

# **Submission of the Asia Indigenous Peoples Pact (AIPP) Foundation on Human Rights Situation of the Indigenous Peoples (Adivasi) in Bangladesh to the Office of the High Commissioner for Human Rights (OHCHR)**

## **CONCERNING THE UNIVERSAL PERIODIC REVIEW OF THE GOVERNMENT OF BANGLADESH AT THE UN HUMAN RIGHTS COUNCIL IN 2009**

### **Introduction**

1. There are around 45 distinct groups of Indigenous Peoples living across Bangladesh. Historically, The Indigenous Peoples of Bangladesh are one of the most deprived groups in many aspects of economic, social, cultural and political rights mainly due to their status of ethnic minority. Evidences show that the indigenous people of the country have very limited access to basic human rights including right to basic public services.

2. The largest concentration of indigenous peoples in Bangladesh is found in the south-eastern border region of the Chittagong Hill Tracts (CHT). CHT has an extensive semi-autonomous administrative structure that has no parallel in other parts of Bangladesh.<sup>1</sup>

### **Human Rights Obligations of Bangladesh**

3. The Government of Bangladesh has ratified several international human rights treaties that have a direct bearing upon indigenous peoples' rights. These include the International Convention on the Elimination of Racial Discrimination (CERD), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In addition, there are the ILO Convention on Indigenous and Tribal Populations (Convention No. 107 of 1957) and the Convention on Biological Diversity. In addition, GoB also endorsed the Johannesburg Declaration on Sustainable Development that recognizes the "vital role of the indigenous peoples in sustainable development".

4. Bangladesh is legally bound to comply with these international human rights treaties. But it does not comply with them so far as the indigenous peoples are concerned. The situation of implementation of the provisions of the aforesaid treaties is far from good. In particular, the non-implementation of various important provisions of the ILO Convention No. 107 is of particular concern since it is the only human rights treaty with direct relevance to indigenous peoples.

5. Under Article 28 of the Constitution, it prohibits discrimination on the grounds of race, religion, and place of birth. But the Indigenous Peoples of the country are always the victim of social, racial, religious, cultural and linguistically.

### **Non-implementation of the CHT Peace Accord**

6. An Accord signed with the Bangladesh Government and the CHT Indigenous Peoples organization PCJSS, which is called "CHT Peace Accord". After the signing of the CHT Accord, the GoB implemented some provisions of the Accord. But the main issues which help introduce self-rule government system in CHT and help resolve the problem through political means were not implemented at all. For instances, effective enforcement of the three HDC Acts and CHT Regional Council Act, resolution of land disputes through the Land Commission, rehabilitation of returnee Jumma refugees and internally displaced Jumma families, withdrawal of temporary camps of security forces and de facto military rule, preparing voter lists only with the permanent residents of CHT and etc. have been either left unimplemented or only partially implemented.<sup>2</sup> (Annexure-1)

### **Human Rights Situation of Indigenous Peoples in Bangladesh**

7. The overall human rights situation of the indigenous peoples of Bangladesh is getting bad to worst. Since the proclamation of State of Emergency on 11 January 2007, the situation

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<sup>1</sup> Brief History and Struggle of the CHT, Link: [www.pcjss-cht.org](http://www.pcjss-cht.org)

<sup>2</sup> Report on the Status of the Implementation of CHT Accord by PCJSS, July 2008

has been deteriorated more enormously. Human rights violations including tortures, arbitrary arrests under false or at least barely credible charges, summary trials under dubious conditions, unlawful killings, and violence against indigenous women have been reported by the human rights organisations and news media.<sup>3</sup> GoB continues to violate the civil and political rights and collective rights of indigenous peoples with impunity and there is no effective mechanism available for redress in addressing these violations. Numerous cases of human rights violations committed by State Forces are contrary to their international obligations. Further, the GoB being a member of the Human Rights Council should make itself more transparent and accountable to its international human rights obligations.

8. Joint armed Forces of the State also committed unlawful killings and frequently used unwarranted lethal force against indigenous peoples. For instance, Cholesh Richil, a leader of the Garo indigenous community, is reported to have died in custody on 18 March 2007 following torture carried out by the Joint Forces (army and police) personnel. Cholesh Richil was arrested with his Garo friends and relatives, Tohin Hadima, Piren Simsung, and Protap Jambila as they were traveling in a microbus in Kalibari Bazar in Muktagacha area. They were taken for interrogation at the nearby Modhupur Kakraidh army camp where Joint Forces personnel reportedly began to torture him, using pliers, red chilli powder and a blade. Relatives sought to lodge a complaint against Joint Forces personnel at the Modhupur Police Station, but the station's Officer-in-Charge reportedly refused to file their complaint on the grounds that an autopsy was pending.<sup>4</sup> Cholesh Richil was an outspoken leader of the Garo indigenous community. Since 2003 Garo activists have been campaigning against the construction of a so-called "eco (ecology) park" on their ancestral land on the grounds that it would deprive them of their land and means of livelihood. A one-member judicial commission was formed to investigate the death of Cholesh Richil. But no report of the committee has yet been published.

9. The State of Emergency was imposed in the country on 11 January 2007 suspending many fundamental rights, including freedom of press, freedom of association, and the right to bail. This has led to increased suppressive actions of State Forces against indigenous activists, especially in CHT. They allegedly targeted the Jumma activists including members of the PCJSS, traditional leaders, public representatives, refugee- returnee leaders etc. who voiced strong opposition to the land grabbing and military harassment. During raids, the military forces plant arms and ammunitions and used these as their " evidences" to justify illegal arrest and detention of villagers. Most cases have been filed under Section 16(b) of the Emergency Power Rules of 2007. However, they were denied the right to bail during the enquiry, investigation and trial.

10. Among others, the arrest of Satyabir Dewan, Ranglai Mro, Tatindra Lal Chakma and Santoshita Chakma Bakul were the major cases of arbitrary arrests and detention based on "planted evidences" and false charges. Mr. Satyabir Dewan (General Secretary of PCJSS) and Ranglai Mro (a land rights activist and traditional leader and also elected public representative) were arrested in connection with keeping "illegal arms" in February 2007 from their homes in Rangamati and Bandarban district town respectively. Both indigenous leaders assert that they do not have firearms and have strongly denied the false charges to them. Mr. Ranglai Mro, is the most outspoken leader of his community in opposing the government plan to grab lands belonging to the Mro community for military purposes. The court found them guilty and gave a verdict of 17 years of rigorous imprisonment to both Satyabir Dewan and Ranglai Mro in May and June 2007 respectively. According to those sentenced, the court summary trials were conducted under dubious conditions in relation to upholding due process. In addition, Mr. Bikram Marma and Mr. Sai Mong Marma, both are PCJSS leaders at Kaptai upazila in Rangamati district, were also convicted of 17 years and 10 years of jail sentences respectively with illegal possession of firearms.<sup>5</sup>

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<sup>3</sup> ASK Report 2007, Link: <http://www.drishtipat.org/blog/2008/03/27/ativasi-07/>

<sup>4</sup> Special Feature: Nightmare in Modhupur, Hana Shams Ahmed, <http://www.thedailystar.net/magazine/2007/03/05/sfeature.htm>

<sup>5</sup> ASK Report 2007, Link: <http://www.drishtipat.org/blog/2008/03/27/ativasi-07/>

11. The CHT Peace Accord provides a provision to withdraw all the temporary camps of the army, Ansars VDP and APBN, excepting the Border Security Force (BDR) and six permanent army establishments. However, according to the PCJSS, only 31 temporary camps have been withdrawn over the past nine years while the government claimed that out of more than 543 camps, 152 camps have been withdrawn so far. Further, a de facto military rule named “Operation Uttoran” (Operation Upliftment) was imposed in the CHT during the period of Awami League in 2001 violating the provision of the Accord. Under this order, military interference with and dominance over general civil administration, law and order, indigenous social affairs, forest resources etc. continue to prevail, undermining the supremacy of civilian authority.

12. Even members of the Parliament and government dignitaries were subjected to military harassment. For example, Mr. Mani Swapan Dewan, then MP and then deputy minister for Ministry of CHT Affairs (MoCHTA) was asked to stop his speed boat with Police escort for illegal search by the army check post personnel of Dighalchari zone in Belaichari upazila (Sub-district) Farua in March 2005.<sup>6</sup>

### **Settlement Programme of non-indigenous Bengali Families in CHT**

13. The CHT Accord recognizes the CHT region as a tribe-inhabited region with distinct characteristics thereby needing conservation and protective measures while attaining overall development thereof for the indigenous peoples of the region. However The GoB has been doing the contrary by adopting and implementing a settlement programme of non-indigenous Bengali families in the CHT who were brought in there from various plain districts since 1979. On 28 December 2005 a four-member team of the then Parliamentary Standing Committee on the CHT Affairs Ministry headed by Md. Shahjahan, then MP from Jamat-E-Islam paid a visit to some cluster villages in Khagrachari district. The team have endorsed additional allotment of food grains for additional number of Bengali settlers.<sup>7</sup>

15. It is reported that over 15,000 families of Myanmarese Rohingya Muslim refugees have settled in Nakhyangchari, Ruma, Lama, Alikadam and Sadar area of Bandarban district with direct support from the government authorities. They have been issued “permanent resident certificate” and were included in the local voter’s list, which is a clear violation of the CHT Accord. Development and employment facilities sanctioned in the name of the local indigenous people are being routed to them.<sup>8</sup>

### **Communal attack on Jumma peoples in CHT by Bengali Settlers supported by the State’s Armed Forces**

16. Article 11 of ILO Convention 107 stipulates, “The populations concerned shall not be removed without their free consent from their habitual territories...” Further, Article 2(1)(b) of International Convention on the Elimination of All Forms of Racial Discrimination says, “Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations.” But with direct support from the military and police forces, Bengali settlers continue to conduct large-scale attacks on the Jumma villages to uproot indigenous Jumma people from their ancestral land. For instances, on 20 April 2008 seven indigenous villages of Baghaihat-Sajek road under Sajek union of Baghaichari sub-district in Rangamati district were attacked by Bengali settlers with the direct support of military forces of Baghaihat army zone of 33 East Bengali Regiment led by commanding officer Lt. Col. Sajid Imtiaz. At least 76 houses of indigenous villagers and 43 houses of Bengali settlers were completely burnt to ashes. The Government did not take any action against the perpetrators including military forces involved with this arson attack.<sup>9</sup>

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<sup>6</sup> Yearly Report on Human Rights Violations 2005, [www.pcjss-cht.org](http://www.pcjss-cht.org)

<sup>7</sup> Report on the Status of the Implementation of CHT Accord by PCJSS, July 2008

<sup>8</sup> Rohingya Refugees, The Daily Star, 2 March 2008 and Report on the Status of the Implementation of CHT Accord by PCJSS, July 2008

<sup>9</sup> Sajek’s Burnt Villages, <http://www.drishtipat.org/blog/wp-content/uploads/2008/05/sajek.pdf>

## **Forcible Land Grabbing and Land Commission**

17. Article 11 of ILO Convention 107 stipulates, "The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised." However, the lands of the indigenous peoples are still forcibly being taken away basically for settlement of government-sponsored non-indigenous migrants and establishment of military bases and training centres. While the government of Bangladesh has failed to restore the lands to the Jumma peoples in accordance with the CHT Peace Accord of 1997, the security forces and the illegal Bengali settlers have continued to seize more land belonging to the Jummas by use of force.

18. In March 2007, the authority of Ruma cantonment ordered to leave area as they acquired about 7500 acres of ancestral land of indigenous peoples for expansion of Ruma garrison. More than 4000 indigenous family mostly belong to Mro community were evicted from their land due to acquisition. Local people have not been consulted before taking land acquisition. The military forces had acquired about 11,446.00 acres of land from 3 Mouzas in Bandarban upazila for the purpose of Military Training and Firing zone.<sup>10</sup>

19. The CHT Accord stipulated the establishment of a Land Commission to be headed by a retired justice to resolve the longstanding CHT land disputes in consonance with the law, custom and practice in force in the CHT. This Land Commission was thereby formed in accordance with the Peace Accord, which is a positive development. But the Commission is yet to start its functions. Hence no single land dispute has been resolved even in almost 11 years after the signing of the Accord.<sup>11</sup>

## **Violence Against Indigenous Women**

20. Indigenous women in the country are victims not only of repression and negligence for centuries, but also of violence like rape, kidnap and murder by the mainstream Bengali people. Rampant violation of women's human rights takes place not only within a home or public but also during police custody as well. Many of these incidents were reported in leading national dailies but none of the accused was punished. In most cases, the perpetrators of these gross human rights violations go unpunished even when the victims or the witnesses identify them.<sup>12</sup>

21. On 1 May 2008, a seven-years old Indigenous minor girl, daughter of Naren Hansda was raped by a Bengali Muslim Abdus Salam (50) at Pirpur Sahara village under Nachol Upazila under Chapai Nababganj district. However, Residential Medical Officer of Chapai Nababganj Adhunik Sadar Hospital provided false report of the medical test. No action is taken by the local authority.

22. On 3 April 2006, in a communal attack on indigenous Jumma peoples at Maischari under Khagrachari dsitric by the Bengali settlers and security forces, four indigenous Marma women were raped led by Bengali settlers. Two of the rape victims were identified as Thoai Prajai Marma (16 years) d/o Momong Marma and Abeng Kroi Marma (20 years) d/o Saila Pru Marma. According to BLAST, a human rights organization in Bangladesh, after the horrific incident of Maischari, the police denied to file case for the raped women. Instead, they arrested injured Jumma victims who were admitted in the hospital at that time.<sup>13</sup>

## **Recommendations to the UN Human Rights Council (UNHRC)**

23. To raise it's collective and serious concern on the worsening situation of human rights in Bangladesh in general and the situation of indigenous peoples in particular. In line with the, the HRC shall call the attention of the GoB to take immediate action to demilitarize the CHT

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<sup>10</sup> The Daily Prothom Alo, 13 July 2007 reported by Ms. Kurratul -Ain-Tahmina

<sup>11</sup> No end to CHT land disputes as commission limps, New Age, Dhaka, Saturday, 23 February 2008

<sup>12</sup> A Brief Report of Human Rights Situation of Indigenous Peoples in Bangladesh, AIPP, 2007

<sup>13</sup> Persecutions In Chittagong Hill Tracts, Faith Freedom International - Forum Indonesia  
<http://www.indonesia.faithfreedom.org/forum/viewtopic.php?p=20120&sid=f246081a62d5323c004daf9d2c1a5f33>

and conduct thorough and impartial investigation and prosecution of Officers and members of the State's armed forces accused of human rights violations such as the planting of firearms and using these as evidences in court to justify arrest and detention of indigenous leaders and villagers.

24. To call upon to the Bangladesh Government to invite the Special Rapporteur (SP) of Human Rights and Fundamental Freedoms of Indigenous Peoples to assess the situation of Indigenous Peoples and make recommendations to improve the human rights situation of the indigenous peoples of Bangladesh. In particular, the SP to look into the cases of detention of indigenous leaders charged with illegal possession of firearms.

25. To call upon to the Bangladesh Government to respect and immediately implement the CHT Peace Accord as part of its obligations in upholding human rights. The Peace Accord is the intra-state agreement with clear provisions for respecting the rights of the CHT indigenous peoples, including the demilitarization of CHT, legalization of traditional land inheritance system, ensuring the security of the Jumma people, relocating the Bengali settlers outside of CHT among others. The effective implementation of these provisions by the GoB will contribute enormously in decreasing rampant human rights violations in the CHT. Further, an effective mechanism for redress of grievances and violations of the Peace Accord should be established immediately.

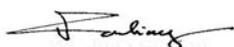
26. To request the Office of the High Commissioner on Human Rights (OHCHR) to establish an independent Fact Finding Commission in order to investigate the worsening human rights violations in the CHT and further look into the problems related to the Bengali Settlement programme of the GoB in the territories of the Jumma people. Experts of specialized mechanisms of the UN can form the Commission.

27. To call upon the Bangladesh Government to conduct a thorough review of its the national constitution, with the effective participation of genuine indigenous representatives in view of formulating provisions for the recognition of the rights of indigenous peoples in accordance to international human rights instruments such as the Un Declaration on the right of indigenous peoples. Further, to also include affirmative provisions for the representation of indigenous peoples in local government units and the parliament

28. To call upon the Bangladesh Government to immediately ratify the ILO Convention 169, Convention against Torture the Convention for the Elimination of Violence against Women (CEDAW) Convention on the rights of the Child and the Treaty of International Criminal Court. The ratification of these international instruments and its effective implementation by the GoB will not only demonstrate their commitment to human rights, but will dramatically improve the human rights situation in Bangladesh.

29. Call upon to the Bangladesh Government to implement the concerns and recommendations made by the UN Committee on the Elimination all forms of Racial Discrimination with regards the CHT Indigenous Peoples on 27 April 2001;

30. Implement international treaties including ILO Convention on Indigenous and Tribal Populations (Convention no. 107) ratified by the GoB.



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