is a signatory to eight out of nine main human rights treaties (except the International Convention for the Protection of All Persons from Enforced Disappearance). The Constitution guarantees fundamental rights. Article 42 of the Constitution also guarantees rights to property for all citizens. Bangladesh has many laws and ordinances related to land but no specific reference to land as human rights and specifically to Business and Human Rights. The National Human Rights Commission Act 2009 under which the National Human Rights Commission (NHRC) performs its functions does not incorporate land rights as human rights. NHRC functions include investigation, monitoring and cooperation with CSOs and national and international agencies for the protection and promotion of human rights. However, section 4 of the NHRC's strategic plan (2016-2020) mentions some issues related to land rights, which include:

- ❑ Full and prompt implementation of the CHT Accord focusing on land rights.
- ❑ Violence against indigenous, ethnic and religious minorities with special focus on land rights of indigenous and other marginalized and excluded communities in plain lands.
- ❑ Rights of the *Char* people and newly acquired territories (former enclave).

Bangladesh is yet to formulate the National Action Plan on UNGP BHR because the policymakers in government are not aware of the issue. Several government bodies and ministries are basically responsible for formulating the National Action Plan along with the plan for implementation. The Land Ministry, Law Ministry, Commerce Ministry, NHRCB, and other ministries and bodies concerned together can formulate the National Action Plan and send it to the cabinet for approval.



However, some civil society organisations have started initiatives recently to promote the UNGP BHR.

- ❑ On 8 July 2018, the first meeting on **“Land Rights as Human Rights: UNGP BHR”** was held at the National Human Rights Commission of Bangladesh (NHRCB) office in Dhaka. National Engagement Strategy (NES) members – CDA, ALRD, ARBAN, Nagorik Uddyag (NU) and Kapaeeng Foundation - in association with NHRCB organized the event. The NHRCB Chairperson acknowledged the issue very positively and expressed the intention of NHRCB to work together with the organizers through partnership.
- ❑ In August to September 2018, the above organizations convened three other consultation workshops with national human rights institutions to promote the UNGP BHR and make an advocacy plan to formulate the National Action Plan. One of the workshops tried to develop a scorecard to assess responsible agricultural investments based on the UN Guiding Principles on Business and Human Rights. These workshops are the first efforts in a broader initiative to engage government policymakers and other stakeholders to formulate the National Action Plan in Bangladesh.

Recommendations to Mainstream UNGP BHR

Mainstreaming of the UNGP BHR in Bangladesh requires the following: (a) recognition of UNGP BHR by NHRC and other government and human rights bodies, (b) formulation of the national action plan/policy, (c) publication of annual state reports, and (d) monitoring of UNGP BHR involving State, private sector, and civil society organizations.

The NHRC should monitor implementation of UNGP BHR in the country, assist the government in formulating the National Action Plan, conduct an advocacy and awareness building campaign with CSOs, and monitor business agreements, laws, and policies relating to business and human rights.

A people-centered land governance is needed immediately to stop land grabbing, as well as land-related violence and harassments. Upholding traditional land use rights is also essential. The government should compel business enterprises to ensure their corporate social responsibility for rehabilitating landowners whose lands are used for industrialization.



CSOs in Bangladesh have also proposed a comprehensive advocacy action plan to promote the UNGP BHR in the country. The plan includes detailed activities in networking, policy advocacy, training, research and awareness building through a strategic communication campaign. The objective is to create greater knowledge and capacity within civil society in order to engage government more effectively and to create widespread awareness and action.

Furthermore, the government and civil society organizations should also work towards the following:

- ❑ generating commitment from political parties;
- ❑ lobbying for recognition of land-human rights;
- ❑ with the NHRCB as lead, identify inactive laws and policy gaps, for amending or enacting new legislations;
- ❑ drafting of policies/laws/legislations as per international and national instruments;
- ❑ formation of a national committee with the representation of NHRCB/ NGOs/NHRIs and other stakeholders;
- ❑ solidarity to protect land rights defenders; and,
- ❑ translation of UNGP BHR and other related documents into the national language (Bangla) and publication of communication materials and books to help stakeholders internalize and popularize the guidelines and land-human rights issues in the country. ■

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