



The State of UNGPs in Asia: Measuring the Progress, Assessing Hurdles and Identifying Opportunities

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Online Regional Workshop on Mainstreaming Land Rights in the UNGPs in
Asia

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Background

- Globally, the Private Sector, Business Companies are playing a significant role in expanding Countries economic activities through investment, production, distribution, and employment generation.
- Land is a fundamental natural resource for living, an economic asset for production, legal entity with multiple rights over it and all societal factor for self actualization.
- Business may impact on Human Rights. Their activity may affect on right to housing, right to acquiring and enjoying land rights, property rights, socio cultural rights as well as peoples' livelihood.
- Duty of a state is to implement the International and National Human Rights Obligations as well as UNGPs .





Constitutional Provisions

- **Rights related to property:** Every citizen shall, subject to law, have the right to acquire, own, sell, dispose of, acquire business profits from, and otherwise deal with, **art 25(1)**
- **Right to Housing:**(1)Every citizen shall have the right to an appropriate housing.(2) No citizen shall be evicted from the residence owned by him or her nor shall his or her residence be infringed except in accordance with law. **art 37(1) &(2)**





Constitutional Provisions

- ***Right to Constitutional Remedies:*** There shall be a right to obtain constitutional remedies in the manner set forth in Article 133 or 144 for the enforcement of the rights conferred by this Part, **(art 46)**
- ***State Policies relating to Agriculture and Land Reforms:*** scientific land reforms, ending the dual ownership existing in the land, land management and commercialization, industrialization, diversification and modernization of agriculture by pursuing land-use policies to enhance agriculture product and productivity etc. **(art 51)**





Legal Provisions

Land Acquisition Act, 1977

Power of Government of Nepal to Acquire Lands for Public Purpose:
Government of Nepal may, if it so deems necessary, acquire any land at any place for any public purpose, subject to compensation under this Act.

sec. 3

Power to Acquire Land for Institution, **sec.4**

Preliminary action relating to Acquire Land, **sec.6,**

Particulars to be Given in Notices Relating to Land Acquisition, **sec.10**

Compensation for Losses, **sec. 7**

Notification of Land Acquisition, **sec. 9**

Right of Land owner to File complain **sec.11,etc**





National Plan of action on Human Rights, NHRAP

NHRAP, 2020-2025 :

- Incorporated business and human rights issues. Government is committed to implement UNGPs by formulating a separate **National Action Plan on BHR**.
- NHRC has got the mandate to monitor the implementation of National Plan of action on Human Rights .





Monitoring Mechanism on 5th NHRAP

- **Office of the Prime Minister and Council of Ministers**
- **Federal Parliament, House of Representative, Law, Justice and Human Rights Committee**
- **National Human Rights Commission**
- **Other Constitutional Commissions and bodies**
- **Attorney General**
- **Local Governments, Municipal as well as Village Committees and Civil Societies**





Activities of Commission

- Capacity Building Programs
- Receiving Complaints and Monitoring on Project based Work, Road Expansion
- Press Statement/Press notes
- Publication and Dissemination, ILO convention, 169 implementation status Report, Study on peasant rights and reviewed its law
- Mediation on cases
- Land & Housing Rights related- Recommendations





Commission's Intervention

- **Mediation on Khimti Dhalkebar 220 kv Power Transmission line victims whose fundamental rights were enshrined under the constitution as well ILO con.no.169 and the mediation was succeeded for the smooth development function, to provide compensation to the people who have lost their lands, and the religious temples and the schools of the indigenous community have been protected.**
- **The victims of Fast Track Terai Road expansion draw attention to commission to ensure their land and property rights as well as cultural rights. Besides this, commission has been monitoring on it .**
- **Made recommendation and directions to government on Sugarcane farmers who are deprived of receiving the payments by the owner of industries through press release.**
- **Made recommendation to apply International and National Obligation while evicting people during road expansion and for other purpose.**
- **Made Recommendation to review law related to land, wild life and national park.**





Obstacles in Practice

- **Project based Development and its impact on enjoyment of land rights.**
- **Limit and low compensation has impacted on Livelihood and enjoyment of land rights of people.**
- **Complicated legal procedures and overlapping laws/ policies**
- **Engagement of Business companies in building Housings and Apartments has impacted on acquiring property and land rights of people .**
- **Conflict on development and right to property**





Way forward

- Right based Approach in Development and Business Activity
- UNGPs should be widely disseminated by the Government and Private Sector.
- NHRI and CSOs need to be active in promoting better understanding of UNGPs, BHR issues.
- Collaboration, Coordination and Extensive Dialogue with Private Sectors, Business companies, Civil Societies and State Authorities
- State Authorities should lead the process of developing the NAP to implement UNGPs by collaborating with Business Entities and concern stakeholders.
- Capacity Building programs to duty bearers and rights holders.





!! Thank you !!

