LAW REFORM

LAW REFORM AND OUR FARMERS
Narratives of Bangladesh's unsung heroes

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In the countryside of Bangladesh, green paddy fields stretch for miles, nurtured by *Naya Krishi* farmers of Tangail. Defying modern farming, these farmers continue traditional practices by cultivating seeds passed down from their ancestors. As one *Naya Krishi* farmer proudly noted, "These seeds are the gifts of our ancestors. We know and trust one another". It is a heartfelt reminder of their commitment to continue seed autonomy.

Seed saving and exchanging, known as traditional farming, is key to farmers' right to seeds in developing countries, recognised in national and international legal frameworks. Unfortunately, in Bangladesh, the legal framework does little to acknowledge or protect these essential rights of farmers' right to seeds.

To understand the denial of farmers' right to seeds, a brief historiographical analysis is in order. Over half a century ago. It introduced high-yielding seeds, hybrids and irrigation systems developed by research institutes and seed companies, in a bid to revolutionise agriculture. A wave of modern seeds, along with pesticides, had been marketed as a 'golden key' solution to the food security challenges faced by countries like Bangladesh in the 1960s. Following the lead of India and Pakistan, as a war-torn economy, Bangladesh quickly adopted the Green Revolution in their Constitution in the wake of its independence in 1971. Article 16 of the Constitution calls for the transformation of rural life through an agricultural revolution, aiming to reduce disparities between urban and rural living standards. Although food security improved, the technological advancements have widened the schism between the rich and the poor instead of reducing the disparity as promised.

After six years of the Green Revolution's recognition in the Constitution, the introduction of the Seed Ordinance in 1977 marked a significant turning point in seed policy. It was the first seed law designed to ensure that farmers had access to high-yielding varieties, though this often came with an increasing dependence on chemical inputs. My doctoral research found that between 1977 and 2018, seed laws and policies classified farmers as seed consumers, indirectly restricted their access to their own seeds, and compelled them to purchase seeds from seed markets.

As Will Rogers once said, "the farmer has to be an optimist, or he would not still be a farmer". But to keep the optimism alive, we have to interrogate the denial of their rights. It is time for us to advocate for law reform by adopting article 19 of the UNDROP in our Plant Variety System that supports them, ensuring that their heritage of high-quality seeds continues to flourish.

The government of Bangladesh clearly appears rather reticent when it comes to solving the challenges faced by small farmers willing to control their seeds. Instead of prioritising the needs of small-scale farmers, there is a noticeable trend towards favouring large seed companies that push hybrid crops, revealing a clear tilt towards corporate interests. Scepticism about supporting small farmers is part of a larger global context, in which technological advancement and the rise of intellectual property rights are reshaping the agricultural landscape for developing countries. Academic works revealed that major corporations and seed companies form powerful stakeholders who deploy legal tools such as Intellectual Property Rights laws to gain control over seeds. Therefore, IPR laws such as Trade Related Aspects of Intellectual Property Rights (TRIPS) and International Union for the Protection of New Varieties of Plants (UPOV) have gained prominence and developing country governments face growing pressure to provide stronger IPR protections for seed innovations by corporate breeders. This often comes at the expense of traditional farming practices.

On the flip side, this scenario of farmers' significant departure from their seeds and traditional practices has sparked worries among farmers' rights groups. Their concerns have fuelled the emergence of important international agreements, including the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) in 2001 and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) in 2019. However, scholars found that farmers' rights under article 9 of the ITPGRFA are less comprehensive and offer weak protections. This gives developing countries like Bangladesh flexibility to sideline farmers' interests. Not surprisingly, Bangladesh, as a member of ITPGRFA, used this flexibility, compromising farmers' broader interests and developing its Plant Varieties Protection (PVP) Act 2019.

Surprisingly, the country's farmers' rights advocates were largely unaware of the Act's drafting process, which came as a shock to many. In a 2023 interview, as part of my PhD project, Farida Akter, founder of Naya Krishi Farming Movement and advisor to the Bangladesh government, rightly revealed, 'We do not know how and when the law was passed.' Her words echo the legislation, as the PVP Act 2019 exposes a significant disconnect: it provides stronger protections to plant and corporate breeders while leaving farmers vulnerable. The strong language, such as 'shall' for plant breeders' rights, contrasts with the weaker wording like 'may' for farmers' rights, clearly showing the Act's biased stance towards seed companies, corporations, and plant breeders.

Additionally, the Act fails to include provisions to protect farmers from losses when using hybrids and genetically modified seeds developed by seed companies, restricts their ability to sell farm-saved seeds within commercial arrangements, and lacks a realistic approach to registering farmers' varieties. However, article 23 of the PVP Act 2019 grants farmers the right to continue traditional farming, farmers' right to save, sell, exchange seeds on a limited scale, participate in decision-making, share benefits if corporate breeders use plant genetic resources developed by farmers, but it does not specify how these provisions will be implemented. The implementation of the PVP Act 2019 may further intensify the challenges faced by these farmers. That is why pursuing legal reform matters so deeply. Notably, embarking on the path to legal reform calls for a fresh look at another international framework.

Pertinently, in order to amplify small farmers' voices globally, the UN adopted the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) in 2018. This milestone document recognised farmers' right to seed as a human right for the first time. Bangladesh voted in favour of UNDROP but did not actively participate in the global debate or share its stories regarding farmers' rights to seed. Article 19, the right seed provision of UNDROP, covers a wide range of farmers' rights, which align with my research participants' perceptions and experiences, including rural farmers and other stakeholders in Bangladesh. Article 19 enshrines farmers' rights to save, exchange, and sell their farm-saved seeds, encourages countries to support community-based seed systems, and ensures small farmers' interests are prioritised over seed laws, IPR, and other contracts.

Incorporating article 19 on farmers' rights into the Plant Variety System can inspire hope among rural farmers in Bangladesh. To achieve this reform, it is crucial to revise the PVP Act 2019 and create a system that safeguards farmers' rights while promoting community-based seed saving and exchange. Throughout the revision and drafting process, it is vital to include voices from small farmers, farmers' rights advocates, environmentalists, alongside agricultural scientists, government officials, to ensure an engaging and inclusive approach.

Farmers from various regions of Bangladesh who participated in my research voiced concerns that have been ignored since the country's independence. As Will Rogers once said, "The farmer has to be an optimist, or he would not still be a farmer". But to keep the optimism alive, we have to interrogate the denial of their rights. It is time for us to advocate for law reform by adopting article 19 of the UNDROP in our Plant Variety System that supports them, ensuring that their heritage of high-quality seeds continues to flourish.

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LAW LETTER

Labour Law (Amendment) Ordinance and Due Diligence

The Labour Ordinance has brought many changes that align on paper with international standards. In practice, these changes must be strictly put in play for us to reap the benefits.

The notion of human rights due diligence (HRDD) is a structured method, which state and nonstate actors have to apply to identify, prevent, mitigate, and account for adverse human rights impacts arising from their actions. Needless to say, an important aspect of HRDD is labour rights.

The United Nations Guiding Principles on Business and Human Rights (UNGPs), which were unanimously adopted by the UN Human Rights Council in 2011, has been the starting point of this recognising this obligation. In this age where private entities have immense influence, the UNGPs recognise the important responsibility that nonstate entities have in protecting human rights. The OECD Human Rights Due Diligence Guidance further operationalises these principles by providing extensive, industry-neutral guidance to help business entities implement HRDD in their business operations.

As a growing practice, several jurisdictions have made HRDD a legally binding obligation. For instance, the Duty of Vigilance Law, 2017 of France and the Supply Chain Act, 2023 of Germany, impose mandatory HRDD obligations. Bangladesh, too, has an important role to play here as it is a major manufacturing hub, especially in the RMG sector. The Labour (Amendment) Ordinance 2025 (the "Ordinance") addresses many of the gaps that existed in our legal framework and aligns domestic law more closely with international HRDD standards. While the amendment is primarily a labour reform, it strengthens the legal environment in which HRDD can operate effectively.

The Ordinance has introduced significant reforms. ILO Conventions Nos 87 and 98 identify freedom of association as an enabling right, essential to protect other labour rights. Section 179 of the Act is amended to make trade union formation more accessible by replacing the percentage-based threshold with a fixed minimum threshold of 20 workers, subject to proportionate increases for larger establishments.

Maternity leave is extended from 112 to 120 days by amending section 46 of the Act. Moreover, instead of treating sexual harassment as an individual criminal offence, the Ordinance has addressed it through an organisational accountability framework with the requirement of establishing a complaint committee with female representation. It has also introduced a detailed definition through the insertion of sub-section 52A under section 2 of the Act, covering thirteen forms of sexual harassment. The Ordinance has also introduced sections 345A to 345B in the Act prohibiting discrimination based on race, gender, religion, etc. These changes reflect the principles found in ILO Convention 190 and the UN Women GAIA Principles.

Moreover, the Amendment has extended protection to certain types of workers who were previously not protected, *eg*, domestic workers. In line with the UNGPs principles 26 to 31 on accessible, timely, and effective remedies, the 2025 amendment has established a three-tier remedy infrastructure, namely workplace complaint committees, and grievance redressal.

The Ordinance has further amended section 195 of the Act to prohibit worker blacklisting and bar the employers from preparing and maintaining a list or database of workers ineligible for re-employment after termination for any other reason. It has also prohibited employers from undermining trade unions, such as influencing formation, manipulating leadership, or dismissing union members, aiming to correct power imbalances.

In a nutshell, the Labour Ordinance has brought many changes that align on paper with international standards. In practice, these changes must be strictly put in play for us to reap the benefits.

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