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*Keywords: indigenous peoples, human rights, violence, land disputes, freedom, Jumma, discrimination*

## I. Introduction

1. This report, submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 30<sup>th</sup> session of the Universal Periodic Review, during which the People's Republic of Bangladesh is under consideration, draws attention to human rights violations occurring in the Chittagong Hill Tracts (CHT) region and those affecting indigenous peoples. Firstly, the report will give a brief background to the CHT issue. Then, it will address different types of human rights violations suffered by indigenous peoples in the CHT and assess them in light of the recommendations given by other countries during the previous UPR session, International Labour Organisation (ILO) Convention 109 and relevant UN treaties of which the People's Republic of Bangladesh is a State party. Finally, it will present a series of recommendations aimed to facilitate constructive discussions during the 30<sup>th</sup> UPR session in Geneva. Henceforth, this report will call the People's Republic of Bangladesh "Bangladesh".

## II. Background

2. The CHT is a region situated in the south-eastern part of Bangladesh consisting of three districts, namely Rangamati, Khagrachari and Bandarban, historically home to a majority indigenous population, but now almost equally divided between indigenous and non-indigenous Bengali settlers. Indigenous communities in Bangladesh, including groups other than those in the CHT, claim that their population amounts to roughly two or three million in the country.<sup>1</sup> The indigenous groups commonly known as "Jummas" have lived peacefully in the CHT for centuries. Yet, the government's discriminatory policies and the increasing number of Bengali settlements since the 1970s have led to an escalation of the conflict between the native population and the government. Today, indigenous peoples in the CHT are subjected to a number of human rights violations including rape, torture, enforced disappearances, extrajudicial killings, arbitrary arrests and significant displacement due to arson attacks being carried out by Bengali settlers.
3. After a long struggle, the indigenous Jumma people and the government of Bangladesh negotiated the signing of the 'CHT Accord' on 2 December 1997, which aimed at resolving the CHT crisis through political and peaceful means. However, almost twenty years later the CHT Accord remains largely unimplemented. The main issues of the CHT Accord, such as the preservation of the tribes-inhabited characteristics of the region, the devolution of central authority to a CHT Regional Council and its three subsequent Hill District Councils, the resolution of land disputes, the withdrawal of all temporary camps, the *de facto* military rule and the 'Operation Uttoron' for the demilitarisation of the region, the rehabilitation of returned Jumma

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<sup>1</sup> Quarterly human rights reports - Global Human Rights Defence, *Minorities in Bangladesh*, 2011, p. 6.

refugees and internally displaced Jumma families have yet to be put into place. Furthermore, the amendment of all the other laws applicable to the CHT including the Police Act, Police Regulation and the CHT Regulation 1900 intended to make the State conform with the Accord and with the rehabilitation of Bengali settlers outside of the CHT with dignity.

4. The section below will briefly analyse human rights violations under three sections, namely the violation of indigenous territorial rights, violence against indigenous peoples and violations of the rule of law and freedoms. The main sources for this report are the 2016 Human Rights Report prepared by the Kapaeeng Foundation, reports on the issue prepared by other NGOs and UNPO's news sources.

### III. Violation of Indigenous Territorial Rights

5. Article 11 of ILO Convention 107 on Indigenous and Tribal Populations guarantees Indigenous peoples the right to ownership over the lands that they have traditionally occupied and used. Additionally, article 12 states that indigenous peoples shall not be removed without their free consent.<sup>2</sup> Therefore, by allowing State and non-State actors to continue to seize indigenous peoples' ancestral lands both in the CHT and in the plains, the government of Bangladesh infringes on the convention it ratified in 1972..
6. Accordingly, many indigenous families have been and continue to be forced to leave their traditional lands due to large-scale development projects such as the establishment of military and para military camps, training centres, tourism complexes, national/eco parks, economic zones and a special tourist zone.<sup>3</sup> These projects were implemented without the consent of local communities or the local administrative bodies of the CHT Regional Council and three Hill District Councils, although art. 26 of the CHT Accord legally requires prior approval of the Council.<sup>4</sup> Indigenous groups have little control over land decisions affecting them, while Bengali-speaking settlers continue to illegally encroach on indigenous lands in the CHT.<sup>5</sup>
7. The 2017 Freedom House report indicates that the ability of foreign nationals, journalists and human rights activists to visit the Chittagong Hill Tracts had been restricted since 2015.<sup>6</sup> In fact, on 6 May 2017, security officials blocked an investigative delegation to Bandarban. In effect, the team, comprised of journalists, human rights advocates and civil society actors, was prevented from conducting its mission. The

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<sup>2</sup> International Labour Organization (ILO) (1957), "Indigenous and Tribal Peoples Convention, C107", Available at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C107](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107)

<sup>3</sup> Kapaeeng Foundation, *Human Rights Report 2016 on Indigenous Peoples in Bangladesh*, February 2016, p.24, Available at: <http://kapaeeng.org/wp-content/uploads/2017/02/HR-Book-2016.pdf>

<sup>4</sup> *Chittagong Hill Tracts Accord*, 1997, Available at:

[http://peacemaker.un.org/sites/peacemaker.un.org/files/BD\\_971202\\_Chittagong%20Hill%20Tracts%20Peace%20Accord.pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/BD_971202_Chittagong%20Hill%20Tracts%20Peace%20Accord.pdf)

<sup>5</sup> Freedom House, *Freedom in the World 2017 Bangladesh Profile*, Available at: <https://freedomhouse.org/report/freedom-world/2017/bangladesh>

<sup>6</sup> Idem.

delegation intended to survey claims of land-grabbing and evictions that continue to adversely affect indigenous communities in the Chittagong Hill Tracts. The information gathered would have been used to further develop provisions for resolving land disputes discussed in the CHT Accord.

8. As mentioned above, the increasing number of Bengali settlements in the CHT leads to clashes between the Jumma indigenous communities and Bengali settlers. Among other things, Bengali settlers, allegedly encouraged by security forces, carry out arson attacks to intimidate Jumma indigenous communities and force them to leave their ancestral lands. During the period between April and May 2017, the Bangladeshi army and allegedly army-backed settlers intensified persecutions and atrocities against indigenous Jumma people in the CHT. On 2 June 2017, the settlers launched an arson attack on four Jumma villages. During these attacks, it was reported that a 75-year-old woman was killed and 3 other villagers were tortured. Besides, more than 250 Jumma houses were blazed, including over 94 houses and shops in Tintila of Longadu Upazila headquarters, at least 88 houses in Manikjorchara and 42 houses in Battya Para villages. After the security forces arrived in the Jumma villages, the Bengali settlers looted and set fire to Jumma homes, shops, and even the offices of the Parbatya Chattagram Jana Samhati Samiti (PCJSS), the only political party protecting the interests of the indigenous. As a result of the attacks, which lasted for hours, almost 6,000 villagers were forced to flee their homes and find refuge in the forest.
9. On 6 November 2016, police Rapid Action Battalion (RAB) and local goons hired by Rangpur Sugar Mills and other influential political figures had organised a brutal attack on indigenous Santal people and Bengali farmers in Gaibandha, which resulted in the death of 3 indigenous individuals and the burning of 200 houses. Moreover, more than 1,200 families were forced to flee the place of occurrence after widespread looting, vandalising and arson attacks on their homes.<sup>7</sup>
10. According to the Kapaeeng Foundation's human rights report, 2,333.98 (m<sup>2</sup>) of land in the CHT were seized by Bengali settlers while the livelihood of 606 indigenous families was threatened. In 2015, 657 indigenous families in the CHT alone were threatened with eviction while 1,400 were threatened in the plains.<sup>8</sup> However, it is worth mentioning that these numbers might be even higher since the government of Bangladesh does not have accurate statistics of how many indigenous peoples have lost their land in last 10 years. The number of indigenous peoples migrated in this period is also unknown to both the government and the community itself.
11. The evidence above clearly shows that Bangladesh has failed to implement the land-related commitments of the 1997 CHT Accord, albeit its pledges to do so and recommendations given by Australia and Ecuador regarding its implementation

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<sup>7</sup> Kapaeeng Foundation 2016 Report, p. 45.

<sup>8</sup> Idem, p. 27.

during the previous UPR session.<sup>9</sup> In the following section, the report will present different forms of violence committed by the security forces and Bengali settlers against indigenous peoples in the CHT.

#### IV. Violence against Indigenous Peoples

12. Article 2(c) of ILO Convention 107 provides that the State parties shall create possibilities for national integration, while excluding measures that push the artificial assimilation of the indigenous populations.<sup>10</sup> Similarly, article 2.2 of the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Bangladesh in 1969, indicates that States shall take “special and concrete measures to ensure the adequate development and protection of certain racial groups”.<sup>11</sup> Furthermore, commitments to prevent discrimination against any citizen on grounds of religion, race, caste, sex or place of birth are made in Article 28(1) of the Bangladesh Constitution.<sup>12</sup>
13. Article 35(5) of the Constitution prohibits torture and cruel, inhumane, or degrading punishment or treatment to any person, as do the principles of the Convention against Torture, which Bangladesh has been part of since 1998.<sup>13</sup> During the second UPR cycle, The Netherlands and the United Kingdom (UK) recommended that Bangladesh take necessary measures and investigate all allegations of human rights violations, in particular enforced disappearances, extrajudicial executions and torture. These recommendations were supported by Bangladesh.<sup>14</sup>
14. However, Bangladesh has failed to protect the indigenous populations from violence or prevent discrimination towards them, as they had promised and as mentioned in the above paragraph. The Kapaeeng Foundation’s 2016 Report shows that in 2016 alone, at least 79 members of indigenous communities in the CHT were subjected to torture, assault and intimidation while in 2015, 101 people suffered from ill-treatment. Additionally, the number of murder cases increased from 7 to 11 between 2015-2016. Moreover, 152 people were either detained or arrested in 2016, in comparison to 52 cases recorded in 2015.<sup>15</sup>

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<sup>9</sup> 129.153 Recommendation, UPR Recommendation and Pledges, 2013, Available at: [https://www.upr-info.org/sites/default/files/document/bangladesh/session\\_16\\_-\\_april\\_2013/recommendations\\_and\\_pledges\\_bangladesh\\_2013.pdf](https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf)

<sup>10</sup> ILO (1957) C107, Available at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C107](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107)

<sup>11</sup> UN General Assembly (1979), “International Convention on Elimination of All Forms of Racial Discrimination”, Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

<sup>12</sup> Constitution of the People’s Republic of Bangladesh, 1972, Available at: [http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=367&sections\\_id=24576](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367&sections_id=24576)

<sup>13</sup> UN General Assembly (1998), “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>14</sup> 129.68; 129.75 Recommendations, UPR Recommendation and Pledges, 2013, Available at: [https://www.upr-info.org/sites/default/files/document/bangladesh/session\\_16\\_-\\_april\\_2013/recommendations\\_and\\_pledges\\_bangladesh\\_2013.pdf](https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf)

<sup>15</sup> Kapaeeng Foundation 2016 Report, p. 11.

15. The number of arbitrary arrests, detentions, extrajudicial killings and enforced disappearances against people suspected of being armed terrorists, extortionists, dissidents or separatists has drastically increased, notwithstanding the Supreme Court's ruling<sup>16</sup>, which restrained law enforcement agencies from making arbitrary arrests on suspicion. The 1974 Special Powers Act and a 2009 counter terrorism law undoubtedly have had a considerable impact on this rising number. The former permits arbitrary detention without charge, while the criminal procedure code allows detention without a warrant. The latter provides a broad definition of terrorism, which does not meet international standards.<sup>17</sup> For instance, Romel Chakma, a 19-year old student from Hatimara village, was arbitrarily arrested on his way home and tortured at the Naniarchar zone headquarters. On 19 April 2017, he died from severe injuries and his dead body was taken away from his parents and relatives by the army.<sup>18</sup>
16. The impunity of members of law enforcement agencies involved in the crimes mentioned above is another reason for grave concern. During the second UPR cycle, Indonesia, Switzerland and the United States of America (USA) recommended that Bangladesh put an end to the impunity of law-enforcement agents who commit human rights violations and hold perpetrators accountable<sup>19</sup>. This is clearly seen in the case of Kalpana Chakma, a Chittagong Hill Tracts human rights and women's rights activist who was abducted from her home by plain-clothed security officers on 12 June 1996. Amnesty International has reiterated its concern over the prosecution's attempt to close the investigation into the disappearance of Kalpana Chakma, upon the authorities' request that it be closed due to insufficient evidence.<sup>20</sup>
17. The ratification of international treaties like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ICERD, ICCPR, and ICESCR by Bangladesh, which enshrine equal rights of men and women to enjoy their human rights constituted important progress, at least on paper. However, it has become clear that the establishment and ratification of treaties and rights have not equated their adequate implementation, particularly concerning women's rights in Bangladesh. Hence, during the second UPR cycle, Bangladesh received recommendations from Slovakia and the Holy See regarding implementing measures to protect indigenous women and children from all kinds of violence and discrimination.<sup>21</sup>

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<sup>16</sup> Benar News, "Bangladesh Supreme Court Orders Police to Change Arrest Practices", 24.05.2016, Available at: <http://www.benarnews.org/english/news/bengali/court-arrest-05242016155852.html>

<sup>17</sup> Freedom House, Idem.

<sup>18</sup> UNPO, "Student Dies Following Brutal Torture by Bangladeshi Army", April 2017, Available at: <http://unpo.org/article/20047>

<sup>19</sup> Recommendations 129.33; 129.76; 129.80, UPR Recommendation and Pledges, 2013, Available at: [https://www.upr-info.org/sites/default/files/document/bangladesh/session\\_16\\_-\\_april\\_2013/recommendations\\_and\\_pledges\\_bangladesh\\_2013.pdf](https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf)

<sup>20</sup> Amnesty International, "Bangladesh 2016/2017 Report", Available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/bangladesh/report-bangladesh/>

<sup>21</sup> Recommendations 130.23; 130.24, UPR Recommendation and Pledges, 2013, Available at: [https://www.upr-info.org/sites/default/files/document/bangladesh/session\\_16\\_-\\_april\\_2013/recommendations\\_and\\_pledges\\_bangladesh\\_2013.pdf](https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf)

18. Indigenous women and girls are especially vulnerable to discrimination and sexual and gender-based violence.<sup>22</sup> They often face different forms of violence such as rape and even murder following a rape, physical assault, abductions and trafficking due to their gender, indigenous identity and socioeconomic status.<sup>23</sup> The 2016 report of the Kapaeeng Foundation indicated that a total of 53 violent attacks against indigenous women were recorded in 2016, of which 28 occurred in the CHT. Of these recorded incidents, an estimated 58 indigenous women and girls were sexually and physically assaulted, 30 of which from the CHT and 28 from the plains. The majority of alleged perpetrators (84%) were Bengalis, 2% were members of a law enforcement agency and 1% were representatives of local government bodies. In total, only 13% were from an indigenous background.<sup>24</sup> The increasing trend of incidents of sexual and gender-based violence in the CHT mainly stems from the impunity of the perpetrators. Moreover, oppressing indigenous women with violence is used as a weapon to intimidate indigenous people out of their native land.

## V. Rule of Law and Freedoms

19. State and non-State actors continue to criminalise human rights activists and indigenous peoples' representatives by imposing restrictions on NGOs and indigenous human rights organisations and arresting activists. The government restrains the access of NGOs, journalists, foreign nationals and human right activists to the CHT to prevent them from investigating human rights violations. The Foreign Donations (Voluntary Activities) Regulation Act, which took effect in October 2016, hampered NGOs' foreign financial funds and granted broad authority to the officials to deregister NGOs that make "derogatory" comments about government bodies or the constitution<sup>25</sup>. In this regard, in 2016, fabricated cases were filed against at least 191 indigenous peoples' organisations and human rights activists, including 42 innocent indigenous villagers in the plain land. In addition, 80 activists including 3 public representatives were arrested and more than 81 persons including 4 from the plain land were briefly detained.<sup>26</sup>

20. Article 20 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of peaceful assembly and association". Article 19 further protects freedom of expression. Even though it is not a binding international human rights instrument, it has been used as a catalyst for two binding international covenants, both of which Bangladesh is a signatory of: the ICESCR and the ICCPR. The Constitution of Bangladesh also includes the right to freedom of assembly, procession, gathering or demonstration, as well as freedom of speech and expression. However,

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<sup>22</sup> Human Rights Watch, "World Report 2017", Available at: <https://www.hrw.org/world-report/2017/country-chapters/bangladesh>

<sup>23</sup> Ibid.

<sup>24</sup> Kapaeeng Foundation 2016 Report, p. 58.

<sup>25</sup> Freedom House, Idem.

<sup>26</sup> Kapaeeng Foundation 2016 Report, p. 11.

several laws were proposed in 2016 that restricted freedom of expression and association, such as the Press Council Act amendments which included provisions aimed at closing down newspapers. Following the arson attacks in June 2017, peaceful protests were organised by civil society organisations and different student organisations in the capital Dhaka, as well as in Chittagong, Khagrachari, Bandarban, Rangamati and in a few cities abroad including Delhi and New York. However, the protests were severely repressed as security forces brutally attacked the peaceful demonstrators and beat the Jumma protesters with sticks.

21. Article 28(1) of the Bangladeshi Constitution guarantees freedom of religion. Yet, during the second UPR cycle, Canada and Japan recommended that Bangladesh take necessary measures to ensure the security of religious minorities and their places of worship (recommendations 129.99 and 129.100).<sup>27</sup> However, the Jummas continue to face discrimination under the law and are prevented from practicing their religion by various means. Intelligence services and security forces have carried out religious desecration upon Jummas for years and in 2016 in particular, they intensified religious oppression by dismantling worshiping articles inside temples and interfering in the observance of religious rituals. As a part of the religious desecration process, intelligence agencies and security forces in the CHT continue to spread cruel propaganda against Buddhist shrines, meditation centres and the Buddhist monks of the indigenous Jummas.

## VI. Recommendations

Given the above-mentioned human rights situation in the CHT, the UNPO urges the Government of Bangladesh to consider the following recommendations:

1. *To fully implement the 1997 CHT Accord giving priority to the devolution of authority to the CHT Regional Council and three Hill District Councils, the resolution of land disputes, the withdrawal of all temporary camps and de facto military rule 'Operation Uttoron' from CHT and the relocation of government-sponsored Bengali settlers outside the CHT, among others;*
2. *To recognise Jummas as indigenous peoples in the CHT and ratify the 1989 ILO Convention No. 169 on indigenous and tribal peoples;*
3. *To endorse the United Nations Declarations on the Rights of Indigenous Peoples;*

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<sup>27</sup> Recommendations 129.99; 129.100, Recommendation and Pledges, 2013, Available at: [https://www.upr-info.org/sites/default/files/document/bangladesh/session\\_16\\_-\\_april\\_2013/recommendations\\_and\\_pledges\\_bangladesh\\_2013.pdf](https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf)



4. *To respect the freedoms of expression, speech and peaceful assembly of the Jumma people and lift the restrictions on NGOs and human rights defenders to visit the CHT;*
5. *To bring to justice the perpetrators of forced evictions, looting, murder, and rape against indigenous communities in the CHT and ensure the accountability of law enforcement agencies' members involved in such crimes;*
6. *To ratify the Convention for the Protection of All Persons from Enforced Disappearance;*
7. *To take the necessary measures to protect indigenous women from all kinds of violence and discrimination.*