



Revision of the UK National Action Plan on Business and Human Rights

Landesa Comments

The U.K. Government's revision to the National Action Plan (NAP) offers an opportunity to ensure that investors are appropriately encouraged and supported to address human rights issues in their operations. The first version of the NAP identified a number of priority areas for consideration. Importantly, the earlier draft flagged land as a critical area for companies to consider when investing and pointed to the FAO's Voluntary Guidelines on the Responsible Governance of Tenure, Forests, and Fisheries (VGGT) as key guidance. The update of this NAP holds potential for continuing to build on international attention and processes to develop guidance for corporate and government actors' land activities. The comments below provide suggestions for improving the U.K. NAP to create guidance and actionable commitments to ensure that investors protect and respect land rights in their operations abroad.

Landesa works to secure land rights for the world's poorest people. Landesa partners with developing country governments to design and implement laws, policies, and programs concerning land that further economic growth and promote social justice. Large-scale investments in land can have a significant impact on the security of land rights for women and men living in investments areas. This is because such investments occur primarily in low-income and middle-income countries, often in settings where land rights are weak, unclear, and poorly governed. The risks to women are especially pronounced: experience has shown that changes in the allocation and administration of land can disproportionately harm women in terms of access and rights to land.

Our ongoing work with host country governments to develop and implement legal and policy frameworks that support the rights of their citizens, as well as our growing experience with private sector clients to address land rights issues within their supply chains, confirms a need for strong and continued international support to strengthen land rights protections for the world's poor. The prominent role of the private sector in undertaking investments that impact the land rights of poor women and men makes the U.K. NAP an especially important opportunity. It will enable the UK Government to advocate for and implement socially responsible and financially sustainable practices that will protect the rights of those living on and using land in target countries. We urge the U.K. Government to include in its revised NAP the issue of land rights, particularly investment in large-scale land-based projects. Highlighting land issues within the NAP will promote heightened awareness among investors of the particular risks that arise in projects involving changes in rights to use and access land.



Land Rights in the International Human Rights Discourse

Though land rights are not explicitly protected by most international legal instruments, they are closely linked to a number of human rights that are expressly protected. More importantly, land rights are instrumental (and in many cases a necessary precondition) for the achievement of development and humanitarian goals, including poverty reduction. Particularly for the world's rural poor, access to land and security of tenure are essential to ensure the enjoyment of the right to food, as well as the right to work (for landless peasants) and the right to housing. Land rights are thus directly related to the right to adequate food, as recognized under article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights. In many places, land rights are also linked to and help to create the rights holder's economic, cultural, and national identity.

Land rights are fundamentally important to the realization of a number of social and economic rights, and should be a core consideration in any corporate due diligence process to assess the human rights risks and responsibilities attendant to a prospective investment. A number of efforts by multi-lateral agencies, donors, non-governmental organizations, and the private sector are underway to develop standards, principles, and guidelines that aim both to broadly improve tenure governance and respect for land rights within the context of land-related investments. These internationally accepted instruments provide much-needed higher level principles that describe an ideal "end-state" of socially responsible land-related investments that respect and protect the rights of rural land users, both women and men. But ensuring that these standards and principles are effectively implemented requires specific and practical guidance that is largely missing in many of these instruments. The revised NAP should build on these ongoing efforts to highlight the importance of corporate respect for land rights, and develop actionable, clear guidance for government and private sector actors.

Protecting Women's Social and Economic Rights

Women are often disproportionately affected by changes in land tenure and land use, but can be overlooked in efforts to assess and mitigate these impacts. Expressly addressing women's particular vulnerabilities and opportunities related to land and resources can help to ensure that transactions in and use of land and raw materials actually benefit women and their communities. Plus, because women's use of land usually brings direct benefit to the household, improvements to women's access and secure rights to land yield proportional and direct benefits to all household members. The NAP should affirm women's rights to land and natural resources, and their rights to consultation, participation in decision-making, and to equitably share in the benefits of decisions that impact their rights to land and natural resources.



Government duty to protect human rights

Legally, the responsibility of registering land claims and maintaining good land administration usually lies with governmental authorities. In practice, national institutions often lack the financial and human resource capacity required to fulfill these duties, while local judiciaries are not able to effectively mediate or settle competing claims when disputes arise. Companies seeking to acquire long-term use or ownership rights over land often do so with disproportionate leverage, and the resulting agreements often overlook the rights of local land users and owners. The communities that occupy and use the land are often left out of these negotiations, and as a result their rights to land can be ignored or violated, leading to conflict between the communities and investors.

Even where the domestic legal and regulatory framework is inadequate or is incompletely applied, companies must operate to the highest international standards and uphold human rights obligations. The NAP should be used to support stronger monitoring and regulation of investment in land to ensure that U.K. companies respect human rights at home and abroad. The Government could impose requirements for increased monitoring, reporting, and transparency, to all investments by U.K.-domiciled businesses whose operations or supply chains touch on land or that otherwise may encounter land tenure risks.

Importantly, several U.K.-domiciled businesses and their subsidiaries have already identified respect for land rights as a priority area in need of improvement throughout their supply chains, as evidenced by their recent implementation of land rights policies. Given this, by including land rights protections in the U.K. NAP, the U.K. Government will simply reaffirm and build upon a preexisting and evolving industry standard. This is important because such government regulation is needed to ensure that there is a minimum standard for companies' land rights policies around critical issues such as requiring the application of a gender lens, which many existing land rights policies have yet to integrate. In addition, government regulation will help ensure that such policies are achieving measurable impacts on the ground through transparent monitoring and reporting, which often times is also lacking. Despite these shortcomings, the development of land rights policies by companies are an unprecedented step in the right direction. But their full potential will only be realized if backed with political will and support.

The revision and review process for developing the National Action Plan for implementing the UN Guiding Principles on Business and Human Rights is a positive and important step for implementing the UNGP. The Government should ensure that the resulting plan reflects the importance of land rights to foreign investment and operations of U.K. businesses.

Thank you for your consideration.