

# National Seminar on Indigenous Peoples in Bangladesh: Human Rights and Sustainable Development Goals

10 December 2015, Hotel Lakeshore, Dhaka



Bangladesh Indigenous Peoples Forum

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## 1. Introduction

Bangladesh is a country of cultural and ethnic diversity, with over 54 indigenous peoples, along with the majority Bengali population. According to the 2011 Census, the country's indigenous population is approximately 1,586,141, which represents 1.8% of the total population of the country. However, indigenous peoples claim that their population is over three million. Indigenous peoples, with their distinct languages, traditions, cultures, values, and customs, contribute significantly to the rich cultural heritage, ecology, and sustainable development of the country.

However, the indigenous peoples' contributions in this regard are often unacknowledged or under-valued, and their individual and collective human rights, under national and international law (including core human rights to which Bangladesh is a party), are routinely violated, and often with continued impunity to those responsible for such violations.<sup>2</sup> The non-implementation of some of the most crucial elements of the CHT Accord of 1997, increased violence against women (including sexual violence), and the denial of fundamental freedoms, including on belief, speech, association and assembly, has aggravated the issue further.

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, mains electricity, and so forth. The situation of indigenous women, youth, elders and persons with disability, is many times worse, as their contexts are often ignored.

The National Seminar entitled "Indigenous Peoples in Bangladesh: Human Rights and Sustainable Development Goals" is being organized at a most opportune time, as the 7th Five Year Plan is being formulated in Bangladesh. Therefore, if the aforesaid Five Year Plan is formulated by incorporating adequate provisions that address the indigenous peoples' contexts of both opportunity and disadvantage, several crucial human rights and developmental rights of indigenous peoples can be addressed.

Bangladesh has made remarkable progress in the areas of poverty alleviation, primary school enrolment, gender parity in primary and secondary level education, lowering the infant and under-five mortality rate and maternal mortality ratio, improving immunization coverage and reducing the incidence of communicable diseases stipulated in the Millennium Development Goals (MDGs).<sup>3</sup> However, indigenous peoples in Bangladesh are still lagging far behind in many of these key goals and targets, if not all.

Had disaggregated data been made available, it would have been quite clear that the gains in the case of indigenous peoples were modest in some cases (e.g., poverty, malaria, infant and mother mortality) and relatively poor in others (e.g., primary education, access to safe water). The contexts of indigenous communities were not adequately accounted for during the framing of the MDGs, and during the process of their implementation, both globally, and in Bangladesh.

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<sup>2</sup> Human Rights Situation of Indigenous Peoples in Bangladesh, edited by Prof. Mong Shanoo Chowdhury, Asia Indigenous Peoples Pact and Kapaceng Foundation, August 2014.

<sup>3</sup> Bangladesh continues to be a role model in MDG achievement, 07 Sep 2014, <http://www.bd.undp.org/>

SDGs constitute a step up from the MDGs, which had no references to indigenous peoples.<sup>4</sup> Thus the SDGs promise to be more inclusive than the MDGs, as they promise to “leave no one behind”. But to what extent the implementation of the SDGs accounts for indigenous specificities, and thereby address them appropriately, globally, as well as in Bangladesh, depend on several factors, including incorporation in the 7th Five Year Plan and the amendment of sectoral policies, the generation of disaggregated data, the inclusion of indigenous peoples as partners in development, and the goodwill of the Government of Bangladesh (GoB).

## 2. UNDRIP and Outcome Document of WCIP

Despite the universal endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), passed in 2007, and the adoption by consensus of the Outcome Document of the High Level Plenary Meeting of the United Nations General Assembly known as the World Conference on Indigenous Peoples (WCIP), held in 2014, many States still do not expressly and directly recognise the existence of indigenous peoples, including Bangladesh.

In the 6th Five Year Plan (FY2011-FY2015), entitled “Accelerating Growth and Reducing Poverty”, the Government of Bangladesh pledged that “The Government would consider implementing the UN Declaration on the Rights of Indigenous Peoples 2007 and ratify the ILO Convention 169.”<sup>5</sup> On the other hand, in the WCIP, 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.

## 3. Sustainable Development Goals and Indigenous Peoples in BD

The Sustainable Development Goals (SDGs), which were adopted by the UN General Assembly on 25 September 2015, contain the 17 Sustainable Development Goals (SDGs) and 169 targets and include six specific references to indigenous peoples. The aim of this agenda is to “Leave No One Behind”. However, in order for the 2030 Development Agenda to be truly inclusive, states and the UN system must go beyond the provisions that expressly mention indigenous peoples and account for indigenous specificities in the context of the goals, targets and processes, they must go beyond those specifically mentioned provisions and plan interventions in a holistic manner, by accounting for the exclusion of the indigenous peoples from the development process, over the last few decades, and in some cases, centuries.

Prime Minister Sheikh Hasina has said that Bangladesh is committed to leading by example in the case of SDGs, as it did in the case of the MDGs. Bangladesh looks at Agenda-2030 with much interest and wants to sustain the momentum of the MDGs, build on their successes, and transform Bangladesh, for the better.<sup>6</sup> Indigenous peoples share this dream of other Bangladeshis.

Unlike in the case of the MDGs, indigenous peoples in Bangladesh look forward to being a full part of the SDG journey, so that all Bangladeshis can truly transform Bangladesh and bring peace and prosperity for all. Indigenous peoples wish to ensure that they are not left behind. Therefore, the designing of culturally relevant indicators, preceded by the disaggregation of data, including in the data of the Bangladesh Bureau of Statistics, is a vital precondition. The UN system, including the country teams, along with the development partners of Bangladesh, have an important role to play in this regard.

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4 Press Conference: Indigenous Peoples and 2030 Development Agenda, [www.un.org/indigenous](http://www.un.org/indigenous)

5 Sixth Five Year Plan (FY2011-FY2015), Accelerating Growth and Reducing Poverty, Planning Commission, Ministry of Planning, Government of People's Republic of Bangladesh, p. 159

6 Bangladesh to lead by example in SDGs, The Daily Star, 01 October 2015.

## 4. Major Challenges faced by Indigenous Peoples

### 4.1. Identity of Indigenous Peoples

Historically, Bangladesh is a country with diverse languages, religions and ethnicity. However, the existence of indigenous groups and their diverse cultural practices, has remained unrecognized both by the State and its mainstream population, on account of ignorance, discriminatory perspectives or chauvinistic mindsets, or a combination of them. This has resulted in the exclusion of indigenous peoples from governance and development, except in a very marginal manner.

Although Article 23A of the Constitution of Bangladesh (introduced through the 15th Amendment), does make specific references to the indigenous peoples, it refers to the indigenous peoples in terms that are rejected by them. It refers to the indigenous peoples as “tribes, minor races, ethnic sects and communities” (*“upajati, khudro jatishaotta, nrigoshthi o shomprodai”*), instead of ‘indigenous peoples’. It also says that all the people of Bangladesh will be known as Bangalees (Article 6.2)<sup>7</sup>. These provisions have violated the rights of self-determination and self-identification. The stand of the indigenous peoples on appropriate constitutional recognition and recognition of their identity and rights is supported, by the progressive citizens of Bangladesh, including the Parliamentary Caucus on Indigenous Peoples. Enactment of Bangladesh Indigenous Peoples Rights Act 2015 which is being drafted by the Parliamentary Caucus on Indigenous Peoples and Anti-Discrimination Act which is formulated by National Human Rights Commission could be a positive move away from the negative trends in this respect.

### 4.2. Implementation of CHT Accord

The CHT Accord of 1997 - signed between the Government of Bangladesh and PCJSS – has entered its 18th year. The Government claims that 48 out of 72 provisions of the CHT Accord have been implemented, but while the JSS and several others claim that only 25 of the provisions have been implemented until now. While the matter of numbers can be debated, what is beyond debate is the non-implementation or only very marginal implementation of some of the most crucial, and some say “core”, elements of the agreement, including on (a) de-militarization (through the dismantling of all non-permanent army camps and the withdrawal of “Operation Upliftment” or “Operation Uttoron”); (b)



7 Indigenous World 2012: Bangladesh Chapter.

devolution and self-government (primarily through the CHT Regional Council and the Hill District Councils) (c) rehabilitation (through the CHT Task Force on Refugees and Displaced People; and (d) the resolution of land disputes (by the CHT Land Disputes Resolution Commission, which has been inactive or dysfunctional since its inception).

Thus, despite the government's express commitments, made nationally and at international forums (including the UN Human Rights Council & the UN Permanent Forum on Indigenous Issues), implementation of the aforesaid core provisions remain stalled, or "frozen". Unless and until these matters are addressed, including through the agreed-upon amendments to the CHT Land Commission law, and by effective measures to preserve the "Special Tribal Area" status of the CHT and its three districts (as stipulated in the Accord and in the laws on the Regional and District Councils), true development that is acceptable to the people of the CHT will remain merely on words. Development of the CHT must be respectful of cultural identity, be self-determined, and with the free, prior and informed consent ("FPIC") of the indigenous peoples, as stipulated in UNDRIP and the WCIP Outcome Document. In this process, necessary devolution to the HDCs is crucial (including on Land, Forests, Police and Law and Order), including through amendments to the Bangladesh Police Act 1861, the CHT Regulation 1900 and the Forest Act 1927.

### ***4.3. Political Participation of Indigenous Peoples***

There are de-centralised government institutions in CHT, such as, the CHT Regional Council (CHTRC) at regional level, and the Hill District Councils (HDCs), at district levels. In addition to the above institutions, the CHT has a three-tier traditional structure, based upon ancient customs, with Rajas or Chiefs at circle level, Headmen at mouza level, and Karbaries, at village level. All of these institutions are supervised by the Ministry of Chittagong Hill Tracts Affairs (MoCHTA). At present, the powers and functions of the CHTRC and three HDCs are yet to be properly defined and supported by the national government. Elections to the CHTRC and the HDCs are yet to be held since the signing of the Accord. After signing of the Accord, a few departments/functions have been transferred to the HDCs, but the crucial subjects of law and order, police (local), land and land management, forest, environment, education in mother tongue etc. are yet to be transferred.

Unlike in the CHT, the indigenous peoples of the "plains" (the regions outside the CHT) remain with little or no representation in governance, at national, district and local levels. The self-government systems of the indigenous peoples of the plains districts remain totally unrecognized. The government does not pay due attention to the demand of the plain indigenous peoples, including women, for introducing reserved seats in the local government bodies, such as, Union Council, Upazila Council, Municipality and District Council and also in the Parliament. Hence, indigenous peoples of the plains have been excluded from full participation in the political life of the state and in the decision-making processes of governance.<sup>8</sup> This way, the rights of free, prior and informed consent of indigenous peoples are being violated.

The Prime Minister's office is in charge of allocating a very meager sum of money for the plains indigenous peoples and of undertaking programmes for the welfare of the indigenous peoples of the plains areas, through the district and sub-district administrations, but indigenous people have little or no say in such decisions, particularly at national and divisional levels, but also at district and sub-district levels. Steps need to be taken immediately to provide the legitimate representatives of the indigenous peoples of the plains to substantively participate in the decision-making process in this regard, including through the formation of a separate ministry or division to deal with the affairs of the plains indigenous peoples, with inclusive decision-making processes.

Such a course of action will need to stipulate creation/reforming of specific institutions for indigenous peoples from the plains – starting with the Special Affairs Division under the Prime Minister's Office. But

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<sup>8</sup> Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, Consultation on the situation of indigenous peoples in Asia, 31 July 2013, A/HRC/24/41/Add.3, para 34.

more precisely, this will also entail inclusion of the indigenous peoples' representatives in various development committees at district, thana and union parishad level, in areas where there is significant indigenous population. Alongside, establishment of special Development Advisory Committees, exclusively comprising of indigenous peoples' representatives also need to be explored.

#### ***4.4. Indigenous Peoples' Land Alienation***

The situation of alienation of lands of indigenous peoples of the country, both in the CHT and in the plains, is alarming, and continues to deteriorate.

In the CHT, a number of tourism centres have been established by the military, without the knowledge and consent of the local communities, the Chiefs and Headmen, the HDCs and the CHT Regional Council (under applicable laws, Tourism is a mandated subject of the HDCs and the CHTRC, while Land Management and Administration is to be effected through the traditional institutions).

Vast tracts of lands have been declared as reserved forests – between the 1990s until 2010s – to be unilaterally administered by the Bangladesh Forest Department (BFD), without the knowledge and consent of the concerned communities, the HDCs and the Traditional Chiefs and Headmen.

Restitution of alienated lands to the indigenous peoples is a long-standing demand of indigenous peoples and civic rights groups of the country. Despite the present government's assurance in its election manifesto 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", the government is yet to take any such measures and form a Land Commission for the plains indigenous peoples.<sup>9</sup>

Land dispossession in the plains areas is perhaps the most acute in northwestern Bangladesh. In numerous cases, land-grabbing was also accompanied by acts of arson and murder on the part of non-indigenous people. In the same region unscrupulous Bengali people have used the Vested Property Act to seize indigenous people's lands. Although the East Bengal State Acquisition and Tenancy Act of 1950 ensures protection of land rights for plains indigenous peoples in regards to transfer of lands, it does not have any provision for land restitution. This matter needs to be addressed through amendments to the law and through administrative and policy directives.

#### ***4.5. Deprivation of Basic Facilities***

Most of indigenous peoples of Bangladesh are living with acute economic hardship. They are facing multi-dimensional economic problems ranging from poverty to unemployment. Indigenous peoples living in Bangladesh have no adequate access to education, health care, food and nutritional security, safe drinking water and hygienic sanitation.

Health conditions in the CHT, especially in the 'remoter' regions, are a case for serious concern. Food insecurity is quite high among the indigenous peoples. Deaths from malaria and dysentery are frequently reported. Most indigenous villagers depend upon traditional doctors and faith healers. Furthermore, in various studies, it was found that indigenous women in the CHT and in the plains, faced acute cases of discrimination, generally, and in accessing basic healthcare services.

It was estimated that 85% of indigenous peoples in the plains were landless, and only 9% were literate, about one quarter of the then national literacy rate. Most of these people are employed as sharecroppers - working on others' lands - or as wage labourers.<sup>10</sup>

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9 Joint Submission on the Human Rights Situation of Indigenous Peoples in Bangladesh to the UN Human Rights Council for the Universal Periodic Review on 22 April 2013 - 3 May 2013 by the Coalition of Indigenous Peoples' Organisations, Kapaceng Foundation, Dhaka.

10 An Appeal from the Indigenous Peoples of Bangladesh on the Occasion of Bangladesh Development Forum Meet May 17 and 18, 2003, Dhaka.

The indigenous peoples are also deprived of the basic right to education through the mother tongue. Although the CHT Accord of 1997, the ILO Convention No. 107 and the Convention on the Rights of the Child (both conventions being applicable to Bangladesh), primary education in mother tongue for indigenous children remains unavailable. Having to study in the national Bengali language - which is not the mother tongue of the indigenous people - is known to lead to learning difficulties, dropouts and worse.

The Ministry of Primary and Mass Education came up with some initiatives in 2013 to start primary education for indigenous children in their mother tongues. As a part of it, a national committee was formed to take care of production of the textbooks, training-up the teachers and other related affairs at elementary level for six indigenous languages – Chakma, Kakbarak, Mandi, Marma, Santali and Sadri.<sup>11</sup> The progress of work in this regard needs to be closely monitored and supported

#### ***4.6. Indigenous Women, Children, Youth and Persons with Disabilities***

Systemic poverty exacerbates inequality, especially for indigenous women, children and youth and persons with disabilities who are particularly affected by the lack of access to health services, housing, and other services. Non-sustainable development, extractive industries' practices, policies originating from colonial and patriarchal systems and doctrines, which include, among others, environmental, sexual and physical violence, have particularly negative impacts on indigenous women, children, youth and persons with disabilities. Additionally, indigenous women suffer from triple discrimination - discrimination as women, for being indigenous women, and for being the face of poverty.<sup>12</sup>

Although the Constitution of Bangladesh guarantees equality for all citizens, the indigenous women and girls in the country confront severe discrimination. However, violence against women and girls is considered to be a weapon used widely to evict ethnic, cultural and religious minorities from their ancestral lands.<sup>13</sup> A culture of impunity, along with patriarchy, hegemonic masculinities and gender disparities towards indigenous women, continue to bar or limit access to justice.

Indigenous women and youth should fully and effectively participate as leaders and experts in all levels of governance and decision-making, both at local and national levels, and at international level, including in processes related to the SDGs.

### **4. Recommendations**

Indigenous peoples of Bangladesh have continuously appealed to all development partners of the GOB to urge the GOB to use its foreign aid for good governance, including the overall development of the citizens of Bangladesh, in a non-discriminatory manner. Indigenous peoples have continued to appeal that the most urgent attention be given to several areas, including the following:

- (a) To support the GOB to take adequate and context-specific measures to consult the indigenous peoples with regard to the adoption of the 7th Five Year Plan and to amend the Sectoral Policies of GOB to include indigenous peoples' issues;
- (b) To support the GOB in the formulation of a National Action Plan or National Action Plans for implementation of the SDGs, UNDRIP and Outcome Document of the WCIP, at country level;
- (c) To provide support for the capacity building of Indigenous Peoples' Organisations for protection and promotion of the rights of indigenous peoples and inclusive development;
- (d) Provide support for awareness building among indigenous peoples, policy makers and other stakeholders on the rights of indigenous peoples including SDGs, UNDRIP, Outcome Documents, ILO Convention No. 107, ICCPR, ICESCR, ICERD and CHT Accord of 1997;

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<sup>11</sup> Survival Under Threat: Human Rights Situation of Indigenous Peoples in Bangladesh, edited by Prof. Mong Shanoo Chowdhury, AIPP & KF, August 2014.

<sup>12</sup> Indigenous Peoples and the Development Agenda: Beyond 2015.

<sup>13</sup> Human Rights Report 2014 on Indigenous Peoples in Bangladesh, Kapaeeng Foundation.

- (e) Establish partnerships for development on issues relating to indigenous peoples;
- (f) Encourage Government of Bangladesh
  - 1) To come forward in establishing the rights and development of livelihoods of indigenous peoples;
  - 2) To declare a time-line-based Action Plan or 'Road Map' for proper, speedy and full implementation of the CHT Accord of 1997;
  - 3) To recognize indigenous peoples' collective rights, in particular the right to land, territories and natural resources; to form a separate Land Commission to prevent land alienation and to restitute alienated lands of the indigenous peoples of the plains;
  - 4) To resolve the land disputes in the CHT in accordance with the CHT Accord by amending the CHT Land Disputes Resolution Commission Act 2001 as per the 13-point amendment proposals agreed by the CHTRC & GOB;
  - 5) To formulate an Indigenous Peoples Rights Act, to enact intercultural and cultural-sensitive policies at the national level, especially in the areas of education and health and to constitute an Aboriginal/Indigenous Commission for Indigenous Peoples of the plains;
  - 6) To stop communal violence and physical abuse, including sexual violence, against indigenous women and girls, and to conduct judicial or other independent inquiries into the communal violence and abuses against indigenous peoples, including indigenous women;
  - 7) To prioritize special conditions and needs of indigenous women, children, youth and indigenous persons with disabilities.
  - 8) To recognize culture as the 4th pillar of sustainable development, and the inclusion of the indigenous concept of development with culture and identity.
  - 9) To determine indicators of poverty that capture the specific characteristics and perspectives of indigenous peoples, including their own definitions of poverty and well-being, and disaggregated data.
  - 10) To respect the right to free, prior and informed consent in all matters affecting indigenous peoples.
  - 11) To provide constitutional recognition to the indigenous peoples as per international human rights standards, including the UNDRIP;
  - 12) To conduct investigations into the human rights violations against indigenous peoples, by independent bodies, including the National Human Rights;
  - 13) To facilitate the reservation of seats in parliament, upazila and union councils for indigenous peoples, including indigenous women.



*Published by Bangladesh Indigenous Peoples Forum (BIPF), Published on 10 December 2015*