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

Submitted to

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Submitted by

Coalition of Indigenous Peoples Organisations on UPR

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I. Introduction and Methodology

1. This is a joint submission to the UPR working group of the Human Rights Council by the “Coalition of Indigenous Peoples Organizations on UPR”¹, formed in June 2012 by 30 Indigenous Peoples Organisations (IPOs) working on the human rights of Indigenous peoples in Bangladesh (Please see Annexe-A for the list of the members).

2. The methodology of the report consists of regular monitoring and documentation of indigenous peoples' human rights situation by the Coalition members, including fact-finding missions and interviews. Extensive 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.² 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, 2018-2023.

3. There are more than 54 indigenous groups in Bangladesh. According to the 2021 census, the indigenous population of Bangladesh is 1,650,159. But according to indigenous peoples, the number is more than 3.0 million.³ The population of indigenous peoples is under-represented as they are not properly enumerated during the census.

4. Bangladesh does not recognize Indigenous peoples as ‘Indigenous’ (Adivasis). The constitution of Bangladesh mentions them as tribes, minor races, ethnic sects and communities. It should also be noted that the constitution only mentions ‘to protect and develop their unique local culture and tradition’. There is no mention of indigenous peoples’ self-governance, political participation, and rights to land, territory and natural resources. On the other hand, constitutionally, ‘Bengali’ identity has been imposed on the indigenous peoples; the constitution stipulates that “the people of Bangladesh shall be known as Bangalees as a nation”.

II. Legal and Policy Framework

5. In the last three consecutive UPR circles and three consecutive Five Year Plans, the government pledged to ratify the ILO Convention No. 169 on Indigenous and Tribal Peoples
and to implement the UN Declaration on the Rights of Indigenous Peoples. The government is yet to keep its promise. The government has not taken any initiative to ratify ILO Convention No. 169, which is a significant setback regarding its commitment to the indigenous peoples.

6. Discrimination and inequality perpetrated by state and non-state actors against indigenous peoples on ethnic, religious, and cultural grounds in Bangladesh are widespread. In this context, the 3rd circle recommended expediting the work of formulating the Elimination of Discrimination Act. But in the last 5 years, the government has taken no initiative in this regard. Similarly, the government did not take any measures to amend ‘Acquisition and Requisition of Immovable Property Act 2017’ and ‘CHT (Land Acquisition) Regulation 1958’ to make them in consonance with the individual and collective rights of indigenous peoples over land, territory, and natural resources.

7. The government also pledged to implement the ‘Small Ethnic Groups Cultural Institutions Act 2010’ to protect and develop the language, culture, literature, and heritage of the ethnic minority groups of the country. However, there is no such significant initiative to implement it fully. The government introduced mother tongue-based education in 5 indigenous languages but did not allocate an adequate budget, training, instruction, and textbook curriculum for the teachers and students.

Recommenations:

a) Ratify the ILO Convention No. 169 on indigenous and tribal peoples of 1989.
c) Expedite the formulation of the Elimination of Discrimination Act.
d) Amend the Acquisition and Requisition of Immovable Property Act 2017 to safeguard the rights and welfare of indigenous peoples of the plains.
e) Amend the CHT Land Acquisition Regulation 1958 in accordance with the CHT Accord of 1997 and recommendations of the CHTRC.
f) Ensure meaningful and effective engagement of indigenous peoples prior to formulating, amending, or repealing any law concerning their rights and wellbeing.

III. Implementation of CHT Accord of 1997

8. To fully implement the Chittagong Hill Tracts Accord (CHT Accord) of 1997, the Government of Bangladesh has accepted the repeated recommendations of the three consecutive UPRs of the UN Human Rights Council since 2009. In the 3rd circle of UPR in 2018, the government accepted recommendations No. 147.9-147.12, which stipulated to launch an action plan/road map with a clear timeline for the speedy, proper, and full implementation of the CHT Accord. However, the government is yet to adopt such a road map even though the present government, which signed the CHT Accord in 1997, has been in power for the last 14 years since 2009. Out of the 72 sections of the Accord, only 25 sections have been fully implemented, 18 sections have been partially implemented, while the remaining 29 sections have been left totally untouched. The core issues of the Accord have been left either totally unimplemented or just partially implemented.

9. In the last five years, though the CHT Accord Implementation and Monitoring Committee (AIMC), CHT Land Dispute Resolution Commission (CHTLC), and the Task Force on Rehabilitation of India-returnee Refugees and Internally Displaced Persons (IDPs) were reconstituted, so far, no effective initiatives for the execution of decisions of these Committees have been undertaken. Significantly, the government has not taken any step to implement most decisions of the AIMC, which is entrusted with the responsibility of implementing and
monitoring the Accord. On the contrary, the government continues various programs and projects that are against the Accord and the interest of the indigenous Jumma people.

10. For instance, during several meetings of the AIMC held in 2018-19, decisions were undertaken that the subject ‘Police’ (Local) and ‘Preservation & Development of Law & Order’ would be devolved to the Hill District Councils (HDCs) through an Executive Order and the Hill District Police Forces would be formed as per regulations of the HDCs. But these decisions, in place of getting executed, an initiative was undertaken to deploy APBn in the site of the withdrawn army camp through a directive issued by the Armed Police Battalion (APBn) Headquarters on April 13, 2022, which is a direct violation of the Accord. Also, despite its formation, the AIMC still does not have any office and workforce of its own. The AIMC adopted an organogram with a manpower of 27 staff. But the government has not approved and executed the said organogram even in the last 5 years.

11. Although decision was taken to formulate the Rules of the CHTLC during the meetings of the ‘CHT Accord Implementation and Monitoring Committee,’ and CHTLC, with immediate effect in the interest of resolving the land disputes in CHT, the government has kept the process of formulating the Rules hanging for the last 6 years. The CHT Regional Council (CHTRC) submitted the draft Rules of the CHTLC to the Ministry of Lands on January 1, 2017, for approval. But the government has not yet finalized/enacted the Rules. As a result, the judicial work to resolve land disputes could not be started until now. The CHTLC also does not have adequate man powers, funds, and logistics to work.

12. Before signing the CHT Accord of 1997, during the Task Force meeting, the government pledged that ration would be provided to 54 thousand refugees who had repatriated from the Tripura State of India based on a self-initiative and 16-Point Package Agreement. However, no effective initiative has been undertaken in that regard. Similarly, no single family out of one hundred thousand IDP families has been rehabilitated and provided ration in the last 26 years. At present, most of the IDP families and the Jumma refugees are being forced to live in inhumane conditions in reserve forests, traditionally-managed Jum land and mouza lands, homesteads of relatives, etc.

13. Though the CHT Accord contains the provision of withdrawal of all temporary camps, out of the 545 such camps, the government has withdrawn only 101 temporary camps in three phases. In the last five years, no camp has been withdrawn. Rather, many army camps have been re-established. Besides, by merit of the ‘Operation Uttoron’ promulgated in 2001, the security forces have been exercising their absolute control over all the subjects, including the general administration, law & order, judiciary, and development sectors of CHT. This practice has become a severe threat to introducing democratic good governance and special administrative system incorporating the CHTRC and the three HDCs.

**Recommendations**

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) **Immediate adoption of Rules for the Land Commission in accordance with recommendations of the CHTRC.**

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.**
e) Rehabilitation of Internally Displaced Jumma Families and Returnee (India-Returned) Jumma Refugees and returning lands and homesteads back to them.

f) 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

14. Election Manifesto 2018 (page-73) of the ruling party stated that “the activity started by the Land Commission to ensure the rights of the small ethnic communities in the plain lands has been advanced.” However, despite being in power for three consecutive terms since 2009, the present government has not formed this Land Commission and taken any steps to solve the land problem of the indigenous peoples of the plains.

15. As the Vested Property (Return) Act was not properly implemented in the last five years, the indigenous peoples of the plains, like other minorities, did not get their lands back. They also suffer economically while dealing with court cases to get their land back. Their land is not being extradited from the offices of various Deputy Commissioners despite the judgments of the Tribunal and Appellate Tribunal. Despite the tribunal’s verdict, Deputy Commissioners and Assistant Commissioners (Land) keep arranging for further trials to verify, although they do not have jurisdiction to call for such trials rather than proper implementation of the judgment.

16. The ILO’s Convention No. 107 on Indigenous and Tribal Peoples is the most significant tool to ensure Indigenous peoples' individual and collective rights over land, territories and natural resources. Although Bangladesh ratified this Convention in 1972, the government has not taken any effective initiative to implement the Convention properly and to incorporate the rights recognized in the Convention into national law. As a result, the collective or individual rights of the indigenous peoples over their traditionally occupied lands have not yet been legally recognized. As a result, the lands of indigenous peoples are continuously being expropriated by state and non-state actors. For instance, without considering the traditional land rights, lifestyle and livelihood of the Khasi people, the government leased out additional 661 acres of land, including Khasia Punji land in Jhimai Mouza of Kulaura upazila of Moulvibazar district for 40 years to Kedarpur Tea Company which has put 72 Khasi families of Jhimaipunji under the threat of eviction. This will also destroy the forest area. In Patuakhali district, the lands of Rakhaine indigenous peoples are being grabbed by the local influential persons in the name of tourism.

17. Furthermore, the government leased out a total of 1,600 acres of hilly land in 64 plots amounting 25 acres per plot in Lama of Bandarban district to 64 non-locals, trampling on the traditional land rights of the indigenous peoples. Lama Rubber Industries Ltd., formed by these 64 leaseholders, occupied additional 4,000 acres of land beyond their allotted 1,600 acres of land. Currently, the company is further encroaching 350 acres of land from three villages of indigenous Mro and Tripura communities of Sarai Union in Lama. With an aim to occupy the land, in April 2022, the Lama Rubber Industries Ltd. set fire to said 350 acres of Jum farming land, plantation, and village common forests, resulting in livelihood, food, and drinking water crisis for 200 villagers of 39 Indigenous families. The arson, assault, and conspiratorial misdeeds of the land-grabber Lama Rubber Industries did not stop there. After April 26, 2022, attack, at least 11 times more attacks, and 2 fabricated cases were filed against the indigenous villager in 2022. NHRC issued to the concerned authorities to take immediate action to protect indigenous villagers' rights. Despite a ban issued by the district administration and the police prohibiting both sides from entering the area under section 144/45, the rubber company, with the support of state forces, still continues to occupy the land. There also has been allegation of
land grabbing of indigenous peoples in the border areas in Khagrachhari and Rangamati District by the Border Guard of Bangladesh (BGB).  

18. Various techniques used to encroach on indigenous peoples’ land including implementation of government forestation, Khas land protection, national parks, tourist centers, eco-parks, by forging documents, attack them after spreading rumour, riot, forcible occupation, intimidation, and so on. Carrying out communal attacks, including burning their houses, looting, and committing vandalism on the villages of indigenous peoples by the land grabbers (sometimes with the direct support of the state forces), is a very common way to evict the Indigenous peoples and occupy their lands. In one such attack that took place in Mahalchari on July 5, 2022, 37 houses of indigenous people were set on fire. At least two indigenous villagers were reportedly injured while resisting the attackers. During the arson attack, the security and law enforcement forces were present at the scene but did not take any action against the attacking settlers to refrain them. 

Recommendations  

a) To recognize indigenous peoples’ collective rights, particularly the right to land, territories, and natural resources.

b) 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.

V. Rights of Indigenous Women and Girls

19. It is still very far to achieve political participation of indigenous women. Although 50 seats are reserved for women in the Parliament, and seats are also reserved for women in local government councils at all levels, there is no separate reservation for indigenous women. Indigenous women remain in a backward position in all aspects. Numerically, the indigenous peoples are the minority in Bangladesh. Hence, it becomes difficult for indigenous women to be elected to local government councils or Parliament through a democratic voting system.

20. Injustice and the existing culture of impunity are the biggest challenges in addressing violence against indigenous women and girls. Indigenous peoples are the most marginalized and vulnerable in terms of political, economic, social, and cultural aspects. As a result, indigenous women become easy targets by state and non-state actors, including security forces. Due to marginalization in all respects, indigenous women do not easily get assistance from police and administration in cases of violence. Even when a court case is filed, Indigenous women do not have the ability to continue the case. As a result, perpetrators of violence against indigenous women enjoy impunity. 6 incidents of violence against indigenous women and girls occurred within one month (February 10 to March 11, 2023) in the CHT region. Out of these 6 incidents, the police arrested the perpetrator in only one incident. 8 perpetrators of the remaining 5 incidents remain at large. There also have been many incidents perpetrated by the security forces against the indigenous women in CHT, and not a single security member was arrested.

21. Without considering the indigenous peoples' culture, lifestyle, and traditional rights, the establishment of tourist centers by the security forces and various public and private companies is negatively impacting the indigenous peoples' social and cultural life. In some cases, indigenous women and girls are being forced into prostitution in these tourist centers.

Recommendations:  

a) The government of Bangladesh is urged to ensure indigenous peoples’ representation in the parliament and local councils by reserving adequate seats.
b) The government should ensure the safety and security of indigenous women and girls and end all forms of violence and discrimination against them.

c) Government should formulate laws and policies that directly and contextually address the issues faced by indigenous women and girls in the country.

d) Government should ensure that all the incidents of violence against indigenous women & girls are investigated adequately and that the perpetrators are brought to justice.

e) Government should ensure legal aid support and services for all victims of violence, including indigenous women and girls.

VI. Economic, Social and Cultural Rights

22. In 2018, due to the movement of general students demanding quota reforms, the government abolished all types of quotas for direct recruitment to class I and II government jobs. However, due to the protests against this decision and demand to keep the quota Prime Minister Sheikh Hasina assured on October 28, 2018, that indigenous candidates would always get priority even if the quota system is cancelled. But after the abolition of quota, when the final results of the 40th BCS were published on March 30, 2022, it was found out that no indigenous candidate was considered in the said 40th batch.

23. Although there are provisions in the CHT Accord and laws enacted as per the Accord that the all development programs at the national level shall be implemented through the Hill District Councils, yet the development programs of the three Hill District Councils are being implemented as per the decisions of the CHT Affairs Ministry. This is weakening the decision-making role as well as the jurisdiction of the self-rule of Hill District Councils. On the other end, as most projects in CHT are implemented through the CHT Development Board with the approval of the Ministry of CHT Affairs while by-passing the CHT Regional Council and Hill District Councils, the unique governance system of CHT is getting wrecked, and the process is creating complexity in the administration and the development as well.

24. Bangladesh government has already taken the initiative to provide primary education to children of five indigenous communities (Chakma, Marma, Tripura, Garo, and Sadri ) in their mother tongue. Though mother tongue textbooks of these 5 languages were provided, no initiative has been taken to arrange training for the indigenous teachers. There is also shortage of teachers. As a result, the decision to provide education in their mother tongue is facing many crises.11

25. More than 54 indigenous ethnic groups speak 45 languages in the country. Among them, 14 languages have been identified as endangered by the International Mother Language Institute. Most of the indigenous languages in the northern part of the country are on the verge of extinction.12 The International Mother Language Institute has undertaken a project to preserve and develop indigenous languages. But due to a lack of manpower, funds, and resources, this project is running very slowly while facing multi-faceted problems.13

26. Another destructive project currently going on in CHT is the construction of border roads and link roads titled “Border Road (Rangamati, Khagrachari, and Bandarban districts) Construction Project.” Under this project, the border road measuring 317 kilometers touching the Myanmar and Indian borders is being constructed by the Ministry of Road Transport and Construction Brigade of the Bangladesh Army without consultation and consent from the CHT Regional Councils and three Hill District Councils. As a result of continued construction, houses of at least 500 families of indigenous people, their grove lands, plantations, schools, and temples have been damaged in 2022 and no compensation has been made.14


**Recommendations:**

a) To ensure separate budget allocation for Indigenous Peoples in designing, implementing, and evaluating the SDGs in the spirit of ‘leave no one behind’.

b) To reinstate 5 percent quota for indigenous peoples in the recruitment of all posts, including first and second-class government jobs, and to formulate policies in this regard.

c) To implement mother tongue-based primary education for all indigenous children in Bangladesh, ensuring the recruitment of linguist teachers and conducting proper training for them.

d) To take action for the preservation and revitalization of the endangered languages of indigenous peoples.

**VII. Business and Human Rights**

27. Bangladesh army operates corporate businesses in CHT, resulting in the forcible occupation of thousands of acres of traditional and shifting cultivation land without Prior and Informed Consent. For example, approximately 1,000 acres of land occupied and cultivated by Mro people is in danger of being occupied due to the construction of a Maritot Hotel and Resorts by Sena Kalyan Trust (Army Welfare Trust) and Sikdar Group (R&R Holdings) in Naitang hill of Chimbuk under Bandarban district. Upon completion of this project, 6 villages of Mro people will be directly evicted, and the traditional livelihoods, farmlands, plantations, sacred places, cremation grounds, and water sources of approximately 10,000 inhabitants of 116 villages will be severely affected. Since September 2020, the aggrieved Mro community and various organizations in the CHT have repeatedly been submitting memorandums to the Prime Minister against the construction of the five-star hotel. At various times people from different walks of life have issued statements expressing solidarity with the just demands of the Mro people. A number of UN special envoys have expressed deep concern over the impending crisis over the Mro people. But it is noteworthy that despite all these statements, protests, and opposition, the construction work of the five-star hotel of the army has not stopped.

28. The forest department has taken the initiative to make an artificial lake in Madhupur forest, which they will turn into a tourist center. At least 14 families of Garo community would lose their arable land. 9,541 acres of forest land have been declared as reserved forests, including 13 Garo villages, to implement this project. Even the Garo people are not allowed in the lake project area.

29. On the other hand, land of Santal indigenous peoples have not been retuned to the original owners and no compensation has been provided to the affected indigenous families yet. It’s to be noted that, Bangladesh Export Processing Zone Authority (BEPZA) has announced the establishment plan of EPZ without maintaining the proper and meaningful consultation with the indigenous Santal and Bengali farmers at Gobindaganj, upazila of Gaibanda District.

**Recommendations:**

a) Protect indigenous peoples from the persecution of business enterprises and bring business enterprises responsible for such persecution against indigenous peoples to justice.

b) Return the lands of indigenous peoples who have lost their ancestral lands as a result of business enterprises and/or economic zones.

c) 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

30. In CHT, interference in the right to freedom of speech, expression, and freedom of association and publication of news of human rights violations has increased alarmingly. Bangladesh government has shut down five indigenous and human rights-related news portals. Consequently, the news on atrocities of the security forces and law enforcement forces remains unexposed to the national media and the country's people. The government has banned a total of 178 online news portals across the country, including those five. An information letter signed by Muhammad Delwar Hossain, Deputy Secretary, Ministry of Information and Publicity, on October 10, 2021, and a press release signed by him on October 11, 2021, informed about the decision of the government.

31. The 11-point restrictions imposed on CHT in 2015 have not yet been withdrawn. In light of this directive, the United Nations High Commissioner for Human Rights was not allowed to visit the CHT region in August 2022. Even the government has not taken any action for full implementation of the CHT Accord, unrestricted access for independent actors to visit the area, and protection of indigenous peoples from violence and land encroachment as per the High Commissioner's call.

32. The government has been criminalizing and labelling the rights activists and organizations as 'separatists', 'extortionists', 'armed terrorists', etc., Various anti-indigenous programs, including military operations against the indigenous people, search and raid of their houses, arbitrary arrests, extra-judicial killings in the name of cross-fire, filing up of fabricated cases, violence against women, infiltration, forcible land occupation, anti-Accord propagation, etc. continue unabatedly. In 2022, at least 779 persons fell prey to the 110 incidents of human rights violations where 58 persons were arrested, 28 persons were detained, 54 persons were beaten up, 21 persons underwent threat and harassment, 45 houses were searched, and projected cases were filed against 22 persons. 3 people were extra-judicially killed in 2020 and one person in 2022. Nabayan Chakma Milan, an Indigenous activist, was arrested by the security forces of Dighinala Zone in Khagrachari district on March 15, 2022, and was tortured to death.

33. Although Bangladesh repeatedly promised the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in the last three consecutive five-year plans, the ruling party and the state’s mechanism, especially the security forces, continue to provide various restrictions on the use of the term ‘indigenous’. One of such latest examples is the directive issued by a government agency on July 4, 2022, on the occasion of International Day of the World’s Indigenous Peoples. The direction imposed restrictions on using the term ‘Adivasi’ or ‘indigenous people’.

Recommendations:

a) To take effective initiatives to stop the criminalization of indigenous peoples’ human rights defenders and to end the culture of impunity in the country.

b) To conduct an impartial and independent investigation into all human rights violations committed against indigenous human rights activists and to take appropriate legal action against the perpetrators.

c) To ensure freedom of assembly, freedom of speech, and freedom of expression in the CHT.

d) To take urgent action for unrestricted access for independent actors to visit the CHT region.
e) To provide constitutional recognition of the indigenous peoples' identity, integrity and fundamental rights as ‘indigenous’.

Endnote:

1 This submission is a fruit of concerted efforts put together by the members of the Coalition of Indigenous Peoples Organizations on UPR. Regular monitoring and documentation of the human rights situation of indigenous peoples by the members of the Coalition, who come from all indigenous inhabited regions of the country.

2 As a major method of data collection, the members of the Coalition conducted a number of 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. 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.


8 37 houses set on fire in Khagrachari, New Age, 6 July 2022.

9 37 houses set on fire and looted by Bengali settlers in Mahalchari, Hill Voice, 5 July 2022.


13 Is the language of the indigenous peoples subject to the dominance? DW, February 20, 2023.

14 1,935 people victimized in 235 incidents of HR violations in 2022, Hill Voice, January 01, 2023.


16 Prothom Alo, 9 August 2022


21 Censoring the indigenous, Netra News, August 1st, 2022.
Annex-1

Coalition of Indigenous Peoples’ Organizations on UPR

List of Members

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