

**Statement of the Conference organised by the
Bangladesh Forum Germany
on**

**Access to and Control over Resources –
Scope to Participate in Democratic Decision Making Processes
for Marginalised Citizens in Bangladesh**

26/27 April 2012 in Berlin

The statement paper is the outcome of the conference. The recommendations were prepared with the contribution of the participants. Based on that this final paper was compiled by civil society actors from Bangladesh and Europe.

Contents

Commercialisation of Agricultural Land and Water Bodies and Disempowerment of Marginalised Groups and Citizens	2
Decreasing Access to Land Resources for Indigenous Communities due to Land Alienation	4
Access to Resources and Decision Making in Climate Change Adaptation Planning and Programs on the Local Level	6
Access to Social Safety Nets for Marginalised Citizens	9
Access to Civic and Political Human Rights for the Marginalized Citizens	11
Appendix to Issue 1	13

ISSUE 1

COMMERCIALISATION OF AGRICULTURAL LAND AND WATER BODIES AND DISEMPOWERMENT OF MARGINALISED GROUPS AND CITIZENS

Background Information

Despite constitutional recognition of the right to property, the private and common lands and natural resources used by poor people in Bangladesh have been increasingly alienated by agencies of the state and powerful political and commercial interest groups in recent times. The resultant alarming levels of loss of access to land, water bodies, forests and other open access resources has increasingly threatened the livelihoods and food security of the poor. The following principles are put forward to ensure protection of the rights of poor people to have access to land and other natural resources in order to enable them to have adequate protection against forcible expropriation of such resources by powerful public and private interests as well as the adverse impacts of counterproductive development interventions.

Principle 1: Protection of small land holdings

Small land holdings should be protected from forcible acquisition by commercial interests or by the state for subsequent allotment to commercial groups. Small land holders are defined to include titled owners, possessors, tenants, etc., with subsistence holdings.

Principle-2: Open Access Resources and Common Property

All state-owned land and water bodies that have been traditionally used as open access resources by concerned communities should be legally converted to the formal category of "common property" and duly protected by the state. These include wetlands, forests, rivers, lakes, *haors*, *beels*, cremation and burial grounds, and other kinds of open access resources. This legal measure should also be enacted in the case of common lands historically utilized on the basis of customary laws, traditions and practices by the indigenous peoples of the Chittagong Hill Tracts, such that their common property rights are henceforth legally guaranteed by the state.

Principle-3: Large-Scale Land Acquisition and Displacement

Any development or other interventions leading to large-scale acquisition of private and open access lands and other natural resources, resulting in involuntary displacement of people, should not be implemented without prior fulfilment of the following requirements:

- Comprehensive and independent Environmental and Social Impact Assessments (EIA & SIA).
- People's participation and consent, based on majority decision-making through democratic procedures of those living in the project impact area. When expropriation is required for a public purpose, it should be consistent with the state's existing obligations under national and international law.
- Adequate prior or prompt compensation in cash and kind of those displaced from lands and livelihoods including implementation of required involuntary resettlement procedures
- Comprehensive and transparent accountability mechanisms including judicial remedies for adversely affected people.

Recommendations to the Government of Bangladesh (Re: Principles 1-3)

- To enact legal and policy changes in line with the principles put forward.
- To establish or restructure existing institutions with the requisite human and material resource as well as legal, administrative and financial powers.
- To ensure effective implementation of these legal and institutional changes.
- To ensure transparency at all stages of the above implementation process.
- To build in adequate accountability mechanisms in the implementation framework and procedures, inclusive of monitoring, evaluation and regular appraisals, the findings of which are to be made available in the public domain.
- To make provision for complaints and appeals by affected people inclusive of due legal redress

Recommendations to International Community (Re: Principles 1-3)

- To provide support for implementation of these principles in development policies and activities, in accordance with the established norms, protocols and conventions, as well as evolving opinion, on the responsibilities of international development agencies, banks and business actors, such as UN agencies, the World Bank, OECD, Asian Development Bank, etc. (see Appendix to issue 1).
- To ensure that no international support is given to activities that are in breach of these principles, particularly such development projects and other interventions that are likely to result in commercialization of private and common lands that are needed by poor communities for their survival.
- To assist the Government of Bangladesh in implementing development projects and other interventions adhering to these principles.
- To provide support to civil society organizations for conducting independent monitoring and evaluation of such projects and interventions, as well as pertinent research and policy analysis.

Recommendations to Bangladeshi and International Civil Society (Re: Principles 1-3)

- To raise awareness among the people as well as concerned authorities about the requirements following from these principles and their implementation procedures.
- To provide assistance to affected groups to have access to concerned legal and administrative mechanisms of remedial action, whenever necessary.
- Perform watchdog functions involving independent monitoring, evaluation and regular appraisals of the implementation of development projects and other interventions in terms of adherence to the specified principles.
- To conduct independent research and policy analysis, including incorporation of the lessons learnt from practice, in order to reiteratively refine the specified principles and their application.
- To assist affected people if the mechanisms of transparency and remedial action specified in this statement prove to be inadequate for ensuring the effective implementation of these principles.

Please also refer to Appendix to issue 1 on page 13

ISSUE 2

DECREASING ACCESS TO LAND RESOURCES FOR INDIGENOUS COMMUNITIES DUE TO LAND ALIENATION

Background Information

For the indigenous peoples (IP) in Bangladesh, their lands, including forested areas, constitute resources indispensable for their physical survival as well as provisioning their distinctive social, cultural and religious needs. However, their lands have become the object of illegal and forcible takeover by individuals and agencies from outside the region.

In the Chittagong Hill Tract (CHT), land grabbing constitutes the key driving force of the ethnic conflict between the IP and Bengali interest groups. The CHT Accord of 1997 provides solutions to land conflicts and restitution of land rights of the IP. Unfortunately, the main clauses of the accord have not yet been implemented. Many of the clauses of the Land Dispute Resolution Act 2001, regulating decision making of the CHT Land Commission, are in contradiction with the CHT Accord.

New types of land grabbing have also proliferated even during the tenure of the political party in power that had signed the CHT Accord in 1997. The loss of land rights of the IP is integrally related to the power relations and political contentions characterizing the CHT, subsuming both ethnic and class conflicts. Among these, land grabbing in the CHT by commercial agencies and powerholders increased during the post-Accord period. It includes grabbing of land of the IPs as well as of poor Bengali settlers.

A remarkable aspect of the struggle of the IP in Bangladesh has been the undertaking of research and policy analysis by their leaders and activists, based on their own resources and in pursuit of agenda defined by themselves. This research capacity bears strong future potential.

Recommendations to the Government of Bangladesh

- Immediate and effective implementation of the CHT Accord of 1997
- Rectification/amendment of the Land Dispute Resolution Commission Act 2001 in accordance with the recommendations put forward by the CHT Regional Council and subsequent reformulation of rules of the Land Commission.
- Withdrawal of all restrictions regarding movement of the international CHT Commission in the CHT.
- Withdrawal of the circular letters that violate IP and citizens' right to freedom of expression in the CHT; allow the IP to express themselves freely without interference and intimidation by the state organs and other agencies.

Recommendations to the International Community

- Continue support to ensure immediate and effective implementation of the CHT Accord of 1997.
- Providing funding support for continuous monitoring of IP land rights in Bangladesh; a leading role shall be taken by IP civil society actors with advice from experts in research methodology. This monitoring will incorporate collection, storage and analysis of disaggregated data according to actors involved in land grabbing (e.g. state and non-state, national and international, private and corporate actors)

- Develop a mechanism for continuous consultation with IP civil society on CHT Accord implementation.
- Pursue with GOB the issue of free movement of foreigners in CHT and communication between IP and foreigners as well as international CHT Commission.

Recommendations to International Civil Society

- Support the development of specific capacities of civil society of IP in the CHT, in a more coordinated manner and with more emphasis that would enable them to address and utilize regulations protecting IP interests and influence policy making of multilateral and bilateral donors, GoB and international civil society.
- Support the coordination and networking among IP civil society actors at nationwide level (plain land and hills) and with national civil society working on IP communities' access to and control over as well as promotion and protection of their land and related natural resources (e.g. Forest Act and Forest Policy, Wildlife Act, tourism development, commercial interests, interests of security forces, etc.).

Recommendations to Civil Society in Bangladesh

- Support IP civil society in the CHT in its initiative to provide capacity building and orientation to the members of the Land Commission as well as to increase the abilities of affected IP land holders to regain rights to their alienated land.
- Discuss the outcomes and learnings of this conference among different civil society networks in Bangladesh, including IP civil society, and act upon them.

ISSUE 3

ACCESS TO RESOURCES AND DECISION MAKING IN CLIMATE CHANGE ADAPTATION PLANNING AND PROGRAMS ON THE LOCAL LEVEL

Background Information

Bangladesh is widely recognized to be one of the most vulnerable countries to climate change. It is very affected by catastrophic ravages of natural disasters, which are most likely to be aggravated and more frequent through the effects of climate change.

The Government of Bangladesh recognizes the vulnerability of the country, its people and overall development, to the adverse effects of global warming and climate change and included the issue in the country's overall development and policy planning. Bangladesh, among the LDCs, is also well advanced in the developing relevant national policies with an overarching goal to make country's development climate resilient (adaptation) and undertaking of clean development path (mitigation). Beside preparation of the NAPA in 2005, Bangladesh is the very first country that produced the Bangladesh Climate Change Strategy and Action Plan (BCCSAP) in 2009. Given the urgency of the implementation of the strategies, the Government of Bangladesh established two dedicated funds e.g. the Bangladesh Climate Change Trust Fund (BCCTF) based on revenue from the national budget, within a legal mandate by the Climate Change Trust Act passed in Parliament in 2010, and Bangladesh Climate Change Resilient Fund (BCCRF - formerly known as the Multi Donor Trust Fund, or MDTF) to pool funds from the country's development partners.

Despite having a pro-active national political commitment on climate change and strong CSOs position on climate justice along with demand for prioritized resource allocation to the climate vulnerable communities, access of the climate risk exposed communities to the policy processes and resources is quite negligible. Therefore, the Group emphasizes bottom-up and site-specific climate change adaptation plans and actions through a decentralized planning process putting the local government agencies (Union Parishad) and communities in the decision making role. Also urges to the national government to ensure transparent, fair and accountable utilization of climate funds so that it benefits the people who are already exposed and becoming increasingly vulnerable to the impacts of climate change. The Group calls for speeding-up of national and international actions with adequate resources to protect human security of the vulnerable groups.

Crucial Issues

- a) People are already experiencing impact of climate change. Chronic poverty and historical unmet humanitarian need have exacerbated the impact of climate change making it acute in nature today. The condition has exceeded people's current capacity to cope. Current national and international climate actions do not match with the urgency of the situation. CSO initiative is mostly around campaign for climate justice mainly in the context of global negotiation process.

The level of support for adaptation and mitigation action in Bangladesh is considerably inadequate. The Government of Bangladesh has been supporting implementation of several projects by its own finance but these are mostly related to infrastructure development. Community based adaptation activities seems not to be a

- prior one. Development partners should support community based adaptation action on priority basis.
- b) Responding to climate change does require long-term localized planning linked and supported with national strategies and resources. Presently the country doesn't have such planning/ strategies. BCCSAP is clearly a 'knowledge strategy', which needs to be transformed into an implementation strategy by the respective ministries and departments. While it identified six thematic areas, it did not prioritize action on the ground within the context of vulnerability, which is critical for allocating resources to deal with immediate and urgent needs.
- c) **Effective utilization of climate fund:** The funds , the BCCTF, meanwhile, is an exemplary initiative that authorized the use of national revenue to finance climate action, despite other urgent national priorities like poverty reduction. However, this makes it all the more important that public funds are used effectively, and prioritize the need of the most vulnerable areas and communities. Given the fact that most of the members of the Trust are Ministers, it is also imperative that the decisions of the Board of Trustees are not influenced by partisan politics and political interests.
- d) **Research and planning capacity of the local NGOs:** An integral part of the challenge of decentralized and local level planning is the capacity gap of the local stakeholders and community people. Development as well as implementation of plans and strategies on climate change would require local level research on the impacts of climate change in different geographical context and then mainstream this to the NGOs/ CSOs policy and programme planning.
- e) **Action on inequality in climate change context:** Climate policy and actions can only ensure justice if they are built on historical inequality in the society. These must ensure that people living in inequality in the form of sex, physical ability, caste, generation and ethnicity have equitable access to information, technology and resources to adapt with climate change. These groups of people currently not only affected more but also have least access to these resources required for adaptation. Specific measures must also be taken to build ability of these groups to influence local and national climate actions for including their concerns. Currently, these groups of people have least influence over local and national planning of climate change and disaster management.
- f) **Protecting people's access to and control over natural resources:** Access and control over natural resources has been the major safeguard for people to cope with the impact of natural disasters in the past. These resources are not only affected in terms of nature (through changes in bio-physical environment such as salinity or loss in bio-diversity) but also volume in terms of poor people's access through the process of commercialisation and privatisation. Retaining vulnerable people's access to and control over these resources must be adopted as key priority in the national climate change actions.

Recommendations to the Government of Bangladesh

- Development of Union level planning on climate change strategies with representatives of vulnerable communities, NGOs/CSOs and other stakeholders.
- Adopting an inequality based programming framework which should i) enhance adaptive capacity of the people living in inequalities to protect their life and livelihood; ii) build capacity of vulnerable people to understand implication of climate change in

their life and to access resources for adaptation and iii) building capacity to influence climate change policy and actions supported by improved capacity of the local government.

- Capacity building of planning units of the Ministries in order to mainstream climate resilient policies and programme in the ministerial/ sectoral plans and programs
- Protect vulnerable people's access to and control over these resources as one of the key priorities in the national climate change adaptation and mitigation actions.
- Establish 'local watchdog bodies' to monitor program implementation and evaluation.

Recommendations to the International Community

- Strengthen coordinating committees (LCG-Local Consultative Group) to monitor implementation of CC related projects and programs.
- Speeding-up of international actions with adequate resources to protect adaptation actions in local level with increased new and additional financial resources,
- Insist on accountability mechanisms according to international accepted accounting standards to ensure fair, transparent and accountable utilization of climate funds .

Recommendations to Bangladeshi and International Civil Society

- Exercise bottom-up development as well as climate resilience planning to ensure that community people get involved in the strategy development, assessment and response to climate change impacts.
- Strengthen and enable local elected bodies to monitor implementation of climate change activities.
- Networking of the local NGOs/ CSOs and policy advocacy for pro-people policies and programme appropriate to the local context.
- Establish a coordinating body to coordinate work of NGOs, research institutes and GoB with regard to climate change focusing adaptation.

ISSUE 4

ACCESS TO SOCIAL SAFETY NETS FOR MARGINALISED CITIZENS

Background Information

As Bangladesh pursues a policy of inclusive growth, and moves steadily towards the aim of becoming a middle-income country, it is essential to put in place special measures to address the risk and vulnerability faced by those living in poverty.

Social safety nets are part of a broader raft of social protection measures concerned not only with risk management but also with the reduction of chronic poverty. They should be based on a dynamic understanding of vulnerability. They need to take account of intersectional forms of discrimination and vulnerability and how individual women, men and children may move in and out of poverty or insecurity, for different reason, individual or structural, routine or unpredictable, ranging from accidents, illness, temporary unemployment to price hikes, floods and cyclones. Moreover, social safety net measures need to accommodate, amongst others, access to education for children that are out of school, unitization of free-asset community resources (such as forest products, fisheries), and support for poor that are forced into distress sale of productive assets such as land, which adversely affect future earning potentials and aggravates the prospect of intergenerational transmission of poverty.

Analysis of the nature of “different types of risks is a first step in designing more effective safety nets (and safety ropes)”.¹ This also requires responsiveness to the needs of socially excluded groups among the poor, as well as those who are more vulnerable, such as the elderly, who no longer benefit from non-formal protections due to increasing migration, and breaking up of households. Globalisation as it contributes to increased insecurity, including through limiting Government’s ability to support social protection measures.

The existing safety net programmes in Bangladesh provide limited coverage, and hence cannot cope with the magnitude of extreme poverty that exists in the country. Socially excluded sections of the population remain outside the reach of certain services despite of being eligible. Inappropriate targeting and leakage still remain major problems and are often linked to corruption and political opportunism.

While safety nets alone are not a sufficient solution to poverty and risk, they contribute to the government’s obligation not only to protect but also to promote livelihoods.

In 2011, the Government of Bangladesh adopted a welcome initiative to formulating a Social Protection Policy Framework. This provides an appropriate juncture to consider framing legal provisions to entrench rights to social security, drawing on comparative examples from the region and beyond, to ensure an inclusive and non-discriminatory approach to address the needs of the most vulnerable women and men, and the socially excluded.

Recommendations to the Government of Bangladesh

- In the ongoing process of formulating a Social Protection Policy Framework, focus on guidelines for resource allocation each year in terms of percentage of GDP and public and private expenditures

¹Naila Kabeer, ‘Safety Nets and Opportunity Leaders: Addressing Vulnerability and Enhancing Productivity in South Asia’, Development Policy Review, Vol. 20, No. 5, November 2002, p. 593-595.

- Ensure public discussion and debate on the Social Protection Policy Framework, and include civil society and affected communities in the process
- Include a complaint / recourse / redress mechanism in the Social Protection Policy Framework that enables people eligible for social safety net measures to claim their entitlements
- Review key aspects of the current social safety net programmes (e.g. coverage, including addressing intersectional discrimination, graduation issues, governance, targeting, monitoring and evaluation measures) and revisit social protection portfolio through a coordinating body
- Establish a coordination mechanism on social protection including both state and non-state actors

Recommendations to the International Community

- Support a rights-based approach on social protection and foster concrete mechanisms for its implementation
- Support the Government of Bangladesh in the framework of bi- and multilateral cooperation and the civil society in implementing this process through the contribution of financial resources and building of capacities / institutions to ensure the right to social security
- Facilitate a transnational exchange of experiences highlighting successful models of inclusive and effective social protection programmes from other countries (e.g. Brazil)
- Support innovations on social protection including the integrated nutrition dimension
- Support research on the creation of evidence concerning the appropriateness of and non-discriminatory access to social safety net programs in Bangladesh, and track progress made

Recommendations to the Bangladeshi and International Civil Society

- Create a national civil society platform on demanding and enforcing the right to social protection and strengthen existing voices
- Sharing of experiences and knowledge among civil society actors and with related agencies who focus on social protection in Bangladesh
- Empower women and men to claim their entitlements in social safety net programmes, and enable them to demand accountability and seek redress

Issue 5

ACCESS TO CIVIC AND POLITICAL HUMAN RIGHTS FOR THE MARGINALIZED PEOPLE

Background Information

Despite credible indications such as an increase in the rating of the Human Development Index, the Multidimensional Poverty Indicator and the Gender Equity Index by the Bangladesh government, there cannot be any doubt that Bangladesh society has become more unequal. According to some sources about sixty million people have no food security while 30 million people still live in extreme poverty. This disparity actually affects the marginalized groups in Bangladesh even more severely. The marginalized position of these particular groups of people prevents them from getting fair access to civic and political human rights also. Marginalization may come from poverty, social, ethnic, religious backgrounds and gender as well. Denial of civic rights and violations of human rights not only have particular negative impact on the marginalized groups but also on the society as a whole. To combat the violations of civic and human rights, enhancement of consciousness about rights at every level is essential. No doubt the government has the primary responsibility to promote and protect these rights, the concerned groups of people also have responsibility to see that knowledge and respect for these rights are growing in the society.

Recommendations to the Bangladesh Government

- Recognizing the marginalized groups in Bangladesh, the government should ensure equal access of marginalized groups to civil and political rights as enshrined in the constitution of Bangladesh, if necessary by taking affirmative action.
- Ensure security of the marginalized groups in pre and post election period.
- Implement government legal aid programme effectively making sure that the marginalized people have knowledge and easy access to it.
- Further strengthen National Human Right Commission and make sure that marginalized people have access to it.
- Ensure security of human rights defenders and journalists.
- Take appropriate measure to ensure necessary security of the witnesses and all involved including lawyers and judges in the international war crimes tribunal.
- Ensure independence of judiciary in particular the impartial appointment of judges.
- Police reformation should be completed according to the recommendation of the police reform project.
- Law enforcing agencies including RAB should be held accountable in accordance with the laws of Bangladesh and international commitment taken by the government. Furthermore, the government should ensure prosecution of those who are responsible for any excess including extra judicial killing and enforced disappearances; government should also discourage people from taking laws in their hands like issuing and executing fatwa. To prevent misuse of law, ensure constitutional guarantee for fair trial for everyone.

Recommendations to the International Community

- Development partners should constructively engage with the Bangladesh government to carry forward progressive policies (including women development policies, rights of marginalized groups etc.).
- Development partners of Bangladesh should not support fundamentalists or any undemocratic force who ideologically do not believe in equal rights and dignity for all.

- Governments of the European Community should fully abide by their own guidelines for the protection of the human rights defenders.
- Development partners should enhance the capacity of the National Human Rights Commission, particularly in the area of research, investigation.
- Development partners should support monitoring of the forthcoming elections in Bangladesh to prevent pre and post election violence which historically has affected the lives of the marginalized people negatively.

Recommendations to the National and International Civil Society

- Civil society should engage in building awareness among the people, the government agencies as well as themselves about civic and political rights of the people including the marginalized groups.
- Civil society should ensure the participation from marginalized people within their own organization and also ensure the representation of the interest of the marginalized people in the public sphere
- Civil society should engage in advocacy for wider dissemination of information regarding the role of National Human Rights Commission (NHRC); Civil society should also engage with NHRC for facilitation and promotion of human rights.
- International development partners and civil society should extend support for further capacity building of NHRC
- International and national civil society should work together to create demand to the government to ensure the security of the human rights defenders and journalists.
- Civil society of Bangladesh should aware themselves of the international mechanisms to be able to demand remedies in case of human rights violations for which local remedies are not available. Network building with international partner is essential to effectively make use of these mechanisms.
- International civil society should make sure that international actors (companies, trade organizations, state organs) do not undertake any project/programme that may have detrimental effect on the civic and political rights of the people of Bangladesh.
- Civil society should cooperate with National Human Rights Commission of Bangladesh for investigation of human rights violations
- Civil society should monitor that enabling situation is in place for marginalized people to participate in the political process including election.

APPENDIX-TO ISSUE 1

I. GUIDELINES ON DEVELOPMENT ACTIVITIES

FAO Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forests, endorsed by the Committee on World Food Security (CFS) on 11 May 2012.
http://www.fao.org/fileadmin/user_upload/nr/land_tenure/pdf/VG_Final_May_2012.pdf

World Bank's Operational Policy 4.12 on Involuntary Resettlement (revised in Feb. 2011).

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,menuPK:64701763~pagePK:64719906~piPK:64710996~theSitePK:502184,00.html>

Asian Development Bank Operations Manual

Incorporation of Social Dimensions into ADB Operations (C3)
Policy on Governance (C4).

<http://www.adb.org/documents/operations-manual>

International Finance Corporation's Performance Standards and Guidance Notes (2012 Edition)

Performance Standard 5: Land Acquisition and Involuntary Resettlement

Performance Standard 7: Indigenous Peoples

http://www1.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/sustainability+framework/sustainability+framework+-+2012/performance+standards+and+guidance+notes+2012/performance+standards+-+2012

II. PRINCIPLES FOR BUSINESS ACTORS

UN Global Compact

<http://www.unglobalcompact.org/aboutthegc/thetenprinciples/index.html>;

Guiding Principles on Business and Human Rights (the Ruggie Principles) as endorsed by the Human Rights Council in July 2011

<http://www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf>

OECD Guidelines for Multinational Enterprises

http://www.oecd.org/document/28/0,3746,en_2649_34889_2397532_1_1_1_1,00.html

III. INTERNATIONAL HUMAN RIGHTS LAW

Article 17 of the ICCPR (International Covenant on Civil and Political Rights), ratified by 167 states, including Bangladesh.

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.