

JOINT SUBMISSION ON THE HUMAN RIGHTS SITUATION OF INDIGENOUS PEOPLES IN BANGLADESH

I. INTRODUCTION AND METHODOLOGY

1. This is a joint submission by the “Coalition of Indigenous Peoples Organizations on UPR” formed in June 2012 by 30 Indigenous Peoples Organisations (IPOs) working on the human rights of indigenous peoples in Bangladesh to the UPR working group of the Human Rights Council (Please see Annexe-A for the list of the members) and International Work Group for Indigenous Affairs (IWGIA), a global human rights organization dedicated to promoting, protecting and defending indigenous peoples’ rights.
2. The methodology of the report consists of regular monitoring and documentation of the human rights situation of indigenous peoples by the members of the Coalition, including fact-finding missions and interviews. Some findings were included in two interim reports since the second cycle review of Bangladesh in 2013, which are reference documents for this report. Wide consultations have been held, including among the Coalition members, other IPOs, traditional and community leaders, and mainstream civil society members, for validating the information and analysis used in the report.¹ The submission covers major issues affecting the human rights of indigenous peoples in Bangladesh – laws and policies, land rights, civil and political rights, social, cultural and economic rights, women’s rights, and the implementation status of the Chittagong Hill Tracts Accord of 1997 for the period, 2013-2017.
3. There are more than 54 indigenous peoples in Bangladesh, numbering about 1,586,141 persons (2011 Census), representing 1.8% of the total population of the country. Indigenous people, however, claim that their population is at least twice of this. The largest concentration of indigenous peoples occurs in the semi-autonomous Chittagong Hill Tracts (CHT), with other smaller pockets of indigenous settlements in the rest of the country, with the latter being referred to here as the “plains” region.
4. The Constitution of Bangladesh does not recognise these ethnic, linguistic and cultural minorities as ‘indigenous peoples’. Though the 15th Amendment to the National Constitution in 2011, the government recognises “tribes, minor races, ethnic sects and communities” (Article 23A), obliquely referring to the indigenous peoples, while categorising all the people of Bangladesh, irrespective of their ethnic, linguistic and cultural backgrounds, collectively as “Bangalee” (Article 6.2), the dominant ethno-linguistic group in Bangladesh.
5. A number of laws and other governmental instruments, nevertheless use “tribal²”, “indigenous³”, “aboriginal⁴” or “Adivasi⁵” interchangeably. In the Small Ethnic Group Cultural Institutions Act 2010, a total of 27 indigenous groups for the entire country have been identified, being referred to as “small ethnic groups”. This excludes nearly half of the different indigenous peoples, particularly in the plains. The excluded groups are therefore deprived of rights and opportunities, including in education and employment quotas.
6. Bangladesh has ratified or acceded to a number of international human rights treaties (Please see Annexe -B), many of which are directly or indirectly relevant to the indigenous peoples. The report refers to several of these treaties, along with other relevant instruments, the recommendations made to Bangladesh in the 2nd Cycle of UPR session in 2013 and the commitments made by the Government of Bangladesh. In addition, a number of

recommendations are made herein to facilitate Bangladesh's compliance with its human rights obligations.

II. LEGAL AND POLICY FRAMEWORKS

7. The 7th Five Year Plan of the Government of Bangladesh pledges, in relation to its indigenous peoples the following: "Legal protection ensured by 1) implementing the UN Declaration on the Rights of Indigenous Peoples 2007 and ratify the ILO's Convention No. 169, 2) formulating a land policy to deal with land disputes involving ethnic communities and finally 3) ensuring the participation of local governments in the management of natural resources."⁶ However, the Government has neither ratified the ILO Convention No. 169, nor undertaken any material steps for implementation of the UNDRIP as yet.
8. A total of 39, 19, 29, 50 and 29 laws were passed or amended, respectively, in 2013, 2014, 2015, 2016 and 2017 (September).⁷ While it is commendable that revisions have taken place, the inclusion of indigenous peoples and the proper and impartial enforcement remains a major challenge. Most of these laws and policies do not directly or adequately address indigenous issues. The passage of the Vested Property Return (Amendment) Act 2013 may be regarded as a remarkable achievement. This amendment sought to undo the discriminatory application of a law dating to the aftermath of the Indo-Pakistan War of 1965, whereby lands of non-Muslim citizens who had migrated to India were liable to state confiscation. This led to the loss of lands of thousands of religious minorities Bangladeshis in the plains, including those of indigenous origin. The amendment provides for the restitution of lands listed under a government schedule.⁸ However, legal and administrative loopholes stand in the way, and numerous claimants still remain without return of their lands, among others, due to discriminatory attitudes and practices among the district administration and local land officials belonging to the religious majority groups.⁹
9. A number of laws, such as the Anti-terrorism (Amendment) Act 2013,¹⁰ Foreign Donations (Voluntary Activities) Regulation Act 2016, and Information and Communication Technologies (Amendment) Act 2016¹¹ have been criticized by CSOs for reducing freedom of expression and association. Indigenous human rights defenders and people in general are at risk of persecution through the manipulation of Section 57 of the ICT Act 2016, whenever there is a case of criticism against the government. Obtaining registration of the Government departments, for example, NGO Affairs Bureau, has been an issue of concern for indigenous peoples' organizations, particularly in the CHT. Such registration requires security clearance from the Home Ministry, which in turn is based on reports of state intelligence agencies, have been either refused or left to linger. Increased surveillance on NGO activities dealing directly or indirectly with human rights effectively means that no concerted work in the human rights field is possible, especially where the organisations or networks are composed of indigenous individuals.
10. The Acquisition and Requisition of Immovable Property Act 2017 was passed in September 2017, which governs the process of acquisition and requisition of lands by the state in the plains region. While the new law raises the amount of monetary compensation to be received by those adversely affected,¹² it contains no safeguards for indigenous peoples, including their rights based on lands owned, occupied and used according to customary law, prior assessments to assess likely social and environmental impacts and resettlement plans, among others.¹³
11. The aforesaid new law on acquisition and requisition of land was proposed to be extended to the whole country, including the CHT, but this was averted upon objections from the CHT Regional Council (CHTRC), the Chakma Circle and others. Based upon its legal mandate, the

CHTRC submitted draft recommendations to the government to amend the applicable land acquisition law on the CHT, the Land Acquisition Regulation 1958, which includes safeguards on customarily held lands of indigenous peoples, resettlement safeguards, the right of free, prior and informed consent, ban against acquisition of ecologically and culturally sensitive lands, compulsory social and environmental impact assessments etc.¹⁴ However, the government is yet to take effective measure in this regard. Since the land laws of the CHT include rights based upon “customs, practices and usages”, as expressly recognized by the CHT Regulation 1900 (at section 8) and the CHT Land Commission Act 2001 (at section 6), it is crucial that the proposed amendment take account of the CHTRC’s recommendations, which are in conformity with the Constitution of Bangladesh, ILO Convention No. 107 and the laws, customs and practices of the CHT.

Recommendations:

- 1) *Ratify the 1989 ILO Convention No. 169 on indigenous and tribal peoples.*
- 2) *Endorse the United Nations Declarations on the Rights of Indigenous Peoples.*
- 3) *Amend the Acquisition and Requisition of Immovable Property Act 2017 in order to incorporate safeguards for the rights and welfare of indigenous peoples of the plains.*
- 4) *Amend the CHT Land Acquisition Regulation 1958 in accordance with the recommendations of the CHTRC.*
- 5) *Ensure meaningful and effective engagement of indigenous peoples prior to formulating, amending or repealing any law concerning their rights and wellbeing.*

III. IMPLEMENTATION OF THE CHT ACCORD OF 1997

12. Since the 2nd review till September 2017¹⁵, Bangladesh Government undertook a number of measures to implement the CHT Accord. These include matters pertaining to the Hill District Councils (HDCs), development projects and the CHT Land Dispute Resolution Commission. The government transferred five functions to the three HDCs in 2014. However, the transfer of Tourism (local) was incomplete and otherwise contrary to the CHT Accord 1997. The transferred functions now number 17 (please see Annexe-E), while 16 departments (please see Annexe-F) out of 33 are yet to be transferred, the crucial functions of law and order of the district, land and land management, police (local), forest and environment etc. are yet to be transferred to the HDCs.
13. In 2014, the government amended the three Hill District Councils Acts of 1989, to raise the number of members of the interim hill district councils from 5 to 15. Although this provides for greater representation of women and members of different ethnic groups, no efforts are seen to provide for elections to these councils, which are being run undemocratically by the interim Councils nominated by the ruling party. The HDCs are widely believed to be involved in misuse of power and corruption, especially in the areas of recruitment and implementation of development projects.
14. In October 2016 the government amended the CHT Land Dispute Resolution Commission Act 2001 on the basis of recommendations of the CHTRC. The re-constituted commission held three meetings since then. At its second meeting (30/10/2016), the commission decided to keep the options of submitting complaints to the commission open. As of January 2017, a total of 22,866 complaints were lodged, mostly by indigenous people, demonstrating growing confidence in the commission. However, the work of the commission is seriously impeded by its lack of manpower, office equipment and the absence of Rules to supplement the provisions of the Act. The Commission has requested the government to address these shortcomings, but so far no effective measures have been taken. These shortcomings, along with the capacity enhancement needs of the commission’s members and staff and of the

traditional headmen of the CHT, is crucial to enable the commission to play its expected role.¹⁶ Moreover, the draft Rules forwarded by the CHTRC also seem to be lying unaddressed. If the aforesaid shortcomings are addressed, the commission has the potential to not only address a crucial component of the CHT Accord but to also act as a potential role model in other parts of the world.

15. The government of Bangladesh claims that 48 out of 72 clauses of the CHT Accord have been fully implemented and 15 clauses have been partially implemented while remaining 9 clauses are under implementation process. However, according to the Parbatya Chattagram Jana Samhati Samiti (one of the signatories of the CHT Accord), only 25 out of 72 clauses have been implemented and 34 clauses remain totally unimplemented, while 13 clauses have only been partially implemented.¹⁷ This implies that only one-third of the CHT Accord has been implemented, which includes some very critical provisions.¹⁸

Recommendations:

- 1) *To encourage the Government of Bangladesh to take steps for the proper and speedy resolution of land disputes in accordance amended CHT Land Disputes Resolution Commission Act 2001, giving priority to-*
 - a) *Immediate adoption of Rules for the Commission in accordance with recommendations of the CHTRC;*
 - b) *Allocation of adequate funds for the Commission;*
 - c) *Appointment of adequate manpower for the Commission;*
 - d) *Setting up two sub-office of the Commission in Rangamati and Bandarban districts;*
- 2) *To encourage the Government of Bangladesh to declare a time-framed road map for the speedy, proper and full implementation of the CHT Accord, prioritizing-*
 - a) *Legal and effective safeguard measures to preserve tribal-inhabited features of the region.*
 - b) *Devolution of authority to the CHTRC and three HDCs, including general administration, law and order, land and land management, police (local), forest, environment and local government institutions;*
 - c) *Holding elections to CHTRC and the three HDCs by formulating Electoral Roll Rules and Election Rules and preparing voters' lists with permanent residents of three hill districts;*
 - d) *Withdrawal of all temporary camps and de facto military rule 'Operation Uttoron' (Operation Upliftment) from CHT, with a time limit to be announced immediately; and*
 - e) *Rehabilitation of Internally Displaced Jumma Families and Returnee (India-Returned) Jumma Refugees and returning lands and homesteads back to them.*
- 3) *Amendment of all the other laws applicable to CHT including the Police Act 1861, Police Regulation and CHT Regulation 1900 to make them in conformity with the Accord.*

IV. RIGHTS OVER LAND AND RESOURCES

16. Despite issuing a number of formal pledges¹⁹, the government is yet to take any measures to address the issue of land alienation of indigenous peoples, especially those of the plains. In numerous cases, land-grabbing is accompanied by acts of violence including arson and murder on the part of non-indigenous people. A vested corner of ethnic Bengalis have arbitrarily invoked the Vested Property Act to seize indigenous peoples' lands in the plains, along with those of religious minorities. Although the East Bengal State Acquisition and Tenancy Act of 1950 (which only applies to the plains) provides certain safeguards against the transfer of aboriginal land titles to non-aboriginals, these provisions have often been

flouted. The 1950 land law needs to be amended, in consultation with the indigenous peoples of the plains, to include the issue of possession, and not just title, within the ambit of the Act, and to amend the references to the peoples concerned, by excluding non-existent indigenous peoples and including indigenous peoples not named in the law. Furthermore, the long-standing demand of plains indigenous peoples for a land commission is yet to be responded by the government.

17. Through an agreement between the then Pakistan Government and indigenous Santal and Bengali farmers of 20 villages of Sahebganj-Bagda Farm area (1842.30 acres) of Gobindaganj upazila in Gaibandha district in 1962, the farmers had to leave their ancestral lands. The Agreement states that in case of use of the land for the purposes other than growing sugarcane, the agreement will be void and the land would be returned to its rightful original owners. As the sugar mill was closed down in 2004 indigenous and marginalized Bengali farmers (about 1,200 families) started to claim their lands, especially from 2014 to 2016. In a protest rally on 6 November 2016, hundreds of people hired by local elite and police made a brutal attack on Santals and Bengali farmers, leading to 3 Santal men being shot dead and houses of 1200 families gutted. Video footage proves that police are directly involved in the violence. At present, the victims are leading a deplorable life without adequate food, clothing and shelter. Aggrieved farmers are still continuing their struggle through peaceful and non-violent means, but governmental action is totally absent.
18. The Forest Department (FD) has been a major grabber of lands of indigenous peoples for many decades. Forest-dependent indigenous peoples have been in conflict with the FD and have been subjected to ejection, harassment and violence of forest officials, along with ‘fabricated’ police cases filed against indigenous peoples. On 15 February 2016, the FD issued a gazette notification by purporting to declare 9,145 acres of land of Madhupurgarh tract, inhabited by Garo and other indigenous peoples, as a “reserved forest”.²⁰ More than 15,000 indigenous peoples and ethnic Bengali farmers will be either evicted or otherwise adversely affected. Despite repeated protests, the FD is yet to revoke its notification. It may be mentioned that once a community area or other land is declared as a reserved forest, practically all forms of land use by local communities becomes a crime punishable by law. Moreover, constitutional tenets on providing notice and hearings to the affected people were utterly disregarded, as were opportunities to exclude the provisionally marked areas, since these are inhabited, and whereupon indigenous peoples have legal ownership and other rights.
19. Among the indigenous peoples in Bandarban district, the Mro have been the worse victims of land grabbing. In Lama sub-district under Bandarban district, about 1,600 acres of lands of Mro and Tripura indigenous villagers were taken allegedly by the Lama Rubber Industry; 2,000 acres of lands in Daluchari mouza were taken over by the Quantum Foundation; and approximately 500 acres of recorded and traditionally used lands of Marma, Mro and Tripura villagers were taken by the Laden Group. On 6 May 2017, a civic rights team composed of human rights activists, lawyers and journalists was barred by the security forces while entering Lama upazila to investigate and collect information about the alleged grabbing of lands of indigenous peoples.

Recommendations:

- 1) *To recognize indigenous peoples’ collective rights, in particular, the right to land, territories and natural resources.*
- 2) *To set up a separate Land Commission for the indigenous peoples in the plains to recover lands lost during the last 40 years and reinstate them to their original owners.*
- 3) *To end forced eviction of indigenous peoples from their ancestral lands and any form of land confiscation in the name of reserved forest, military-paramilitary bases, national-eco-parks, tourism complexes, development projects and government establishments on*

their ancestral lands without meaningful free, prior and informed consent of local indigenous peoples.

- 4) *To revoke the gazette notifications from the 1990s to 2017, purporting to create reserved forests out of lands and territories owned, occupied or used by indigenous peoples, in accordance with statutory laws and customary laws, practices and usages.*

V. RIGHTS OF INDIGENOUS WOMEN AND GIRLS

20. Indigenous women and girls have remained among the most disadvantaged and vulnerable sections of the country's population. Although a large number of laws and policies generically address the rights and welfare of women and girls, few address the indigenous specificities of the matter. The National Women's Development Policy 2011 is a small exception in this regard, which refers to indigenous women from "backward and small ethnic groups".²¹ It refers to special measures to ensure the development of indigenous women and preservation of their culture and tradition.²² The policy, however, does not address the critical issues of political participation, decision-making roles and violence and discrimination faced by indigenous women and girls.
21. Indigenous women are excluded from important decision-making roles and positions. For example, out of the 350 seats in the National Parliament, 50 seats are reserved for women but with no mention of indigenous women. It is therefore not surprising that at present none of the 50 reserved seat women MPs are indigenous women. Similarly, there are no reserved seats exclusively for indigenous peoples (including indigenous women) in the local government bodies.
22. There have been at least 297 reported cases of violence against indigenous women and girls in Bangladesh from January 2014 to June 2017. In 2016 alone, Kapaeng Foundation compiled more than 50 such cases with 58 victims. The human rights organization Odhikar reported that there were 1028 women victims in 2016. If we consider that the 1028 victims include both Bengali and indigenous women and girls, we find that 5.7% of the victims/survivors in 2016 were indigenous, whereas only 1.8% of country's total population is indigenous. This statistical data makes it clear that the propensity of sexual crime and physical violence against indigenous women and girls is far higher than that faced by mainstream Bengali women. The absolute impunity enjoyed by the alleged perpetrators is often blamed as a major cause behind this situation.

Recommendations:

- 1) *Government should work toward ensuring safety and security of indigenous women and girls and ending all forms of violence and discrimination against them.*
- 2) *Government should formulate laws and policies that directly and contextually address the issues facing indigenous women and girls in the country.*
- 3) *Government should ensure that all the incidents of violence against indigenous women & girls are properly investigated into and the perpetrators are brought to justice.*
- 4) *Government should ensure legal aid support and services for all victims of violence, including indigenous women and girls.*

VI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

23. The 2030 Agenda calls for States "to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts" (target 17.18). But the government of Bangladesh has not taken any action to collect disaggregated data on indigenous peoples, including women and children.

24. A significant portion of the indigenous population continues to be deprived of basic socio-economic rights, including education, healthcare, food and nutritional security, access to safe drinking water, electricity, and so forth. The situation of indigenous women, youth, elders and persons with disability, is many times worse, even within the indigenous population, as their contexts are often ignored. In the 7th Five Year Plan (FY2016-FY2020), the Government of Bangladesh pledged to ensure the participation of local governments in the management of natural resources.²³
25. Despite remarkable progress of Bangladesh in fulfilling key goals and targets of the Millennium Development Goals (MDGs),²⁴ indigenous peoples are still lagging far behind in the areas of poverty alleviation, primary school enrolment, gender parity in primary and secondary level education, lowering of the infant and under-five mortality rate and maternal mortality ratio, improving immunization coverage and reducing the incidence of communicable diseases – which has also been acknowledged in the 7th Five Year Plan of Bangladesh (see Annexe-D). Bangladesh is committed to leading by example in the case of the Sustainable Development Goals (SDGs), as it did in the case of the MDGs.²⁵ Although one of the main goals of the SDGs is to leave no one behind, the Voluntary National Review (VNR) report of Bangladesh submitted in July 2017 at UN headquarters reveals that the government did not adhere to its aim to “Leave No One Behind”, as the report failed to incorporate the major issues faced by indigenous peoples. Indigenous peoples, including indigenous women, were practically absent in the process in Bangladesh, and hence invisible in the report.
26. Indigenous women’s health is at risk particularly at the time of childbirth. Malnutrition, anaemia and malaria are the common diseases in the CHT. This is amply demonstrated by the deaths of 10 young indigenous children from preventable diseases in Sitakunda upazila under Chittagong district, and the alarmingly high rate of mother and infant mortality and morbidity in the remote areas of the CHT, including those where a large section of the estimated 100,000 internally displaced families live without food and health security, and often subjected to starvation, malnutrition and food and nutritional insecurity.
27. Indigenous children are still deprived of education in their mother tongues. In January 2017, the government developed textbooks for indigenous children in five languages²⁶ at the pre-primary level. About 50,000 textbooks were printed and distributed among approximately 25,000 indigenous students.²⁷ However, many indigenous children have not received mother-tongue textbooks as yet. Moreover, new teachers with expertise on alphabets of five indigenous languages have not been appointed, and existing teachers have not been provided with any training. Hence, a comprehensive plan of action in relation to mother-tongue based education needs to be formulated and implemented by the Government, in order make the initiative a success. Although according to the government policy, 5% quota in the higher studies and government jobs are supposed to be reserved for indigenous peoples, in practice, it is never maintained.²⁸
28. The rights to self-determined development and culturally sensitive approach to development including rights to free, prior and informed consent is most crucial for sustainable development of indigenous peoples. Development with culture and identity is characterized by a holistic approach that seeks to build on indigenous peoples' collective rights, security and greater control and self-governance over lands, territories and resources. The Government of Bangladesh has taken a range of important decisions relating to general administration, law & order, and development in the CHT, but without proper consultation with the CHTRC and three HDCs. In forming new administrative units - Guimara Upazila in Khagrachari district, Sajek police station and Bartholi Union in Rangamati district in 2015-2016, for example, the government did not consult with these councils. Similarly, the

Government decided on construction of border roads, land port at Thegamukh, setting up of luxurious tourism complexes by the military, declaration of reserved forests, installation of Border Out Posts (BOP) for Border Guard Bangladesh (BGB), without consulting the CHT institutions. Even during the preparation of budget for the Ministry of CHT Affairs under National Budget, CHT institutions have never been consulted.

29. The Prime Minister's Office (PMO) provides limited funding to the divisional, district and sub-district bureaucrats to undertake development programmes in 62 Upazilas under 32 districts in the plains, implementing its small-scale indigenous peoples' development projects through District and Upazila (sub-district) administrations. However, indigenous peoples do not have any role with regard to planning, budget formulation, disbursement, implementation or consultation, at national and local levels. The government did not respond to the demand for formation of an advisory committee comprising of indigenous representatives at all relevant levels.

Recommendations:

- 1) *To formulate an Indigenous Peoples Rights Act especially in the areas of education and health and to constitute an Aboriginal/Indigenous Commission for Indigenous Peoples, with adequate constitutional entrenchment.*
- 2) *Engage indigenous peoples, including indigenous women, in implementing and reviewing the progress on achieving the Sustainable Development Goals (SDGs).*
- 3) *Determine indicators of poverty that capture the specific characteristics and perspectives of indigenous peoples, and gather disaggregated data on indigenous peoples.*
- 4) *Ensure meaningful consultation, as per existing laws, with CHT local bodies (e.g. CHTRC and HDCs) prior to enacting or amending any law, policy and development project relating to the CHT.*
- 5) *Provide adequate budget allocation for indigenous peoples of the plains, and form an advisory committee comprising indigenous representatives of the plains to assist the Prime Minister's Office (PMO).*
- 6) *Take special measure in order to ensure the right to education of indigenous peoples in the mother tongue. Special budget has to be allocated to develop the education curriculum for indigenous peoples and to provide scholarships for higher education of the indigenous students.*

VII. BUSINESS AND HUMAN RIGHTS

30. The issue of business and human rights has slowly started get attention in the human rights arena, including where it concerns indigenous peoples. This is not the case in Bangladesh. Over recent years, the indigenous inhabited CHT region has seen a rapid expansion of tourism complexes without any consultation with or the consent of, the concerned peoples and institutions. Many such complexes are being administered by institutions and organisations that do not have the legal mandate to do so²⁹ A recent study shows that the six most popular tourist spots of the CHT, the government acquired hundreds of acres of land without free, prior and informed consent of indigenous peoples.³⁰ The same study shows that approximately 700 indigenous families have been evicted or are in the face of eviction.³¹
31. The Bangladesh Economic Zones Authority (BEZA) decided to set-up a Special Economic Zones (SEZ) on around 512 acres of land in Chandpur area of Chunarughat upazila in Habiganj district (in the plains), which has threatened the livelihood of nearly 16,000 tea garden workers belonging to different indigenous and other ethnic groups, who were entirely dependent on cultivation of rice on the whole or part of it for over one and a half centuries. In

the absence of written titles over the land, the survival of these people is under serious threat. The land disputes between Khasi people and the authorities of different tea estates in the northeastern Greater Sylhet region have remained a sustained issue of concern over the recent years. For example, 700 Khasi people of Nahar Punji of Sreemangal upazila under Moulvibazar district have been under threat of eviction by the Nahar Tea Estate. A mob led by the manager of the company made a massive attack on the villagers in 2014, which left one killed and more than half a dozen including Khasi women injured. This incident also resulted in false charges and imprisonment of more than a dozen Khasi people including the *mantri* (village chief) of the village. Although the Khasi villagers have been living and farming betel leaves in their village and surrounding areas for generations, while duly depositing land revenues to the government authorities, on 30 May 2016, Moulvibazar district administration issued a notice to Khasi villagers of Nahar Punji to move away from their ancestral lands. In the face of protests in Moulvi Bazar and other parts of the country, the Divisional Commissioner of Sylhet issued a stay order until resolution of the dispute in court. Meanwhile the Khasi villagers are passing their days and nights in fear and uncertainty.

Recommendations:

- 1) *Protect indigenous peoples from persecution of business enterprises. Bring business enterprises responsible for such persecution against indigenous peoples to justice.*
- 2) *Return the lands of indigenous peoples who have lost their ancestral lands as a result of business enterprises and/or economic zones.*
- 3) *Respect the right of free, prior and informed consent of local indigenous peoples and their representative organisations/institutions prior to initiating any business enterprises on their lands.*

VIII. CIVIL AND POLITICAL RIGHTS

32. Indigenous peoples' political participation and power-sharing in governance has not specifically been recognised in Bangladesh, except to an extent in the CHT. The CHT Accord of 1997 envisaged a special administrative system for the CHT by providing for the formation of the CHTRC and strengthening of the existing three HDCs which reserved seats for two-thirds of the councils and its chairpersonship for indigenous peoples. However, the needs of special political arrangements for indigenous peoples in the plains remains unaddressed. There are no reserved seats for them, either in parliament or in local government councils. Moreover, their traditional institutions have also been de-recognised. Consequently, they go unrepresented in governance and development.
33. There is a growing trend of cases of arbitrary arrest, detention and enforced disappearance in the country, and members of state security forces involved in such crimes enjoy full de facto impunity. In 2016, criminalization of activities of Indigenous Peoples' Human Rights Defenders (IPHHRDs) and IPOs by state and non-state actors has continued both in the CHT and in the plains, resulting in arbitrary arrests, detention and intimidation. In 2016, fabricated cases were filed against at least 191 members of IPOs and IPHRDs including 42 innocent indigenous villagers in the plains, while 80 activists, including 3 elected public representatives, were arrested and more than 81 persons, including 4 from the plains, were detained for several hours. In 2016, at least 21 indigenous persons (including 6 indigenous women and girls) were killed in the CHT and in the plains.³²
34. On 5 July 2014, while on a visit to Rangamati town, members of the International Commission on the CHT visiting Rangamati, were not allowed to investigate incidents of human rights violations by or on the instructions of the army. Very recently, the army did not allow a team of civil society representatives to visit Naniarchar of Rangamati on 25 April

2017 to meet the parents and relatives of Romel Chakma who was killed after torture by the army of 305 infantry brigade. The mortal remains of Romel Chakma were destroyed using petrol and kerosene without returning the dead body to his parents. The Supreme Court of the country ruled against extrajudicial killings. But there is little sign that it has come to a halt altogether as could be evidenced from the killing of Santals in Gaibandha by police firing in November 2016. Around 250 houses of indigenous villagers in Longadu under Rangamati district were burnt to ashes in a brutal attack by Bengali settlers under the leadership of ruling party in presence of army and police on 2 June 2017.³³ No single conviction of the perpetrators has taken place, and no security personnel are known to have been charged, let alone convicted.

35. In January 2015, the government issued 11 directives entitled “Implementation of decisions regarding the visit of foreign nationals to the CHT, having meetings with local tribal people”. The directives impose a series of procedures, putting into operation a new rule about foreigners having to apply for permission, a few weeks in advance to the Home Ministry, before travelling to the CHT. Ironically, even non-CHT Bangladeshi nationals required the presence of an administrative official/security officer in order to talk to ‘tribals’ (also applicable to the foreign visitors). These directives violate the freedoms of expression, association and assembly of CHT indigenous peoples (in the context of their engagement with non-CHT Bangladeshis and foreign nationals), thereby clearly demonstrating the racist and discriminatory elements of the decision.

Recommendations:

- 1) *The government of Bangladesh is urged to ensure indigenous peoples’ representation in the parliament and local councils, including through reservation of adequate seats.*
- 2) *Impartial, independent and transparent commissions of inquiry to be instituted to enquire into allegations of extra-judicial killings by law enforcement personnel, and the perpetrators tried and punished to bring about an end to the culture of impunity in the country.*
- 3) *Capacity of the National Human Rights Commission is to be strengthened and a provision empowering it to investigate allegations of human rights violation against the members of armed forces, including by amending the NHRC Act.*

IX. GENERAL RECOMMENDATIONS

- 1) *Constitutional recognition of the identity, integrity and fundamental rights of the indigenous peoples as ‘indigenous’ must be made.*
- 2) *The Government should initiate awareness raising and capacity building activities for different government bodies, agencies and institutions in order to promote, protect and respect human rights of its citizens, including those of indigenous or minorities origin.*

End Notes

¹ This submission is a fruit of concerted efforts put together by the members of the Coalition of Indigenous Peoples Organizations on UPR, a unique platform to enhance respect for the rights of indigenous peoples using UPR mechanism, especially since the second cycle review of Bangladesh in 2013. Regular monitoring and documentation of human rights situation of indigenous peoples by the members of the Coalition, who come from all indigenous inhabited regions of the country: (southeast) Chittagong Hill Tract (CHT) and in the northwest (Rajshahi-Dinajpur), central north (Mymensingh-Tangail), northeast (Greater Sylhet), south (Chittagong, Cox’s Bazar and Barisal), have been the key methodology used in the report. As a major method of data collection, the members of the Coalition conducted a number fact-finding missions in indigenous inhabited regions over the reporting period. In addition, they have collected information from various other sources,

including Indigenous Peoples Organizations (IPOs), human rights reports of relevant stakeholders and media news, the reliability of which was verified in a number of ways, including checking with secondary sources, conducting fact-finding mission, interviews of relevant stakeholders, comparison with other available information on the incident. Furthermore, government documents, press statements and different publications dealing with issues of indigenous peoples in the society have also been consulted to supplement the accounts presented in this report. While monitoring the human rights situation of indigenous peoples in a regular fashion, and advocating implementation of the recommendations received by Bangladesh Government, the Coalition has been bringing out annual UPR progression status report of UPR recommendations since 2014. The findings of these interim reports have also been used in this report. Finally, wide consultations have been done between and among the Coalition members, other indigenous peoples organizations, indigenous peoples traditional and community leaders and mainstream civil society members for validating the information and analysis used in the report. On 16 July 2017, a workshop cum consultation was held in Dhaka among the 30 Coalition members targeting the 3rd Cycle Joint Stakeholder Report of the Coalition. The workshop listed thematic issues to be addressed and assigned each of the participating organizations with responsibility to work on the relevant issues. The draft joint submission report was finalized in three validation workshops attended by relevant stakeholders held on 10, 15 and 22 September 2017 in Rajshahi, Rangamati and Tangail districts respectively. International Work Group of Indigenous Affairs (IWGIA) is a global human rights organization dedicated to promoting, protecting and defending indigenous peoples' rights. As a close partner to Kapaeeng Foundation, IWGIA has supported the efforts and provided some editorial and technical support to this report.

² The CHT Accord of 1997; CHT Regional Council Act 1998 (Act 12 of 1998); Rangamati, Khagrachari and Bandarban Hill District Council Acts 1989.

³ CHT Regulation, 1900; Finance Acts of 1995 and 2010; Poverty Reduction Strategy (PRSP-2008, 2019-10); 6th Five Year Plan; Perspective Plan for Bangladesh 2010–2021 (2010); Judgment of the Hon'ble Supreme Court of Bangladesh in Sampriti Chakma v. Commissioner of Customs & Others (5 BLC, AD, 29); Wagachara Tea Estate Ltd v. Md. Abu Taher & Others, 36 BLD (AD), 36 (2016).

⁴ East Bengal State Acquisition & Tenancy Act, 1950 (protected in the First Schedule of the Constitution of Bangladesh)

⁵ Statements of Hon'ble Sheikh Hasina, Begum Khaleda Zia and Dr. Fakhruddin Ahmed in goodwill messages on Indigenous Peoples' Day, election manifesto of the present government, Small Ethnic Groups Cultural Institutions Act, 2010

⁶ General Economics Division, Planning Commission, Government of the People's Republic of Bangladesh (2015) *7th Five Year Plan FY 2016-FY 2020: Accelerating Growth, Empowering Citizens*, p. 712.

⁷ <http://www.parliament.gov.bd>

⁸ Appeal time extended for 'Kha' schedule vested property transfer appeal, bdnews24.com, 19 January 2016

⁹ Vested properties with govt: No claimants for half of properties, New Age, March 18, 2016

¹⁰ Bangladesh: New Amendment to Anti-Terrorism Act gags Freedom of Expression, Worldwide Movement for Human Rights, FIDH, Paris-Dhaka, 15 June 2013, www.fidh.org

¹¹ Bangladesh: Information Communication Technology Act, ARTICLE 19, 10 May 2016, www.article19.org

¹² Land acquisition compensation raised by 4 times, banglanews24.com, 3 April 2017; Natun Ainer Bill Sangsade, Jomi Odhigrohane Tin Goon Khotirpuran (Bill of A New Act at National Assembly, Thripplle Comepensation for Land Acquisition), Daily Kalerkantho, 13 July 2017.

¹³ Raja Devasish Roy, *Land and Land Rights in the Chittagong Hill Tracts (Bengali)*, CIPD, Maleya Foundation, June 2017, Part 5

¹⁴ Ibid

¹⁵ 129.153. Fully implement the Chittagong Hill Tracts Peace Accord (Australia); Continue to implement the Chittagong Hill Tracts Peace Accords (CHT) (Ecuador).

¹⁶ Raja Devasish Roy, *Land and Land Rights in the Chittagong Hill Tracts (Bengali)*, CIPD, Maleya Foundation, June 2017, Part 4

¹⁷ Parbatya Chattagram Jana Samhati Samiti (2 December 2016) *Report on Implementation of the CHT Accord* Rangamati, Chittagong Hill Tracts, Bangladesh.

¹⁸ A Brief Report on Implementation of CHT Accord, January 2016, Parbatya Chattagram Jana Samhati Samiti, Kalyanpur, Rangamati. www.pcjss-cht.org

¹⁹ The ILO Convention No. 107, which Bangladesh ratified in 1972, provides safeguards for indigenous peoples' individual and collective land rights, among others. The CHT Accord of 1997 also addresses land management and land rights of CHT people in accordance with the laws, customs and practices of the CHT. Further, the present ruling party, the Awami League, committed in its election manifestos of 2008 and 2014 that "Special measures will be taken to secure their original ownership on land, water bodies, and their age-old rights on forest areas. In addition, a land commission will be formed".

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- ²⁰ Gazette issued by Bangladesh Forest Department, Ministry of Forestry and Environment on 15 February 2016.
- ²¹ National Women Development Policy 2011, <https://www.scribd.com/doc/52431073/National-Women-Development-Policy-2011-Bangladesh>
- ²² National Women Development policy 2011
- ²³ In addition, in the World Conference on Indigenous Peoples (WCIP) of United Nations held in 2014, the representative of the Government of Bangladesh welcomed the Outcome Document of the WCIP and expressed strong support for the realization of development of indigenous peoples as stipulated in this document, including to adopt appropriate National Action Plans, in accordance with standards set by UNDRIP and the commitments made at the WCIP.
- ²⁴ Bangladesh continues to be a role model in MDG achievement, 07 Sep 2014, <http://www.bd.undp.org/>
- ²⁵ The Daily Star (1 October 2015) *Bangladesh to lead by example in SDGs*, available at: <http://www.thedailystar.net/frontpage/bangladesh-lead-example-sdgs-149986>
- ²⁶ The languages are Chakma, Kokborok, Garo, Marma and Sadri languages.
- ²⁷ The Daily Star (8 January 2017) *Santal students yet to get books in mother tongue*, available at: <http://www.thedailystar.net/backpage/santal-children-yet-get-textbooks-mother-tongue-1342030>.
- ²⁸ International Labour Organization (2017) *Indigenous Peoples Need Help to Secure Government Jobs in Bangladesh*, available at: http://www.ilo.org/dhaka/Informationresources/Meetingdocuments/WCMS_547867/lang--en/index.htm
- ²⁹ Roy, Raja Devasish and Chakma, Mangal Kumar (10 December 2015) *Indigenous Peoples in Bangladesh: Human Rights and Sustainable Development Goals*, keynote paper delivered in a national seminar at Hotel Lakeshore, Dhaka.
- ³⁰ The spots are Nilgiri, Jiban Nagar, Chandra Pahar, Dim Pahar, Nilachal and Bogalake in Bandarban district and Sajek in Rangamati district. Chakma, Mangal Kumar and Chakma, Sajib (20 August 2015) *Development and Tourism in Indigenous Territories: Partnership of Indigenous Peoples and Role of the Government*, keynote delivered in a seminar at CIRDAP Auditorium, Dhaka.
- ³¹ Ibid.
- ³² Kapaeeng Foundation (2017) *Human Rights Report 2016 on Indigenous Peoples in Bangladesh*, Mong Shano Chowdhury and Pallab Chakma (eds.) (eds.), Dhaka, Bangladesh.
- ³³ Parbatya Chattagram Jana Samhati Samiti, Rangamati (2017) *Longadu Communal Attack, Plundering and Arson*, available at: www.pcjss-cht.org