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GIFT

**Human Rights in Bangladesh:
A Case Study of Indigenous People**

For awarding Masters of Philosophy Degree

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Submitted by

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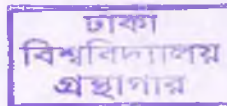
DECLARATION

I do hereby declare that the study entitled "Human Rights in Bangladesh: A case study of indigenous peoples". Prepared by me for presenting to the Academic Body of University of Dhaka, Dhaka Bangladesh in order to fulfill the requirements for the Master of philosophy degree is a basic research work of mine which has been completed during the prescribed study period. This thesis has not been presented in any other form to any academic institutions for any academic degree or any other purpose.

DEPARTMENT OF PEACE
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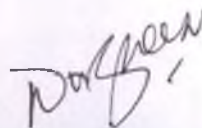


CERTIFICATE

This is to certify that Jesmin Ara (Reg No 184/2002-2003) has completed her M. Phil thesis on Human Rights in Bangladesh. A case study of 'Indigenous People' was completed under my direct supervision. This is her original work; any part of this thesis is not submitted anywhere else for publication; hence I approve this thesis to be submitted to the academic body of the University of Dhaka for awarding Masters of Philosophy degree.

I wish her every success in the academic field and also her day to day life.

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ACKNOWLEDGEMENT

The study entitled “Human rights in Bangladesh: A case study of indigenous people” has been completed by me for awarding the masters of philosophy degree from the department of Peace and Conflict studies, University of Dhaka, Dhaka Bangladesh. In this regards, I would like to express my humble gratitude to almighty Allah for enabling me to complete this study.

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Dhaka

10th October, 2010.

Jesmin Ara

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Abstract and executive summary

The Indigenous people are the citizens of Bangladesh in accordance of our constitution. Being the citizen of a modern country, they are the backward from the mainstream. So the main objective of the study is to unfold the rights of the indigenous people of Bangladesh and to review the actual implementation of the said rights in the context of contemporary socio economic setting of Bangladesh. Bangladesh is now having about 150 million people a good number of which are Indigenous. The actual social status and the rights and obligations of Indigenous people are reviewed under our constitutional rights as well as point of equality.

After setting of objectives of the study the status of Indigenous people and their rights are analytically examined from an historical perspective. The rights of Indigenous people are also reviewed from the stand point of actual world-view of Human Rights pertaining to Language, Culture, and Education, Health and Security and other related issues having important bearing of the subject.

A section is devoted on the efforts of the government of Bangladesh to upgrade the relatively low status of Indigenous people in Bangladesh and to protect their rights. As such the study will give an account of the government's attempt to provide facilities for Indigenous people and enactment of recent legislation to protect rights of the Indigenous people from the abuse and social oppression. A comparative approach will be adopted the analysis is primarily based on the secondary data. The study will provide a base for further research work in this area. More than 45 Indigenous ethnic communities with a population of nearly three million have been living in the country for centuries. According to the official census of 2001, the total number of indigenous (officially tribal) people in Bangladesh was 1,772,788. However, these figures are a gross underestimation. Indigenous peoples claim that the indigenous population in the country is about 3.0 millions. The largest concentration of indigenous peoples in Bangladesh is found in the southeastern border region of the chittangong Hill Tracts (CHT). According to the 1991 census, the indigenous Junima people in CHIT together

numbered 501,144 and the indigenous peoples of the plain regions were estimated to number about 704,834.

The government refers indigenous peoples as 'tribal' in official documents, although some legal documents also sometimes refer to them as 'aboriginals' and 'indigenous hill men'. The Constitution of Bangladesh does not directly mention the indigenous peoples or tribal, but it is understood that the indigenous peoples form part of the disadvantaged part of the citizens, which the constitution terms backward section of the citizens.

Discrimination and human rights violation is particularly glaring in the indigenous inhabited regions, where they have continued to suffer from violent land-grabbing and other forms of land alienation. The indigenous peoples have been evicted, or threatened with eviction, from their traditional homes and lands, in the name of development projects, such as dams, eco parks, national parks, protected forest and even the establishment of military bases on their ancestral and community land. These and other major problems faced by the indigenous peoples continue to be neglected by succeeding governments and are worsened on account of the very limited participation of indigenous peoples in major decision making processes.

However, the government undertakes some affirmative actions in favor of indigenous peoples. Notable among these are setting up of a special Affairs Division particularly for plain lands indigenous peoples: signing of the CHT Peace Accord with the PCJSS as a solution of the CHT problem through political and peaceful means; amendment of CHT Regulation in 2003 for establishment of separate district judge court in CHT; inclusion of the term adivasi and indigenous peoples issues in the Poverty Reduction Strategy Paper (PARSP); continuing of quota reservation in the government jobs and educational institutions for 'tribal' people etc.

Government of Bangladesh has ratified a number of international human rights treaties and conventions, which is fundamentally bearing to the indigenous peoples.

These treaties includes are the international Convention on the Civil and Political Rights (CPR). International Convention on Elimination of all forms Racial Discrimination (CERD). The International Convention on Economical, Social and Cultural Rights (ESCR), ILO Conventions 107 (Indigenous and Tribal Peoples), the convention on Biological Diversity CBD, However, the situation of implementation of the provisions of the aforesaid treaties is far from good. The government is very much reluctant to implement international human rights mechanisms and conventions related to indigenous populations.

Though several international organizations and agencies including UN specialized agencies have own policies of engagement with indigenous peoples, but they do not follow their policies when they undertake development projects in the territory of indigenous peoples in Bangladesh. They do not even try to incorporate indigenous peoples perspectives in their development initiatives.

The idiosyncratic mindset of the Bengali Muslim ruling elite, intelligentsia and bureaucrats deeply affected by a chauvinistic mentality is largely responsible for the total non-recognition of the human rights and fundamental freedoms of indigenous peoples in Bangladesh. There is a serious lack of knowledge among majority Bengalis about indigenous cultures, languages, way of life, history and traditions are serious. Non-recognition of indigenous people's rights and existence in the constitution is the root problem for the marginalization of indigenous peoples. In the CHT, lack of trust between government and indigenous peoples is the major challenge that needs to be overcome for the proper implementation of CHT Peace Accord.

CHAPTER- 1

1. **Introduction:** Global and National contexts

Indigenous peoples inhabit large areas of the earth's Surface Spread across the world from the Arctic to south Pacific; they number, at a rough estimate, some 300 million. Among many indigenous peoples are the Indians of the Americas (for example, the Mayas of Guatemala or the Aymaras of Bolivia), the Inuit and Aleutians of the circumpolar region, the Salami of northern Europe, the Aborigines and Torres Strait Inlanders of Australia, and the Maori of New Zealand. These and other indigenous Peoples have retained social, cultural, economic and political characteristics, which are clearly distinct from those of other segments of the national population. Indigenous communities in Bangladesh also have their own social, cultural, religious and ritualistic, and political diversities.

According to 1991 Bangladesh Census, the size of the indigenous population was 1.2 million (actual number 12, 05,978), which constituted about 1.13 percent of country's total population. In 1991, the census documented 27 groups of population as 'tribal' in Bangladesh; and clustered some more as 'Others' under the same category. According to other literature, 58 indigenous/tribal communities live in different parts of Bangladesh. Whatever may be their status in number, it is recognized that besides the Bengali, a significant number of ethnic minorities groups live in different parts of the country. They have separate social, cultural, religious and economic identities and are easily distinguishable by their different characteristics such as religion, language, culture, etc. The inter-community administrative and judicial system, pattern of marriage, social-family life, values, etc, have given them the separate entity of a group of people which they are preserving exercising form the very beginning of their origin up until now.

The disappearance of the 'adivasis' (Indigenous peoples) from the census as distinct and diverse ethnic communities is due to historical facts. The 1947 partition between India and Pakistan, Ila Mitra's movement which led to turmoil and atrocities by

government forces on the Santals, and communal violence in 1962 compelled the 'adivasis' in this region to their lands. As a result, in 1962 survey, they were not available and were counted in their localities. Some writers and historians have expressed the opinion that those adivasis who left the country during liberation war also had same problem and were unable to reclaim their land when they had come back from India after the war.

The UN declared 1993 as the 'Year of the World' Indigenous People' and 1994-2005 as the Decade of the World' Indigenous People' to create worldwide public opinion concerning the betterment of 300 million indigenous peoples of the world. The goal of the Decade is to strengthen international cooperation for the solution of the problems faced by indigenous peoples in such areas as human rights, environment, development, education, and health. The theme of the Decade is "Indigenous People; partnership in action". In its resolution 49/214 of 23 December 1994(para.8) the General Assembly designated 9 August to be observed as International Day of the World's Indigenous People. This occasion has been used to draw attention to indigenous issues and societies.

The above-mentioned initiatives indicate that, despite certain progress made, great deal remains to be done in order to resolve outstanding issues coming up between the indigenous people's interests and the national or private development, and between the livelihoods and lifestyles of the people concerned and the public policies.

In some parts of Bangladesh, i.e. in Chittagong Hill Tracts, direct negotiations through Accord between PCGSS and Government have been instituted in the recent past (1999), but that too has been implemented. In other parts of the country including the north-western region, the indigenous people's rights have been neglected.

The social, economic, educational and political situations of indigenous communities are in distress. The majority of peoples of the north-western region are illiterate. Most of the entire economy of the indigenous people is based on agriculture. They cultivate land in the ancient method. Although their main occupation is agriculture they are

gradually becoming landless. A very few families cultivate their own land and most of the indigenous people are agro-based daylabourers. They constitute one of the most vulnerable groups in national societies. In recent times, a number of studies have examined the socio-economic situations and cultural aspects of indigenous communities in Bangladesh. Among those, the notable ones on the northwestern region of Bangladesh are Ahmed (1997), Drong (2001), Jail (19991), Kamal, Samad, Banu (2003), Khan, Talal,(1981), Sumon (2003).

These studies have, somehow reflected on crucial issues like identity, economic insolvency, poverty, and the changing scenario of the indigenous communities in this region.

Therefore, it is a very important and timely step to evaluate the current position and experiences of these communities from their point of views by incorporating their voices and actions in development initiatives either already undertaken or to be taken in the near future for their economic benefit as well as for the improvement of their overall social status. The current study is an initiative for a step forward in this regard. This study seeks to combine a discussion of indigenous rights within a wider human rights framework with a social science analysis of how social (particularly ethnic) discrimination impinges on poverty processes and poverty outcomes related to human dignity and well-being, safety, food security, employment and control over land in Bangladesh. Thus following this introduction of the framework and principal definitions, we discuss in the second chapter what kind of opportunities the rapid development of human rights law is opening up for the world's tribal and indigenous populations in their struggles for a more dignified and just existence. The principal tribal and indigenous peoples have so far been able to make of human rights law varies considerably. Thus, we find it of paramount importance to outline what kind of recognition human rights law accords to minorities and indigenous issues. Such an outline might assist governments and civil society actors in their quest to assert rights and to fulfil responsibilities as parties to current international human rights law.

The framework of this study is based on the recognition that sweeping critiques of modernity and development as the ideology of oppressive nation states and a defence for other home-grown modernities and cultural specificities can, however, come uncomfortably close to a social conservatism that uncritically posits specificity as an overarching value. This recognition is challenging for scholars engaged in studies of ethnic and ethno-nationalist movements at a time when ethnic assertions have become more credible as a result of the growing indigenous movement and strengthened indigenous rights, but at the same time more contentious, as such assertions now have more direct practical and political consequences. Struggles for recognition, be it in the form of limited cultural rights and self-rule or of more comprehensive self-government, deserve our sympathy, but also our critical historical assessment of whether and how such projects involve a refashioning of identities and political ideas. This book's analyses of the changing historical relationships between peoples, lands and identities shows that in the frontier regions studies- in the central tribal belt of India, in India's north- east and in the extended north-east- relation between hill and low-land indigenous, native lowland states and colonial states were based on a notions of bounded collectivities residing in demarcated homelands geographical space than the preceding early colonial and pre-colonial understanding of overlapping frontiers, property rights and cultural classifications. It thus seems to us absolutely necessary, in light of the over-whelming evidence of how political and economic structures of global outreach have profoundly formed and still refashion regional, sub-regional, and national and community institutions, to start interrogating these dialectics between capitalist development, globalization of international human rights, centralism and regionalism, and ethno-nationalism and communalism. In doing so, the notions of tribe, nation and region are subjected to examination.

Our unraveling of the historical, administrative, legal and scientific connotations of the notion of tribe shows just how deeply it has been implicated in the politics of (mis) recognition. Furthermore, our unraveling of the history of nationalism (s) in the continent exposes the many contradictory relations between the political ideologies underlying the twentieth century's struggles for self-

determination and the still disastrously uncompleted nature of some of these nation-building projects. We define nationalism as a political principle that maintains that similarity of culture is the basic social bond. The implication for the livelihood and human rights situation for ethnic, religious and linguistic categories and groups are far reaching and mostly negative, as they are inevitably made and remade into minorities. In the past and current post-colonial context of state formation nation building and political and economic development, protection of minorities, whether religiously or ethnically defined, is impossible, as the nations are not able to muster sufficient legitimacy. The states therefore compulsively produce majorities and minorities as a precarious and constantly destabilising was an easy way of building and consolidating spurious ethnic cores, which are built around dichotomising and marginalising some "alien others" not deserving full or even any citizenship rights. The multiple marginalisation of the Adivasis of Bangladesh in the post-colonial period stands in stark contrast to the centrality of the Adivasi in a number of precursor movements to the Indian nationalist movement and to the close-knit destiny and mutual accommodation between Hindu and Muslim Bengalis and the Adivasi of Greater Bengal during the pre-colonial periods and after the establishment of colonial rule.

Observing a complex trans-border traffic in vastly different kinds of ideology, of militants and arms and of refugees, displaced and voluntary migrants, both in India's north-east and in an extended north-east region (including the states of the central Indian tribal belt, Eastern Nepal, Sikkim, Bhutan and Bangladesh), we set out to examine the empirical and analytical utility of these regional concepts in chapters three and four. We argue that shifting center-region-state relations, which have a multifaceted historical plain-movements. Furthermore, we conclude that the politically more credible groups have come to life partly due to increasingly conflict-ridden relations between the 9 unions) centre and the states; and at the state level, between relatively unaccountable political and economic elites and an alienated and marginalised, ethnically diverse citizenry who fight back with political. This means that the legitimacy of the principles of authority depend of the "fact" that the members

of the group share the same culture or are in a nationslist idiom, of the same "nation" Shared culture includes shared religion, language, imagined or real history and customs, all to which may be used to create ethnic contrasting idioms, See E. Gellner, Nationalism, London: religious (intrinstcally linded to the political use of culture) and military menans. The Partition in 1947 made the north east India's underbelly. But this more precarious geopolitical srrategic position of the north east cannot fully explain the centre's shift from a relatively accommodating policy to a massive use of coercive menas. Widespread human rights violations and a situation where we have ended up with the region becoming one of the most militraised in the world today.

Our brief discussion of the political and cultural history of, in particular, Bengal, as noted above, unreavels the dracatic and tangled history of the shared destiny of Bengalis of different castes, status groups and religious affiliations and the Adivasis of Greater Bengal, a history largely inknown to most current Bangladeshis and Indians, as this multicultural legacy is disregarded by dominant public nationalist discourses. In the cultural nationalist discourse of the East pakistan period and of the opst-liberation period, the Adivasis are denied their ancestry as the earliest natives of Bengal and the approximately 150 years of dramatic subaltern coexistence under colonial domination is erased. Instead, as we show in chapter five, the Adivasis are charac terised as uphojati, uncivilised aliens to be assimilated within the Bangladeshi mainstream, which is being politicised with an increasingly Muslim communal dimension. We argue, therefore, that any future scholarly debate of Bangladesh's recent colonial past faces the challenge of adequately accounting for and lending historical agency to past generations of Adivasis and Bengalis, whose lives and actions have in such unpercedentedly diverse ways become intertwined politically, culturally and economically. dislodging the often equally paternalistic colonial and nationalistic discourses about tribes and the nature of their repression and resistance is no minor task. It may, however, invigorate and legitimate current struggles for human rights in Bangladesh.

In the end of the colonial period to the late 1990s and their principal causes, one being the circumvention of the central land law's protective clause it is one of the ironies of the colonial history of Adivasis. that Santals, like the Oraons and the Mundas and other Adivaiss, were engaged as clearers of the remaining large jungles of East Bengal. These tracts were once parts of the mighty central Indian forest belt in which diverse Adivasi cultures and adaptations developed and thrived over thousands of years. After the end of colonial rule only patches of the once vast forested ecological zone remained in East Pakistan, but offered in the following decades in a small way a last resort for the Adivsisi to gather their highly prized nutritious food and medicinal plants, and to go on their cherished annual hunting expeditions. We show that it is only in last 20 years or so that the Adivasi have totally lost informal forest rights, with serious consequences for Adivasi culture livelihoods and formal education, institution building and advocacy for the Social status and rights of Indigenous People under our constitution and prevailing situation has been the subject of repeated controversies among people ever since they came under the impact of Western civilization. It is still a live issues of generating much heat and passion in our country including the sub-contacts and Culture ever since it came into existence and formulated its' approach to existing social, Political and economic status and rights of people is not a rigid framework of laws and institutions but a set of policies, principles can be changed the prevailing controversies regarding the human rights and status of the indigenous. This study reflects that the overall situation of indigenous communities of Bangladesh. The inadequate access of these communities to all kinds of resources is mainly due to a lack of their advancement. Most of their economy is based on agriculture and they cultivate the land in ancient methods. Although their main occupation is agriculture, they are becoming landless fast. Currently, very few families cultivate their own land, and most of members of all indigenous communities in North Western are agricultural day labourers. The over whelming majority of these people are illiterate. They also live in very poor sanitation and hygienic condition. Inadequate medical care and excessive drinking habit are creating adverse impacts on their life expectancy and economic condition.

Based on the findings of Case studies which explores an indepth understanding of the situation through different qualitative methods of investigation, this study makes the recommendations for the improvement of the overall situation of the indigenous communities in Bangladesh.

1.1 Objective and Implications of the Study : Before dealing with the status and rights of Indigenous People it would be well to examine how the question of rights and their claim for complete equality with men came to the forefront in modern times and what the underlying causes were which added strength to Indigenous People claim for freedom and equality. Such an analysis is called for the order to ascertain how far Indigenous movement in modern history issued out of the scientific and rational understanding of their powers, faculties and social functions and how far it represented merely a blind revolt against tradition, custom and artificial social restrictions and was prompted by desires untinged with altruism. It is necessary to make a dispassionate search for rational as well as non-rational factors in the modern Indigenous movement, because otherwise our conclusions are likely to reflect the partisan spirit of one or the other side in the bitter controversy that has raged over Indigenous demands. This chapter will see the actual historical circumstances which gave birth to these three viewpoints on the subject of Indigenous people place in society. We shall first deal with the democratic viewpoint which is historically prior to the ideology of fascism. Indigenous peoples economic rights and independence including employment, appropriate working condition and control over economic resources. So this study will intend to look into and review the socio-economic condition, such as right to work, pay security, leisure as well as Human right etc. of Indigenous people in Bangladesh. The general purpose of the study is make a detailed investigation into demographic, health, and socio-economic condition of the indigenous people and to compare the results after project intervention. The study is based on quantitative and qualitative information about the different aspects of indigenous people's livelihoods,

The specific objectives of the study are as follows with view of Modern values with particular emphasis on the following issues.

- (i) Legal rights of the Indigenous people in Bangladesh.
- (ii) Economic Status Opportunity of work, payment, recruitment procedures, regularity in payment provision of leave and gender discrimination in earnings.
- (iii) Social Security : (a) at house (b) at work place.
- (iv) Living Standard: Physical working environment, such as adequate facilities and other related issues.
- (v) Education : Facilities and equality.

Before analyzing the above stated aspects, the study will also review the following issues in the context of Indigenous people in Bangladesh.

- (a) Review relevant documents & papers of International conferences. Universal Declarations Human Rights.
 - (b) Examine the existing laws regarding to Indigenous people of Bangladesh.
 - (c) Examine the existing policies, programs and projects of the Ministry of Govt. of Bangladesh and find out their lacuna and lapses.
 - (d) Review the Ministry's role and present monitoring system for follow-up action.
- (vi) To have an understanding of the existing situation and problems faced by the indigenous communities,
 - (vii) To find out the socio-economic characteristics of the indigenous population of Bangladesh.
 - (viii) To understand the context, behavior practice, feelings, choice preferences and other distinct phenomena.
 - (ix) To assess the changes among the indigenous communities after the intervention of the project activities,
 - (x) To identify the problem areas and the Limitations and assess the scope for further expansion of the programme.

The study reflects a broader i.e. sectoral Implication. Basically, the study will visealise the community. Ultimately, the findings should help to minimise the gap between the indigenous communities and the mainstream population. In this context, the potential users of the study should be as follows:

- Policy makers;
- administrators and government officials;
- academicians;
- civil society members, especially the locally elected bodies and the indigenous community leaders;
- programme managers; and
- Fieldworkers.

1.2.1 **Justification of the Study:** Human Rights mean and include natural rights as well as social, economic and political rights which are equally important rights which do not usually exist in a natural state. They have to be created. A right to work to education and to livelihood to equal pay to security to leisure and such others are very desirable rights but unless a state creates conditions by positive action, such rights cannot come into existence. They should be implemented in the life of Indigenous people in Bangladesh. A viable and efficient Indigenous work force in Bangladesh need the full and equal opportunity and right to control on important issues such as education, information opportunity to earn, health, wealth and income earned through market management and to this end formulate new laws, active and equal right of Indigenous people in all economic activities, equal and minimum wages to men and women and provide security to Indigenous in work place and remove discrimination in jobs, special arrangement for communication, of their Right in Bangladesh. There should be a framework of cooperation between government and the stake holder. Therefore it appears interesting to conduct a research on Rights related issues of Indigenous people in Bangladesh particularly with regard to modern state norms and values. This study will analyses the present socio- economic condition of Indigenous people in Bangladesh, and this will also find out the

loopholes and shortcomings in the related sphere of policy, laws and its application. So far I know no work has been done in this field. When completed the work will be of great use to policy framers as well as government of Bangladesh. A growing awareness of the limitations of conventional development approaches in meet the needs of communities has led to the exploration of alternative methodologies for investigating the existing situation, analysing, planning, implementing and evaluating the development activities. The study offers an opportunity to explore the overall situation and raise different stakeholders' awareness of and their interest in the indigenous peoples of the north-western part of Bangladesh. Oxfam-GB observed that for promoting more sustainable development in Bangladesh, the current situation with an emphasis on participatory development approaches has significant implications at the local and national levels. The different stakeholders such as community peoples, especially the disadvantaged ones, the women, the adolescent boys and girls- eben the children of the indigenous community- and the implementing NGO staff members are the actors of this process. The key elements of this process are to involve the indigenous peoples in generating, analysing and owning information of their own situation from the very beginning. The study also allows cross-checking in the data collection process, it presents a much detailed and in-depth information based scenario. The qualitative method supported by the qualitative methods expresses the complexity and diversity and diversity of indigenous people realities far better than the survey techniques alone can do. Through this study, different actors in and beyond the indigenous communities were identified and their participation was ensured. The study also included the participation of the most disadvantaged ones i.e. women, adolescents and even the children. The involvement of the local entity in this study has created a feeling of ownership in the indigenous community.

1.2.2 Methodology of the Study: The study aimed at exploring the socio-economic and demographic condition and the contextual facts associated with ethnography, Therefore, an in-depth investigation is necessary to explore and analysis the situation of the indigenous population in northwestern region of Bangladesh With this notion. The study was designed by combining the quantitative and the qualitative approaches.

The quantitative approach conducted through a baseline survey by using a questionnaire composed of variables. measured with numbers and analyzed with statistical procedures, consistent with the quantitative paradigm was employed in order to explore a holistic picture of their existing situation.

In addition, a qualitative approach was also undertaken in consistence with the assumptions of a qualitative paradigm. this study was defined as an inquiry process of understanding a social or human problem. based on building a complex. holistic picture by reporting detailed views of the informants inter viewed in a natural setting.

Methods of data collection

Two sources were adopted by the study to collect information about the indigenous population. They were A. primary Sources, and B. Secondary Sources.

Primary Sources

Quantitative Method

Questionnaire survey

In order to receive inputs from the indigenous peoples residing from three distinct area like north-west, north-east and south-east of Bangladesh, this study is an actually a baseline survey. Which used a questionnaire or structured interviews.

Qualitative Method

Participatory Rural Appraisal(PRA)

The following PRA tools and techniques is used for conducting the study.

Case Study

Through a case study research explores a single entity or phenomenon (the case) bound by time and activity (a programme, event, process, institution, or social group) and collects detailed information by using a variety of data collection procedures during a sustained period of time.

Oral History Accounts

Being a simple exercise, it warms up a qualitative study for creating an atmosphere of reflection by the community people on their own lives. The exercise also demonstrates the belief that the history of a marginalised community is at least as important and as worthy of recalling and recording as that of so-called great people.

Secondary Sources

Secondary information is collected from reviewing the existing literature on the indigenous community.

1.2.3 Study Structure and Framework :

Preparatory Phase

The study followed a pattern of basic theoretical discussion, and a practical exercise of participatory methods with analysis and reflection. An introductory discussion was held with the indigenous community. Then a series of discussions were held for developing a study framework and organizing the field exercises. Those comprising PRA methods and approaches were necessary for confidence building during the fieldwork process. Before conducting the study work.

Contribution of the Study

Previous reports were reviewed and evaluated to find out the scope for improvement. It has examined the issue from a multi-disciplinary point of view.

The report is made participatory by incorporating all stakeholders' views. The study findings were shared with relevant organizations and policy-makers. The study findings were disseminated to a number of interest groups working on and with indigenous communities.

Results

After compilation of the information and preparation of the draft report based on the finding, it was presented to the supervisor, after gathering the feedback form them, those were attuned were used to prepare a final report.

CHAPTER- 2

DEFINITIONS OF INDIGENOUS PEOPLE

An indigene is literally someone or something that is native to or originating from a given place. Therefore, when indigenous is used purely as an adjective, an indigenous people is a group or culture regarded as “coming from” a given place. In this broad sense almost any person or group is indigenous to some location or other. As a contemporary cultural description, however, the term indigenous peoples has a much narrower common meaning. The more restrictive criteria as outlined need to be satisfied in order to identify an indigenous group as such in the sense interpreted here. The identification of a people as indigenous under these terms can in practice be further refined by examining the nature and status of their interactions with other communities. These other, external communities or nation- states are those having some degree of association, claim or control over the same territory inhabited (or formerly inhabited) by the indigenous group. In this relationship the status of the indigenous people can in most instances be characterised as being effectively marginalised, isolated and/or as forming a minority, when compared to other groups from whom they are distinct, or the nation-state as a whole. They have limited participation and influence over external policies concerning their territorial, environmental and societal governance. This situation can persist even in the case where the indigenous population outnumbers that of the other inhabitants of the region or state: the defining notion here is one of separation from decision and regulatory processes having some at least titular effect over aspects of their community and lands. The presence of external laws, claims and cultural mores either potentially or actually act to variously constraints can be observed even when the indigenous society is regulated largely by its own tradition and custom. They may be purposefully imposed, or arise as unintended consequence of trans cultural interaction; and have a measurable effect even where countered by other external influences and actions deemed to be beneficial or which serve to promote indigenous rights and interests within the wider community. Thus many organizations advocating for indigenous rights, and the indigenous communities themselves, seek to particularly and explicitly

identify peoples in this position as indigenous. This identification may also be made or acknowledged by the surrounding communities and nation-state although there are some instances where the identity claim is the subject of some dispute, particularly with regard to recognizing assertions made over territorial rights. In contrast, the term non-indigenous might well be applied to describe these other communities; however its application may be inaccurate or contested in some circumstances where the cultural group has or lays claim to lengthy prior association with the territory. Some formal contemporary definitions which have been offered and widely accepted are described below. In 1972 the United Nations working Group on Indigenous Populations (WGIP) accepted as a preliminary definition a formulation put forward by Mr. Jose Martinez Cobo, Special Repporteur on Discrimination against Indigenous Populations: *Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live ore in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a state structure which incorporates mainly national, social and cultural characteristics of other segments of the population which are predominant.* This definition has some limitations which were subsequently noted by the organization. The definition applies mainly to pre-colonial populations, and would likely exlude other isolated or marginal societies. In 1983 the WGIP, enlarged this definition (FICN. 41 Sub.211983121 adds. para.3 79) to include the following criteria:

- (a) they are the descendants of groups, which were in the territory at the time when other groups of different cultures or ethnic origin arrived there;
- (b) Precisely because of their isolation from other segments of the country's population they have almost preserved intact the customs and traditions of their ancestors which are similar to those characterised as indigenous;
- (c) They are, even if only formally, placed under a state structure which Incorporates national, social and cultural characteristics alien to their own.

In 1998 it was further added that any individual who identified himself or herself as indigenous and was accepted by the group or the community as one of its members was to be regarded as an indigenous person. The draft Universal Declaration on the Rights of the Indigenous Peoples prepared by the DWIG does not provide a specific definition of indigenous peoples or populations. According to the Chairperson, Ms. Erica Irene Daes, Rapporteur of the working Group, this was because “historically, indigenous peoples have suffered, from definitions imposed by others” A definition as used by the International Labour Organisations (Convention No. 169, concerning the working rights of Indigenous and Tribal Peoples, 1989) applies to:

both tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations, and to peoples who are regarded as indigenous on account of their descent from the populations which inhabit the country at the time of conquest or colonisation. A description of Indigenous Peoples given by the world Bank (operational directive 4.20, 1991) reads as follows:

Indigenous Peoples can be unidentified in particular geographical areas by the presence in varying degrees of the following characteristics: (a) close attachment to ancestral territories and to the natural resources in these areas; (b) self-identification and identification by others as members of a distinct cultural group; (c) an indigenous language, often different from the national language; (d) presences of customary social and political institutions; and (e) primarily subsistence- oriented production.

Basically there is no single and agreed-upon definition of what constitutes the indigenous population. There are several terminology used for identifying these peoples. of them, the most used are aborigines, tribal, ethnic communities, etc. The United Nations use a working definition as given below:

The indigenous/ tribal communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre colonial societies that developed on their territories, consider themselves distinct from other sectors of the

societies now prevailing in those territories, or part of them. they form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations ancestral territories, and ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.

The World Council of Indigenous people made the following proposal regarding the term:

Indigenous peoples are such population groups as we are, who from old-age times have inhabited the lands where we live, who are aware of having a character of our own, with social traditions and means of expression that are linked to the country inherited from our ancestors, with a language of our own and having certain essential and unique characteristics which confer upon us the strong conviction of belonging to a people, who have an identity in ourselves and should be thus regarded by others².

The free encyclopedia Wikipedia

CHAPTER- 3

Rights of Indigenous people of Bangladesh

Bangladesh is the largest deltaic region of the world. It is a low-lying riverine land and almost entirely surrounded by India except for about a 300 k.m. border with Burma (Myanmar) in the southeast. The Bay of Bengal lies to the South of Bangladesh. The coastline of the Bay of Bengal always changes. The coastline is fed by the great rivers systems of the Ganges-Padma, the Brahmaputra- the Jamuna, the Meghna, the Karnafuli, the Sangu and their innumerable tributaries, Most of Bangladesh is barely above sea-level. About 40 percent of the land of Bangladesh goes under water during normal rainy season that lasts from June to October. The only hill area of Bangladesh is located in the Southeast, known as Chittagong hill tracts- CHTs.

The estimated population of Bangladesh is about 140 million in an area of about 56000 sq miles (145000 sp. k.m). It has a population density of over 900 per sq. mile: the greatest in the world except Singapore which is almost a city whereas Bangladesh is an agricultural country. Its population growth is more the 2 percent per annum that outstrip its economic growth.

The ruling elite considers that over population is the greatest problem and responsible for poverty in Bangladesh. They do not usually take into considerations important factors other than 'over- population' for the endemic causes of poverty. The other root causes of poverty are corruption, fundamentalism, misrule and misgovernance, absence of rule of law, economic justice, transparency, accountability and responsibility at all levels of Government machineries, the elite Minority who rules the country controls the socio-economic and political structures of Bangladesh to their own advantage & interests rather than looking after the interests, welfare & wellbeing of the entire population irrespective of religion, caste, creed and political identity.

Resources and Poverty of Bangladesh:

Bangladesh is blessed with its hard working people, fertile soil, forests, hills innumerable rivers & their tributaries, abundant water and favourable climatic

condition for the growth of cash and food crops round the year. Yet it is dependent of foreign food aid to feed its people. The other resources of Bangladesh are natural gas found in 16 fields with one oil field meeting 6 percent of the national needs. It has also limestone and coal resources.

Agriculture sectors contribute about 40 percent to Bangladesh's GDP. Jute still remains one of the major foreign exchange earnings of Bangladesh. Export of labour, shrimps and prawns, tea, leather, vegetable, fruits, potato, toiletries, medicine, overseas remittance etc. also bring a huge amount of foreign currencies for Bangladesh. More than 75 percent people of Bangladesh live in the rural areas & the agricultural sector generates employment opportunity for 75 percent of the people. 60 percent of the rural people are functionally landless & are still dependent on agriculture for their means of livelihood as agricultural labourers & sharecroppers etc.

Only 25 percent people of Bangladesh live in urban & semi-urban areas of Bangladesh. Out of them 40 percent are poor. They live in the slums & shanties of cities, town, municipalities and semi-urban areas. Bangladesh is considered one of the poorest countries of the world. It belongs to the groups of 48 least developed countries of the world. Per capita income of Bangladesh's people is about US \$ 360/= only. 50 percent of the people live on less than one US \$ 1/= a day and 60 percent live of less than US \$ 2/= a day. It has also been ranked as the most corrupt country of the world consecutively for the last 5 years by the Transparency International-Ti. For its development budget, Bangladesh is about 85 percent dependent of foreign aid. Large numbers of international aid and development agencies including a huge number of NGOs, work in Bangladesh for its upliftment over the last 34 years. The World Bank-WB, International Monetary Fund IMF, Asian development Bank-ADB and Japan are the major donors for Bangladesh. The benefits of aid usually do not trickle down to the poor & powerless people of Bangladesh. According to prof. Abul Barakat of the university of Dhaka, Bangladesh received more than taka 200,000/= crore over the last 34 years from 1972 to 2003 as foreign loan & aid. 25 percent of this amount was collectively looted by the agents of suppliers of foreign machinery and consultants, 30

percent Taka was eaten up by the bureaucrats, politicians, commission agents & construction contractors, 20 percent Taka was embezzled by the upper and middle class people of the rural & urban areas and only 25 percent Taka reached to those poor for whom, the entire 200,000/= core taka was received. As a result the entire nation is made indebted to the donor countries & agencies. Per capita indebtedness of the people of Bangladesh is about US \$ 120/= Prof. Barakat further said that both the government and NGOs could not bring crore people (90 million) were deprived of sanitation facility, six crore (60 million) people had no access to primary health care services, about five crore (50 million) were illiterate, about two crore (20 million) primary and secondary level students could not be enrolled. Since 1971, the Government and NGOs received about 200,000 Crore Taka as foreign aid but only 25 percent of the amount had been spent for the welfare of the people and the rest were drained out due to corrupt Government officials and NGOs.

The above findings clearly show that foreign aid & loan received and borrowed from overseas countries & donor agencies did not benefit the poor, rather it helped the rich to become richer. So, Basically foreign aid & loan received by the Govt. & NGOs widened the gap between the haves and have-nots than minimizing the already existing gaps. Moreover, the use & application of foreign aid were found inappropriate & destructive of natural resources, human being, live stock population etc. It is also found that foreign aid adversely affected the indigenous people & minorities in Bangladesh. It is also found that foreign aid added & compounded sufferings and poverty of the poor & the marginalized of Bangladesh's society.

The Daily Shamakal, one of the leading daily news paper of Bangladesh, in its editorial said that the share in GDP of the poorest 10 percent decreased from 1999 to 2004. In 1999 their share in the GDP was 1.7 percent, after 5 years in 2004 their share came down to 1.5 percent. On the other hand, the share in GDP of the richest 10 percent drastically increased from & the poor has further widened. If this trend continues, the achievement of the Millennium Development Goals- MDGs will remain a far cry.

The Economist in its recent article Inequality and the American Dream thoroughly analyzed different aspects of inequalities and its consequences on peoples, society & state. The Economist concluded Inequality is not inherently wrong- as long as three conditions are met: first, society as a whole is getting richer; second, there is a safety net for the very poor; and third, everybody, regardless of class, race, creed or sex, has an opportunity to climb up through the systems. Unfortunately, none of the above condition exists in Bangladesh. Consequently, most of the people of Bangladesh have no access to food, shelter, medicare, employment opportunity & other basic services required for descent living.

3.2 History & People of Bangladesh:

History: the history of Bangladesh is full of the history of dominations & struggles for independence from alien invaders & rulers. The Aryan invaders pushed both Dravidian and the indigenous people to south and east ward from the north and centre of Indian sub-continent between 200 and 1500 BC. The Hindu and Buiddhist dynasties i.e Mouraya, Gupta, Harsha, Pala and Sena dominated Bangladesh. Various Muslim dynasties ruled Bangladesh, (Banga, Bangala and Bengal) for hundreds of years and infused new cultural and religions ethos. Bengal was incorporated into the Mughal Empire in 1576. The British East India Company defeated the Mughals of India in 1757 and ruled it for about two hundred years. The company's rule was replaced by the British Government in 1858 after the suppression of the independent movement (Sepay Mutiny) of 1857 by the British forces. Bengal became a province of British India after the occupation of India by the British. Kolkata (Calcutta) was made the capital of British India & remained its capital until 1711. In 1905 Bengal was divided into East Bengal & West Begal. New province of East Bengal & Assam was created by the British. Dhaka (Dacca) was made the capital of the new province. The partition of Bengal was made on the political & religious grounds by the British to perpetuate their rule, plunder its resources and weaken the struggle of untied Bengal although it was re-united in 1912 when the Capital of British India was shifted to Delhi from Kolkata. Kolkata under British rule was developed as capital, port city,

industrial, commercial & administrative centers. Bengal was the supplier of food, jute, cotton, silk, muslin, indigo etc. to Kolkata to feed its people and industries. Bengal grew more than 85 percent of world jute to feed jute and carpet industries in Kolkata, U.K & others. After a long battle, struggle and sacrifices of hundreds & thousands of patriots India won independence. The independence of India from the British rule in 1947 created India & Pakistan. East separated by about 1000 miles of Indian territory, was composed of the provinces of Sindh, West Panjab (East Panjab with India) Beluchistan & North-West Frontier Region- NWFR. Karachi was made the capital of Pakistan. Although, areas which were predominantly Muslim and contiguous became the new country of Pakistan, yet Chittagong Hill Tracts-CHTs was totally non-Muslim, the area was incorporated into East Pakistan as a part of Chittagong district. The creation of India & Pakistan in 1947 divided Bengal into East Bengal & West Bengal. East Bengal now Bangladesh was made East Pakistan & became a province of Pakistan & West Bengal remained with India & came into being as one of the state of Independent India.

The creation of Pakistan & division of India was the results of the conspiracies of the British rulers, their collaborators in India, the Hindu-Muslim religious fanatics and those who wanted to be Governors Prime Ministers, Ministers, Generals & ruler of India & Pakistan. Muslims were made to think that they could no longer coexist peacefully with the Hindus in an undivided India, Therefore, they struggled for a new state called Pakistan and the Hindus went for India. But the majority People of both Pakistan & India were not benefited from the partition of India in 1947. Moreover, more than 20 million people of Indian subcontinent fell victims to the partition & now known both in India, Pakistan & Bangladesh as refugees. The indigenous people also suffered from that partition. The people of Bangladesh including the indigenous people & minorities never accepted foreign rule, domination & exploitation. They struggled & revolted for independence from time to time. And on 26th of March 1971, Bangladesh came into being as an independent & Sovereign State. 75 million people, Hindus, Muslims, Buddhist, Christians and indigenous people irrespective of religion, belief, caste & creed waged armed struggle against the genocide and crime against

humanity by the Pakistani Military rulers. Pakistani military forces were defeated and Bangladesh achieved victory on the 16th December, 1971. At the cost of lives of more than 3 million people belonging to all religion, caste & creed, at the sacrifices of chastity of 3 hundred thousand women and at sufferings of millions of people, Bangladesh today as an independent nation.

The peoples of Bangladesh:

Most of the people of Bangladesh belong to one ethnic and linguistic group and share one religious faith. But it has also a large number of indigenous people, minorities, living in both plain land & hill areas of Bangladesh. According to the official figures, about 98 percent people are Bengalis. It is often said and image given in the overseas that Bangladesh is the land of the Bengalis of Bangladesh. In terms of language it is true that about 98 percent people of Bangladesh speak in Bangla. But unfortunately it is not said that about 2 percent people of Bangladesh are not Bengali. Bangladesh is multicultural, multi-religious and multilingual country. These 2 percent indigenous people have their own language, alphabets, numbers, culture, religion and civilization. The economic and agricultural activities of the indigenous people of the hill areas are different from the economic and agricultural activities of Bengali & plain land indigenous people. The economic activities of the indigenous people living in plain land areas are similar to the of the Bangla speaking people. It is unfortunate that the constitution of the peoples Republic of Bangladesh does not recognize the existence of the indigenous people of Bangladesh although they fought shoulder to shoulder along with the Bengali freedom fighters for the independence of Bangladesh in 1971. Many indigenous people embraced martyrdom and fell victims to the barbarious acts and atrocities of the Pakistani occupying force. One member of the constituent assembly of Bangladesh in 1972, elected from the CHTs, Martyred M.N. Larma demanded constitutional recognition of all the indigenous people living in both hill & plain areas of Bangladesh. But his demand for spa rate identities of the in indigenous peoples was out voted in the constituent assembly and he was advised to live in Bangladesh as Bengali. Thereby, the seeds of discontent, dissatisfactions and unhappiness among the indigenous people were sown.

The Bengalis have evolved from an amalgam of different racial groups over thousands of years- Dravidians, Aryans, Tibeto-Burmese and others. Most of the people of Bangladesh are Muslims constituting about 86 percent of the total population are not a homogenous community. They are divided into Sunnis, Shias, Ahmadyya etc. seats. Hindus constitute 12.1 percent. The other religious minorities are Christians, Buddhists or Animists. Different indigenous communities constitute about 2 percent of the total population. Many contradict those figures and said the number of Non-Muslim would be about 25 percent.

The Indigenous People of Bangladesh:

In Bangladesh (Bengali) indigenous people are commonly known and 'Adivasi' (original inhabitant). The indigenous people of Bangladesh unanimously demanded to be introduced and known as 'Adivasis' not in any other names which are derogatory. In Bangladesh there are about 49 different indigenous communities living in the plain land and hill areas. They are : Garo, Khang, Mrma/Mog, Tripura, Tonchonga, Rakhain, Khashia, Monipuri, Kuki, Ushai, Lauua, Khumi, Hajong Banai Koch, Dalu, shantal Paharia, Munda, Mahato, Shing, Kharia, Khondo, Gorkha/Gurkha, Pahan, Rajuyar, Mushar, Hodi, palia, Mikir, Rai, Bedia/Bede, Bogdi, Kol, Rajbongshi, patro, Muriar, turi, Mahali, Malo, Khatria Barman, Gondo, Kachhari, Chakma.

Since there where no ethnographical survey of the indigenous people of Bangladesh, it is very difficult to present an accurate count of their number. The indigenous people constitute roughly 2 percent of the total people of Bangladesh. They exist and live almost all over Bangladesh. According to the Government census, the total number of indigenous people was estimated to be 632,216 of this 43.7 percent were estimated to be Buddhist, 24.1 percent Hindu, 13.2 percent Christian and 19 percent classified as 'other'. But this figure has been deliberately shown low in order to show the marginality of the indigenous people. Some claim that the number of both plain land & hill tracts indigenous people could be more than 2500,000. Many indigenous people can speak Bangla (Bengali) although they have their own language. Indigenous

languages have assimilated many Bangla words in to their own language. The indigenous people who have been formally educated through the formal school systems can speak & write Bangla fluently. The indigenous people of Bangladesh belong to six linguistic categories: Aryan, Dravidian (Paharia and Oraon), Austro-Asiatic of Mon-Khmer including the Khasi and Munda languages and Tibeto-Burmese including the Kubi-chin and Bara languages. Bangla language and culture evolved in Bangladesh from pre-existing cultures and borrowed from east, west and north.

By ethnic origin, the indigenous people are Proto-Australoid and Mongoloid. By religion the indigenous people of the Chittagong Hill tracts-CHT are mainly Buddhist. The Khasi and Mandi are predominantly Christian. The other indigenous people have retained their original animism. the Hajong have affiliated with Hinduism while Rajbansi are either Hinduanized or have converted into Muslim. The most populous indigenous people in Bangladesh are the Santal, estimated to be more than 200.000. is number. The number of Chakma People has been estimate as approximately 200.00. The number of Marmas about 70.00 and Mandi 60.000. Again, these numbers do not give the actual figures of these major indigenous communities of Bangladesh. In order to ascertain actual number & socio-economic and political condition of the indigenous people of Bangladesh there is an urgent need for a thorough ethnographical survey in Bangladesh.

The Indigenous People of plain lands:

The indigenous people were originally people of the hills, mountains & forests. The Mandi Migrated from the Himalayan foot hills of Meghalaya long ago when the plain were sparsely populated. The plain land indigenous people of Bangladesh are now dependent mainly of settled agriculture like other Bangalee Muslims & Hindus. They abandoned practices of slash and bur cultivation. The 'Mandi' meaning 'the People' who are also known as Garo, live in the north-central Bangladesh, east of the Ganges and the Brahmaputra. The 'Santal' live in the north-west. According to Father R.W. Timm, these divisions are as significant as that between the indigenous people of CHTs and the indigenous people of the plain. The indigenous people are different

from the Bengali Muslims and Hindus ethnically, culturally, religiously and linguistically. The indigenous people are generally open, friendly, generous, simple and honest. A small number of indigenous people of the plain land areas live in the urban areas but maintain strong relationship with their ancestral lands in the rural areas.

Historically and traditionally the indigenous people have a love and respect for nature.

Their original animism pervades their thoughts & feelings. Religion is not a personal phenomenon for them. They generally express their religious feelings in a communal way rather than an individual way. This religious practices intensity social solidarity the feeling of belonging to a specific cultural group. There is a deep interrelation between their religious belief and their social structure. the communal spirit is strong and according to their law and custom all land is the property of community. Public ceremonies celebrations & rites for the occasions of birth, marriage, death etc. reinforce their solidarity.

Mandi & khasi societies are matrilineal. The inheritances of property possess through daughters. For economic reasons and because losing lands in the villages, many indigenous people are coming to the towns, cities & semi urban areas for jobs & employment. The influence of Christianity & its modern education also are contributing to the migration of the indigenous people to city centres. A large number of them now work as domestic workers, care takers, sales-girls, beauticians, garments workers, nurse etc. in the urban areas. This mobility & migration of the indigenous people to the urban areas to earn their livelihood is also responsible for their vulnerability to various forms of oppressions, abuses and insecurities, In order to protect life & property of the indigenous people of the plain land areas a land commission should be established.

The Indigenous people of Chittagong Hill tracts-CHTs:

The Chittagong Hill Tracts covers about 10 percent of the total area of Bangladesh. It is home to about 13 different Indigenous communities. They are: 1. Chakmas 2. Marmas 3. Tripuras 4. Mros 5. Tanchangyas 6. Ryangs 7. Khumis 8. Chaks 9. Murungs 10. Khyangs 11. Bonjugis 12. Pankhus 13. Lushais.

Chakma, Marma and Tripura (Tippera) are about 90 percent, The Chakma form about half of hill tracts people. They are mostly Buddhists. They have their own language, their sacred Buddhist texts are also written in both in their own language and in Pali, the language of Buddhist scriptures. Their ancestors migrated from the Arkan Province of Burma long ago. Murma, also known by the derogatory name Mugh, originated from Arakan. They are also Buddhist; some to them have animist belief. The Tripura are Hindus. The indigenous people of the Sajek Velly, the panlho, the Bom, the Mizo, the Lusai were converted to Christianity by missionaries. The Mru, Sak and khyang follow indigenous animist beliefs. The Tonchonga and the Brong are sub-groups of chakma & Tripura, Most of the indigenous people of CHTs migrated into the area from the south between the 16th and 19th centuries. From the 17th century when Bengali settlers arrived on the coas of Chittagong, they retreated further into the hills. The CHTs people remained less disturbed by British rule than the majority Bengali Community. In 1860, the British established a superintendent to police the area. They recognised three indigenous chiefs as king from khagrachhori, Bandarbon & Rangamati districts of CHTs repersenting three major indigenous hill people. The king used to collect taxes for the British and for themselves & ruled the CHTs people on behalf of the British Government. The CHTs Frontier Police Regulation of 1881 authorized a police force drawn from the hill people. The most inportant legislation was formulated by the Brithsh for the self-rule of CHTs was the Chittagong Hill Tracts Regulation of 1900. This Regulation delineated categories of land, notably khas (State Owned) land and specifically excluded non-hill people from setting in the hill areas.

After the partition of India in 1947, the Pakistani Government allowed Bengali Muslims to move into the CHTs. For ulterior motives, hundreds & thousands of Muslims from the plain lands were allowed to migrate & settle in the CHTs. It caused strong resentment & discontent among CHTs indigenous people. The Muslims, with patronization of the Government occupied lands & forests of CHTs. They started controlling trades, commerce & business establishments causing serious threats to the lives, property privacy and culture of the hill people. Consequently, many indigenous people left East Pakistan (Now Bangladesh) for India. As a result, the growth of non-indigenous people in the hill tracts increased enormously. The military rule of General Ayub Khan which was promulgated in Pakistan in 1958, barred the non-hill people from settling in the CHTs. The special status of CHTs was also abolished by general Ayub Khan in 1964. The huge kaptai Dam, built in the early 1960s for generating hydro-electricity for East Pakistan (now Bangladesh) submerged more than 40 percent of the crop & cultivable land of the hill tracts. It displaced and destituted more than 100,000 indigenous people. Many become internal refugees in the CHTs and many more than 60,000 hill people were compelled to leave East Pakistan for India. They now live in the state of Arunachal of India and became homeless & landless refugees there. The Indian Government has not yet granted citizenship to these large numbers of environmental refugees. Bangladesh Government also does not want to bring them back. So, they are stateless refugees languishing in utter frustrations & destitution for about 45 years.

Establishment of the Karnafuli paper mills in Chandragona in Rangamati district in the early 60s also destroyed forests and displaced thousands of hill people. It did not provide employment to the hill people. Most of its labourers and employees were Muslims, & brought from the plain lands. It also generated anger and resentment among the hill people.

The first ever general election of Pakistan under the military dictator General Yahahia Khan took place in 1970 after 24 years of the creation of Pakistan in 1947. In this election three indigenous candidates, two independent candidates for the provincial

assembly and one indigenous candidate for the national assembly of Pakistan were elected. None of the candidates fielded by one of the most popular & largest political party of the then Pakistan, called Awami League-AL could not win any seats from the CHTs. Yet, in this election the Awami League-AL won a landslide victory both in the provincial & national assembly of Pakistan. But the military dictator and his allies, the civil-military bureaucrats, the feudal lords of Sindh Punjab, the Jamaat-e-Islami-JI, Muslim League-ML, Nazam-e-Islami-NI, People's Party-PP etc. fundamentalist & feudal parties of Pakistan could not respect the democratic verdict of the people. The Sindh & Punjabi Clique did not accept the results of the general election. Instead of handing over power to the victorious party i.e. AL, the Pakistani conspirators, enemy of democracy, human rights, peace & human dignity attempted to silence the dream of autonomy & independence of 75 million people of Bangladesh. The military cracked down on the unarmed people of East Pakistan (Bangladesh) on the fateful night of 25th of March 1971. They killed more than 30,000 unarmed innocent people including police, border security personnel, university professors, officers, employees, students and professionals in Dhaka alone. They torched thousands of houses and slums in Dhaka in a single night. It sparked resistance movement against the Pakistan army and led to the people's war which was participated by all 75 million people including indigenous people of hill tracts. Except for few collaborators, popularly known as raskars, al-badars, al-shams and members peace committees formed by the Pakistanis to capture & kill the freedom fighters, their associates and organizers, every one of Bangladesh valiantly fought in different form under different-banners against the Pakistanis. Victory was achieved on 16th December, 1971. Many indigenous People of CHTz also courageously fought together with the Bengali Muslims, Hindus & Christians for liberation. Out of the three kings of the CHTz, one king known as Chakma Raja Collaborated with the Pakistani with insignificant number of his followers. Before the surrender of the Pakistani armies, he left East Pakistan (Bangladesh). He now lives in Pakistan under the patronization & blessings of the Pakistani rulers. His son, from his second wife, assumed position as the king of Chakma now in the hill district of Rangamati.

The Government of the Peoples' Republic of Bangladesh-GOB, in 1972 also failed to restore the autonomy of the CHTz. Even the constitution of the new Republic failed to recognize constitutionally the existence of the indigenous People of the CHTs and plain lands, despite representations & petitions given to the GOB. Discontent and anger grew among the indigenous people of CHTs. The path of discussions & negotiations with the leaders of the CHTs for a peaceful solution to the problems was abandoned by the GOB.

In order to resist actions of the Govt. against the interest of the people of CHTs, 'parbattya Chattagram Jana Samhati Samiti-PCJSS' was launched. In the meantime, after the assassination of the founding father Bangabandhu Sheik Mujibur Rahman of 15th August 1975, military ruler, General Ziaur Rahman came to power during his military rule in order to out number the CHTs people, he brought more than 500.000 Bengali Muslims from the plain lands of different districts of Bangladesh & settled them in the CHTs. General Zia helped Bengali Muslims settlers, the military, the police, the border security forces-BDR, personnel of civil bureaucracy and powerful elites to occupy lands, forests & other resources of the CHTs. As a result more than 100.000 hill people fled to India to evade rape, torture, killings and various other oppressions. The PCJSS was acting as the united people's party of the hill people. In order to resist military atrocities of General Ziaur Rahman, they also launched their military wing called 'Shanti Bahani' (Peace Force). Conflicts, clashes and guerrilla warfare escalated during general Zia's rule. Two third of Bangladesh's army was deployed in CHTs to suppress & silence their legitimate rights as citizen as well as indigenous people of Bangladesh. After the killing of General Ziaur Rahman in 1981, General Ershad came to power through a military coup. He also followed the foot steps of his mentor General Zia and wanted to crush & quieten the legitimate demands of the CHTs people. The military, the civil bureaucracy and the Muslim settlers looted & plundered all resources of the hill areas, forests & hill people to border of India and Burma, at one stage of General Ershad regime, attempts were made to solve the problems of the hill peoples through dialogue & discussions, but he could not succeed for lack of political commitment, will & honesty. In 1991 Begum Khaleda Zia came to

power through a general election ending the military rule of General Zia & General Ershad for about 15 Years. She also did not take interest in solving the CHTs problem. General Zia, General Ershad & Begum Khaleda Zia wanted to perpetuate the military rule in the hill tracts controlling its resources & people to reap benefits from the presence of military in hill tracts. During their rule, the whole areas of CHTs became a whole sale market for smuggling of narcotics, arms, explosives and human trafficking. Insurgents from the eastern states of India & Burma found CHTa as a shelter to carry out insurgent activities in India & Burma. Both military, civil administration and the Muslims settlers built their fortunes by having been posted or by setting there. They also occupied almost the entire lands, forests, market, municipalities and local government bodies of the CHTa. In 1947, the entire hill areas were inhabited by more than 98 percent hill people. Now their number went down to less than 50 percent. The

The Present coalition Govt. (2001-2006) of Bangladesh Nationalist party-BNP, Jamaat-e-Islami-JI and other rightist & fundamentalist parties led by Begum Khaleda Zia is not at all committed to solve the CHTz problem by implementing the Peace treaty. This Govt. is engaged in executing its designed programmes in the hill tracks completely ignoring the provisions of Peace treaty which further discriminated & dispossessed the hill people. The hill people are frustrated and the Secular & democratic forces of Bangladesh are dismayed with the anti-peace treaty activities conducted by the present Govt. The right to land & livelihoods of the indigenous people are being snatched away, their forests & land for cultivation are being occupied by the settlers with the support of the military & civil administration in the hill tracts. Incidences of human rights violations of the hill people are taking place everyday including abduction & molesting of girls & women. Buddhist & Hindu Temples and Christian Churches are being destroyed & damaged by Muslim settlers. The law enforcing agencies hardly take action against these intruders. Rather, they encourage these forces to grab land & resources of the hill people. Law enforcing agencies and administration both civil and military work for the protection of Muslim of settlers. The Coalition Govt. law enforcers & settlers do not believe in democracy, human

rights, rule of law and peace. The derogatory comments of the Deputy Commissioner-DC, head of civil administration of Khagrachhari district of CHTs in his booklet titled, 'Khagrachhori 201-2005' published recently ignited discontent & displeasure among the hill people. In his booklet he termed the indigenous people as intruders, anti-Bengali and uncivilized jungle people. The D.C also mentioned that CHTs peace accord is controversial and PCJS is engaged in killing, abduction and extortion. Parbatya Chattagram Janasanghati Samity-PCJS, United people's Democratic Front-UPDF and different other organisations of all its copies. They claimed that the activities of the DC were communal and the publication of the booklet was politically motivated. They demanded his immediate withdrawal from Khagrachari.

Ensuing peace harmony and protection of the rights of the indigenous people in CHTs depends on the full execution of the Peace Treaty, There is no alternative to it. Peace Treaty is an invaluable document which came into existence with the sacrifice of the live of many indigenous people & Bengali including the personnel of the armed forces. Police, BDR & others. Therefore, all must respect it & uphold the international conventions that protect the rights of indigenous people.

3.3 Discrimination against indigenous people:

The attitude of Bengali towards the indigenous people is negative. They think that the indigenous people's religion and cultural are inferior. They are seen by the Bengali as migrating people having no permanent habitat. The indigenous people of the north-west of Bangladesh are the 'Santal'. Majority of them are landless, illiterate and poor. Hence, Bengalis regard them as socially inferior. Forests lands which provide an means for earning their living are now being occupied by the influential corrupt Bengali Muslims. In the name of rubber plantation, social afforestation, agro-industries etc., their land and properties are being graded by the Bengali Muslim land grading Mafis's & Pirates and thereby the indigenous people are made destitute. They are refused basic survival requirements in the rural & urban areas. Sometimes the poor indigenous people are not allowed to have food, take tea, breakfast etc. in the hotels & restaurants. Indigenous people are easily evicted from their ancestral land by the

Bengali Muslims by making false and fabricated documents in connection with the land related & law enforcing agencies. They face discriminations from all quarters because they are indigenous people & minorities in Bangladesh. Courts, Police, administration, local govt. representatives, land officials, service sectors all are biased against them. Usually the indigenous people do not dare to lodge complaints about atrocities, oppressions & abuses done to them by the Muslims because of fear and facing human rights violation further. If they protest against oppressions and lodge cases in the courts they have to pay for their lives and they are forced to leave Bangladesh. The daily news papers carry news items of such inhuman incidents on the minorities & indigenous people. In the face of brutalities of the muscle men, oppressions by the police, military, para-military personnel & non-cooperation from the judiciary and administrative systems, hundreds and thousands of indigenous people & others minorities are compelled to leave Bangladesh.

On the other hand the Govt. of Bangladesh does not recognize the existence of indigenous and minority people in Bangladesh. The Govt. often says, "In Bangladesh, nobody is minority & no body is majority, all are equal" But unfortunately GOB adopted policies to discriminate, exclude, disintegrate & Bangladesh of 1972 through 5th & 8th amendments curtailed the rights of the indigenous and minority people. These changes made them second class citizen, disregarded & violated all international documents, covenants, treatise and treaties of the UN & other international organisations where Bangladesh is a signatory. Govt. of Bangladesh also does not celebrate the international day for indigenous people and do not take part in celebrating the indigenous people decades 1994-2004 and 2005-2014 announced by UN.

The indigenous people and the minorities of Bangladesh struggle for survival every moment & everyday. These people have glorious past, rich history, culture & civilization unfortunately; they do not have 'present' and 'future'. They pass their daily life through insecurity, uncertainty & agonies. They have been groaning in discontent. The rights of indigenous people and minorities to land, forest & future have been taken away by the ruling elites and their allies spreading over the capital

down to the remote village at the foot of the hills. They face severe discriminations and violence from everywhere i.e. polices, courts, administration & majority community, the govt. failed utterly to ensure justice & rule of law for them. Ownership & access to land & forest is a life and death issue for the indigenous people & the minority in Bangladesh. In order to ensure means of livelihood for the minority and indigenous people, the govt. & the majority Muslims community must stop stealing and grabbing their lands & forests. To stop stealing and grabbing land and to give dock graded land to the indigenous people & minority, a separate ministry for the indigenous and minority people should be formed. A land commission for protecting the lands & forests of the indigenous people in the plain lands should be formed. The land commission of CHTs should be activated to perform its responsibilities according to the Peace Treaty.

In order to protect & promote the right and dignities of the indigenous people and minorities of Bangladesh, all must abide by the constitution and other international covenants & conventions. The constitution of Bangladesh the covenants & conventions determined roles & responsibilities for different actors at national, regional and global levels who are entrusted with upholding rule of law, justice and equality. The govt. of Bangladesh must enforce its constitution of Bangladesh for its entire people without discrimination. Article 27 of the constitution of Bangladesh is, "All citizens are equal before law and are entitled to equal protection of law". Article 28(1) says, "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth". (2) Women shall have equal rights with men in all spheres of the State and of Public life". (3) " No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution" (4) " Nothing in this article shall prevent the state from making special provision in favour of women or children or for the advancement of any backward section of citizens" Article 29 (1) says, " There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic" (2) " No citizen shall, on grounds only of

respect only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of Republic”

There are other international conventions and covenants i.e. Universal Declaration of Human Right, International Convention of the Elimination of all forms of racial Discrimination. Convention on Elimination of all forms of Discrimination against women CEDAW, ILO conventions and many other innumerable conventions where Bangladesh is a signatory. So, it must enforce those for protection of the rights of its people as well as the people of different faiths including minorities. The regional and international bodies of the UN & its organs have also bigger role to play in the enforcement of these conventions at state, regional & global levels. They must device, design & develop state in the areas of human rights violations. This monitoring process must include the minorities and the indigenous people as issues of the minorities & indigenous people have regional and global implications.

Indigenous People of Bangladesh

District Wise Habitation

Sl. No.	Indigenous community	District
1	Garo	Mymensingh, Tangail, Sherpur, Netrokona, Gazipur, Rangpur, Sylhet, Sunamganj, Moulvibazar, Bogra, Dhaka.
2	Khaing	Bandarban, Rangamati, Khagrachhari
3	Mro/Murong	Bandarban, Rangamati, Khagrachhari
4	Bom	Bandarban, Rangamati, Khagrachhari
5	Chakma	Bandarban, Rangamati, Khagrachhari, Chittagong
6	Chak	Bandarban, Cox's Bazar, Bogra, Rangamati, Khagrachhari.
7	Pankhu/pankhua	Bandarban, Rangamati
8	Lusai	Bandarban, Rangamati, Moulvibazar, Khagrachhar
9	Marma/Mog	Bandarban, Rangamati, Khagrachhari, Patuakhali, Mymensingh, Sylhet.
10	Tripura	Bandarban, Rangamati, Khagrachhari, Sylhet, Rajbari, Chandpur, Comilla, Chittagong, Moulvibazar, Feni.
11	Tonchonga	Bandarban, rangamati, Khagrachhari, Cox's Bazar, Patuakhali, Barisal.
12	Rakhain	Bandraban, Rangamati, Khagrachhari, Cox's Bazar, Patuakhali, Barisal.
13	Khashia	Sylhet, Moulvibazar, Sunamganj, Habiganj
14	Monipuri	Sylhet, Moulvibazar, Sunamganj, Habiganj
15	Kuki	Bandarban, Rangamati, Khagrachhari, Moulvibazar
16	Ushai	Bangdarban, Khagrachhari
17	Lauua	Dhaka
18	Khumi	Bandarban, Rangamati, Khagrachhari

Sl. No.	Indigenous community	District
19	Hajong	Mymensingh, Sherpur, Netrokona, Sylhet, Sunamganj, Moulvibazar, Bogra.
20	Banai	Mymensingh, Sherpur, Jamalpur
21	Koch	Mymensingh, Rajshahi, Sherpur, Tangail, Netrokona, Sylhet, Gazipur, Rangpur, Bogra.
22	Dalu	Mymensingh, Rajshahi, Sherpur, Tangail, Netrokona, Sylhet, Gazipur, Rangpur, Bogra.
23	Shantal	Dinajpur, Rajshahi, Mymensingh, Naogaon, Chapai Nawabjanj, Rangpur, Panchagarh, Natore, Thakurgaon, Sylhet, Joypurhat, Moulvibazar.
24	Paharia	Dinajpur, Rajshahi, Mymensingh, Naogaon, Chapai Nawabjanj, Rangpur, Panchagarh, Natore, Thakurgaon, Pabna
25	Munda	Dinajpur, Rajshahi, Mymensingh, Naogaon, Chapai Nawabjanj, Rangpur, Panchagarh, Natore, Thakurgaon, Sylhet, Joypurhat, Moulvibazar, Khulna.
26	Mahato	Dinajpur, Rajshahi, Pabna, Sirajganj, Bogra, Joypurhat
27	Shing	Pabna
28	Kharia	Sylhet
29	Khondo	Sylhet
30	Gorkha/Gurkha	Rangamti
31	Pahan	Rajshahi, Sirajganj
32	Rajuyar	Rajshahi
33	Mushar	Rajshahi, Dinajpur
34	Hodi	Sylhet, Mymensingh, Bogra, Sirajganj
35	Palia	Sylhet, Mymensingh, Dinajpur
36	Mikir	Sylhet
37	Rai	Rajshahi, Dinajpur, Sirajganj

Sl. No.	Indigenous community	District
38	Bedia/Bede	Sirajganj, Chapai Nawabganj
39	Bogdi	Kushtia, Natore, Jhenaidah, Khula, Jessore
40	Kol	Rajshahi, Sylhet
41	Rajbongshi	Mymensingh, Rajshahi, Dinajpur, Gazipur, Tangail, Khulna, Jessore, Faridpur, Kushtia, Dhaka, Sherpur, Bogra, Sylhet
42	Patro	Sylhet
43	Muriar	Rajshahi, dinajpur
44	Turi	Rajshahi, Dinajpur, Sirajganj
45	Mahali	Rajshahi, Dinajpur, Bogra, Sirajganj
46	Khatria Barman	Rajshahi, Dinajpur, Naogaon, Bogra, Chapai Nawabganj, Rangpur, Panchagarh, Natore, Thakurgaon, Pabna, Joypurhat
47	Khatria barman	Rajshahi, Dinajpur, Gazipur, Tangail, Mymensingh, Netokona, Thakurgaon, Sirajganj
48	Gondo	Rajshahi, Dinajpur
49	Kachhari	Sylhet

Sl. No	Tribes	Religion	Number
1	Chakmas	Buddhist	350,000
2	Marmas	"	140,000
3	Tripuras	Hindus	60,000
4	Mros	Animist	5,000
5	Tanchangyas	"	
6	Ryangs	"	
7	Khumis	"	
8	Chaks	Buddhist	35,000
9	Murungs	"	

10	Khyangs	“	
11	Banjugis	Chistian	
12	Pankhus	“	
13	Lushais	“	
Total			590,00

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CHAPTER- 4

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Where recognition to the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in large freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now, therefore,

THE GENERAL ASSEMBLY

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive

measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article-1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article-2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article-3

Everyone has the right to life, liberty and the security of person.

Article-4

No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms.

Article-5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article-6

Everyone has the right to recognition everywhere as a person before the law.

Article-7

All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article-8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article-9

No one shall be subjected to arbitrary arrest, detention or exile.

Article-10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligation and of any criminal charge against him.

Article-11

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time penal offence was committed.

Article-12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation, Everyone has the right to the protection of law against such interference or attacks.

Article-13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article-14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article-15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality not denied the right to change his nationality

Article-16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article-17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article-18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article-19

Everyone has the right to freedom of opinion and expression; right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article-20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article-21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representative.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article-22

Everyone as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article-23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of works and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article-24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article-25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event

of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article-26

1. Everyone has the right to education, Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all in the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article-27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article-28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article-29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such Limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of other and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article-30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Optional protocol to the Covenant on civil and political Rights

The protocol adds legal force to Covenant of Civil and Political Rights by allowing the Human Rights commission to investigate and judge complaints of human rights violations from individuals from signatory countries.

Covenant on Economic, Social, and Cultural Rights

This covenant describes the basic economic, social, and cultural rights of individuals and nations, including the right to:

- self-determination
- wages sufficient to support a minimum standard of living
- equal pay for equal work
- equal opportunity for advancement
- form trade unions
- strike
- paid or otherwise compensated maternity leave
- free primary education, and accessible education at all levels
- copyright, patent, and trademark protection for intellectual property

In addition this convention forbids exploitation of children, and requires all nations to cooperate to end world hunger. Each nation which has ratified this covenant is required to submit annual reports on its progress in providing for these rights to the Secretary General, who is to transmit them to the Economic and Social council.

The text of this covenant was finalized in 1966 along with that of the covenant of civil and Political Rights, but has not been ratified yet.

UN Convention on the Condition of the Wounded and Sick in Armed Forces (I)

Also called the first Geneva Convention

The first Geneva Convention focuses on the rights of individuals, combatants and non-combatants, during war. It is lengthy and detailed, perhaps because human rights are rarely at such risk as during war and, in particular, involving prisoners of war or enemy captives.

Covenant on Civil and Political Rights

This covenant details the basic civil and political rights of individuals and nations

Among the rights of nations are:

- the right to self determination
- the right to own, trade, and dispose of their property freely, and not be deprived of their means of subsistence

Among the rights of individuals are :

- the right to legal recourse when their rights have been violated, even if the violator was acting in an official capacity
- the right to life
- the right liberty and freedom of movement
- the right to equality before the law
- the right to presumption of innocence till proven guilty
- the right to appeal a conviction
- the right to be recognized as a person before the law
- the right to privacy and protection of that privacy by law
- freedom of thought, conscience, and religion
- freedom of opinion and expression
- freedom of assembly and association

The covenant forbids torture and inhuman or degrading treatment, slavery of involuntary servitude, arbitrary arrest and detention, and debtor's prisons. It forbids

propaganda advocating either war of hatred based on race, religion, national origin, or language.

It provides for the right of people to choose freely whom they will marry and to found a family, and requires that the duties and obligations of marriage and family be shared equally between partners. It guarantees the rights of children and forbids the death penalty entirely for people under 18 years of age.

The covenant permits governments to temporarily suspend some of these rights in cases of civil emergency only, and lists those rights which cannot be suspended for any reason. It also establishes the UN Human Rights Commission.

After almost two decades of negotiations and rewriting, the text of the Universal Covenant on Civil and Political Rights was agreed upon in 1966. In 1976, after being ratified by the required 35 states, it became international law.

Convention against Genocide

This convention bans acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group. It declares genocide a crime under international law whether committed during war or peacetime, and binds all signatures of the convention to take measures to prevent and punish any acts of genocide committed within their jurisdiction. The act bans killing of members of any racial, ethnic, national or religious group because of their membership in that group, causing serious bodily or mental harm to members of the group, inflicting on members of the group conditions of life intended to destroy them, imposing measures intended to prevent births within the group, and taking group members' children away from them and giving them to members of another group.

It declares genocide itself, conspiracy or incitement to commit genocide, attempts to commit or complicity in the commission of genocide all to be illegal, , Individuals are to be held responsible for these acts whether they were acting in their official capacities or as private individuals. Signatures to the convention are bound to enact appropriate legislation to make the acts named in Article 3 illegal under their national law and provide appropriate penalties for violators.

People suspected of acts of genocide may be tried by a national tribunal in the territory where the acts were committed or by a properly constituted international

tribunal whose jurisdiction is recognized by the state of states involved. For purposes of extradition, an allegation of genocide is not to be considered a political crime, and states are bound to extradite suspects in accordance with national laws and treaties, any state party to Convention may also call upon the United Nations to act to prevent or punish acts of genocide.

The remainder of the Convention specifies procedures for resolving disputed between nations about whether a specific act or acts constitute (s) genocide, and gives procedures for ratification of the convention.

Convention against Torture

This convention bans torture under all circumstances and establishes the UN committee against Torture. In particular, it defines torture, requires states to take effective legal and other measures to prevent torture, declares that no state of emergency, other external threats, nor orders from a superior officer or authority may be invoked to justify torture. It forbids countries to return a refugee to his country if there is reason to believe he/she will be tortured, and requires host countries to consider the human rights record of the person's native country in making this decision.

The CAT requires states to make torture illegal and provide appropriate punishment for those who commit torture. It requires states to assert jurisdiction when torture is committed within their jurisdiction, either investigate and prosecute themselves, or upon proper request extradite suspects to face trial before another competent court. It also requires states to cooperate with any civil proceedings against accused torturers. Each state is obliged to provide training to law enforcement and military on torture prevention, keep its interrogation methods under review, and promptly investigate any allegations that its officials have committed torture in the course of their official duties. It must ensure that individuals who allege that someone has committed torture against them are permitted to make an official complaint and have it investigated, and, if the complaint is proven, receive compensation, including full medical treatment and pavements to survivors if the victim dies as a result to torture. It forbids states to admit into evidence during a trial any confession or statement made during or

as a result of torture. It also forbids activities which do not rise to the level of torture, but which constitute cruel or degrading treatment.

The second part of the Convention establishes the Committee Against Torture, and sets out the rules on its membership and activities.

The convention was passed and opened for ratification in February, 1985, At that time twenty nations signed, and five more signed within the month. At present sixty five nations have ratified the Convention against torture and sixteen more have signed but not yet ratified it.

Convention on Elimination of Discrimination Against Women

This convention bans discrimination against women.

Convention of the Rights of the child

This convention bans discrimination against children and provides for special protection and rights appropriate to minors.

4.1 United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfillment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, Which constitute the common heritage of humankind, Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, Scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world.

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Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action,² affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration.

1 See resolution 2200 a (XXI), annex.

2A/CONF. 157/24 (Part I), chap. III.

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Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment , as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the

Charter of the United Nations, the Universal Declaration of Human Rights³ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other people and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the state.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individual has the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

³ Resolution 217 A (III)

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Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities:

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indigenous peoples concerned and after agreement of just and fair compensation and where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with Indigenous peoples, with respect to their

cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to use and control their ceremonial object; and the right to the repatriation of their human remains.

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2. States shall seek to enable the access and /or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and liter ations , and to designate and retain their own for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that Indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State with out discrimination.

3.states shall, in conjunction with Indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside

their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the Indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among Indigenous peoples and all segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

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Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with Indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions, particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

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Article 22

1. Particular attention shall be paid to the right and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with Indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all equal and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization to this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources, Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.

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Article 27

States shall establish and implement, in conjunction with Indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous peoples pertaining to their lands, territories and resources including those which were traditionally owned to otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources, States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of Indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of Indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the Indigenous peoples concerned.

2. States shall undertake effective consultations with the Indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities,

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with Indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or

territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their identity or membership in accordance with their customs and traditions. This does not impair the right to indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with Indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

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Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or

their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or elimination the rights of Indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with Indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the Indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance, Ways and means of ensuring participation to Indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.

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Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights Indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of rights set forth in this Declaration shall be subject only to such limitations as are determined by law, and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

4.2. HUMAN RIGHTS ANALYSIS:

UN Declaration on the Rights of Indigenous Peoples:

“Over the years, we have witnessed the immense obstacles certain persons and groups face in enjoying their human rights fully. Among the groups most at risk and in need of protection are indigenous peoples, who have suffered perennial prejudice and discrimination.” Statement by 28 independent experts of the UN Human Rights Commission, Human Rights Day, 10 December 2004.

The United Nations Declaration on the Rights of Indigenous Peoples (DRIP) is once again up for debate in the United Nations General Assembly (GA). DRIP has been in the developments process for over 20 years, consulted on by states, experts, indigenous peoples and organizations. In its own words, DRIP presents “minimum standards for the survival, dignity and well being of the indigenous peoples of the world” (article 42). Indigenous peoples live everywhere in the world and occupy every sector of society, yet “the vast majority of Indigenous peoples, hundreds of millions, live and die in poverty every day. “The passing of the DRIP by the GA is crucial; it can not be delayed again.

On 26 June 2006 the UN Human Rights Council finally adopted a resolution on DRIP and the declaration was forwarded to the GA for final approval. If adopted, the declaration will represent a major step towards confronting the widespread human rights violations faced by millions of Indigenous peoples around the world. The DRIP is not legally binding; it addresses the key areas for improvement of the human rights situations of Indigenous peoples.

The adoption of DRIP was stalled by the GA on 27 November, 2006 ignoring the Permanent Forum on Indigenous Issues appeal to the GA (16 October, 2006) “to adopt the Declaration without delay at its present session. The Namibian delegation put forth a non- action resolution that was supported by the Un General Assembly’s Third Committee and therefore, states have to come together again to vote before the end of

the 61st session of the GA in September 2007. The delay in adopting DRIP is a serious setback in the universal recognition of the rights of Indigenous peoples. Currently, the only international treaty that addresses the rights of Indigenous people is Convention 169 of the International Labor Organization.

The Universal Declaration of Human Rights guarantees fundamental rights of all people, but specific Indigenous group rights still need to be recognized as they are in DRIP. The key themes of DRIP include: dignity and equality, maintenance and continuation of distinct cultural practices, children's rights to be brought up in their culture, development consultation, land use and self-determination.

A prevalent experience faced by Indigenous peoples around the world is "systematic discrimination" as named by Rodolfo Stavenhagen, UN special Reporters on the Situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples. Systematic discrimination refers to how Indigenous peoples are excluded from all levels of society, in all places that Indigenous peoples live, making them the poorest of the poor and most excluded from accessing resources for basic needs. It must be emphasized that this systematic discrimination exists in all places where Indigenous peoples live, including the world's most developed and seemingly human rights friendly countries such as Canada.

Adoption by the GA world in no way solve the issues of Indigenous peoples, but as DRIP it self states it is "as a standard of achievement to be pursued in a spirit of partnership and mutual respect." Besides systematic discrimination, there remain vast protection gaps for Indigenous peoples between social, cultural, economic and political rights and the reality of their lives. DRIP presents goals to be sought after.

Cooperation is required to successfully pass DRIP, not only among Indigenous peoples and organizations, but within the international community as well. As Rodolfo Stavenhagen stated 13 April 2005 at an Indigenous forum at the 61st Session of the United Nations Commission on Human Rights, on the topic of the wide spread

human rights violations faced by Indigenous peoples, “this is not only, I believe, a concern of and for Indigenous peoples around the world but it is a concern for every body in the world who is interested and at all concerned with human rights of human beings every where”.

In advancing the Human Rights of Indigenous peoples: A critical challenge for the international community, Voices from a forum at the 61st session of the UN Commission on Human Rights 13 April 2005.

4.3 The constitutional Guarantees regarding indigenous people.

An analysis:

The Constitution of 1972 reflects these hegemonic cultural nationalist ideas as it states in Article. 9; “The unity and solidarity to the Bengali nation, which deriving its identity from its language and culture, attained sovereign and independent Bangladesh through a united and determined struggle in the war of independence, shall be the basis for Bengali nationalism”. The original Article 6, amended in 1977 declared that “ all citizens of Bangladesh should be known as Bengalis.” Amena Mohsin has recently argued that these clauses turn all the non- Bengali populations into ethnic and religious minorities. In our view the article goes as far as denying the existence of the Dravidian. Mundari and other Indigenous and tribal peoples in the country. It thus absolves the state from any special protective measures in favor of the country’s ethnic groups and legitimizes assimilation policies. As already argued, in certain respects the constitutional provisions’ compatibility with the obligation of Convention 107 can be questioned. In view of these provisions and the unitary cultural nationalism they both reflect and legitimate, it should come as no surprise that government representatives have officially said that Bangladesh has no ethnic or indigenous communities.

Article 28 contains a clause 4 that indirectly obliges the state to make special provision for the advancement of any ethnic group. as it mentions in the same stroke “women, children and any backward section of citizens” (author’s emphasis). These

unspecific and derogatory terms are illustrative of the official position and even of the way in which ethnic and other minorities have later been portrayed in teaching material for public primary schools. The inclusion in one clause of women children and other backward sections is revealing of an underlying attitude to these categories, denying them full subjectivity and relegating them to a marginal existence as dependants on the margins of the nation and the state.

CHAPTER-5

Constitution and Specific Legislation for Indigenous peoples

Article 27 of the Constitution of Bangladesh states that all citizens are equal before law and are entitled to equal protection of law. Article 28 (1) outlaws discrimination on grounds of race, religion and place of birth and Article 28 (4) states that nothing in this article shall prevent the State from making special provision in favour of women or children of for the advancement of any backward section of citizens. Though Constitution of Bangladesh does not directly mention the indigenous or tribal peoples, but it is understood that the indigenous peoples form part of the disadvantaged part of the citizens, which the constitution terms backward section of citizens' As opined by the interviewees, it is widely recognized that indigenous peoples do not acquire equal treatment before law and administration.

In addition, Article 29 (2) of the constitution states that nothing in this article shall prevent the State from (a) making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic; (b) giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination; (c) reserving for members of one sex any class of employment or office of the ground that it is considered by its nature to be unsuited to members of the opposite sex. This provision provides the scope for affirmative action for indigenous peoples in the name of the backward section of citizens'.

Under these provisions of the constitution, the government undertakes some affirmative actions in favor of indigenous peoples. Notable among these are:

- setting up of a Special Affairs Division under the Prime Minister's Office particularly for plain lands indigenous peoples;
- Signing of the CHT Peace Accord with the PCJSS as a solution of the CHT problem through political and peaceful means and accordingly establishment of CHTRC and HDCs as special administrative arrangements for the CHT;
- enactment of the CHT Land Dispute Resolution Commission Act of 2001;

- amendment of CHT Regulation in 2003 for establishment of a separate district judge court in CHT;
- inclusion of the term 'adivasi' and indigenous peoples' issues in the Poverty Reduction Strategy paper (PRSP);
- Continuing of quota reservation in the government jobs and educational institutions for 'tribal' people etc.

There are some ordinary laws that make specific reference to indigenous people. In the plains, the only substantive one of such laws in the East Bengal State Acquisition and Tenancy Act, 1950 (at section 97), which forbids the transfer of lands owned by aboriginals to non-aboriginal persons without the express consent of the government's district officer. This law-along with the special provisions on restrictions of transfer of aboriginal lands-is specially protected in the Constitution (Article 47(2) and First Schedule), on account of administrative implications of legal challenges regarding complex land issues, rather than on account of the indigenous peoples.¹

In contrast, the CHT has a far larger body of laws that refers directly to indigenous people. Some of these laws recognize indigenous peoples' customs regarding the ownership and use of lands and other natural resources. The most important of such laws in the CHT Regulation of 1900. Other laws include the Hill district Council Acts of 1989, the CHT Regional Council Act of 1998, the CHT Land dispute Resolution Commission Act, 2001 and the CHT Regulation (Amendment) Act, 2003.

The CHTRC Act and three HDC Acts were passed after the signing of the CHT peace Accord in 1997, which provided a framework for the customary resource rights of its aboriginal. However, indigenous leaders of the CHT put opinion that main provisions of the Accord, such as, devolution of powers to the CHTRC and HDCs, resolution of land disputes through Land Commission, rehabilitation of returnee jumma refugees

¹ An assessment of the United Nations First International Decade of the World's Indigenous Peoples 1995-2004. International Centre for Integrated Mountain Development (ICIMOD). Nepal.

and internally jumma displaced people. demilitarization of the region etc. are yet to be implemented.

One national level indigenous leader said that indigenous issues had remained ignored for many decades. With regard to the plains areas (as also the CHT). the only positive policy advance worthy of mention is perhaps the adoption of the National Poverty Reduction Strategy Paper (PRSP). adopted in October 2005. The document refers to the indigenous peoples as “Adivasi/Ethnic Minority” Although the document’s implementation provisions do not contain any detailed strategies on how to deal with the indigenous peoples’ poverty issues; the PRSP acknowledges the disadvantaged position of indigenous peoples and their exclusion from the development process. and more importantly. it refers to the “inadequate representation of [Adivasi/Ethnic Minorities] at various levels of government and policy processes”⁵⁰ However, one indigenous leader who participated in the PRSP consultation said that the PRSP has the potential to be used as a major policy tool to advance the social and economic rights of indigenous peoples through the formal ‘development’ process. In the long run, it can be invoked to also enhance Adivasi participation in the overall process of administration and governance as well.

CHAPTER-6

OVERVIEW OF HUMAN RIGHTS SITUATION OF INDIGENOUS PEOPLES UNDER LEGAL AND POLICY FRAMEWORK

Internationally the Bangladeshi state's policy towards its indigenous peoples, particularly in CHT, has been vehemently criticized for human rights violations. The government of Bangladesh has no formal and detailed policy as regards the indigenous peoples of the country, as it has reservation on the recognition of its indigenous peoples. Apart from dispossession of lands through development and forestry projects, the most serious problems faced by indigenous people in Bangladesh include limited access to education and other social services, discrimination at the hands of non-indigenous people, including government functionaries and the imposition of other inappropriate and socially and economically destructive development projects.

The overall human rights situation of the indigenous peoples of Bangladesh is far from good. Compared to indigenous people in the plains regions, indigenous people in the CHT are in a relatively better position because of the presence of the semi-autonomous administrative system that includes the traditional indigenous institutions of chiefs, headmen and karbari. Hill District Councils and Regional Council. Of course, unlike CHT, militarization and massive transmigration of Bengalis are not seen affecting the indigenous peoples of the plain land.

6.1 Ratification of International Treaty and its Implementation

Bangladesh has ratified most of the international human rights treaties including the ILO Convention, 1957 (no.107) that guarantees certain rights, such as right to land, self-governance and development, to indigenous and tribal peoples. In addition, it has endorsed the Johannesburg Declaration on Sustainable Development that recognizes the "vital role of the indigenous peoples in sustainable development" and the Economic and Social Council Resolution 2000/22 that establishes the United Nations permanent Forum on Indigenous Issues with mandate to advise and recommend the Economic and Social Council on six subjects: (1) Economic and

Social Development (2) Human Rights (3) Culture (4) Education (5) Health and (6) Environment. The international human rights treaties ratified by Bangladesh include, among others, the following:

Treaty	Ratification
International Convention on Economic, Social and Cultural Rights (CESCR)	05 January 1999
International Covenant on Civil and Political Rights (CCPR)	06 December 2000
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	11 July 1979
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	06 December 1998
Optional Protocol to the Convention on the Elimination of Discrimination against Women(OPCEDAW)	22 December 2000
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAG)	04 November 1999
Convention on the Rights of the Child (CRC)	02 September 1990
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPCRCAC)	12 February 2000
Optional Protocol to the Convention on the Rights of the Child on the sale of Children, child prostitution and child pornography (OPCRCSC)	18 January 2000
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	07 October 1998
ILO Convention on Indigenous and Tribal Population (Convention no.107 of 1957)	22 June 1972
ILO Convention on Discrimination (Employment and Occupation) (Convention no.111 of 1958)	22 June 1972
Convention on Biological Diversity (CBD)	03 May 1994

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 treaties grossly violated by Bangladesh in the CHT are: The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); International Covenant on Economic Social and Cultural Rights (CESR); International Covenant on Civil and Political Rights (CCPR); and International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

For example, UN Monitoring Committee on CEDAW examined Bangladesh country report in 2004. In its concluding comments, Committee on the Elimination of Discrimination against Women expressed its concerns over implementation of the Convention by the Government of Bangladesh that the Convention has not yet been incorporated into domestic law and its provisions cannot be invoked before the courts. The Committee calls upon Bangladesh state to incorporate without delay the provisions of the Convention into its domestic law and requests. Bangladesh to ensure that the provisions of the Convention be fully reflected in the Constitution and all legislation.²

In contrast, the ILO Convention no. 107 contains several provisions that deal with indigenous and tribal people's rights, including on land, recruitment and conditions of employment, vocational training, handicrafts and rural industries, social security and health, administration, education and means of communication.³ Many of the provisions of Bangladesh law conform to the standards of Convention no 107 several- especially in the plains- fall short of these standards while a few- such as on legislative prerogatives, customary laws and on self-government in the CHT- go beyond the provisions of Convention No 107 and are more in conformity with the more progressive Convention No.169 and are close to the comparable provisions of the UN Declaration on the Rights of Indigenous Peoples.

² Concluding comments of the Committee-CEDAW: Bangladesh 18/08/2004. A/59/38(SUPP)paras 228-267.

³ The ILO Convention on Indigenous and Tribal Population, 1957 and The laws of Bangladesh: A Comparative Review by Raja Devasish Roy, July 2006

Human rights activists who have been interviewed said that 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 that has been ratified by Bangladesh. The ILO Convention includes matters on administration, land education, vocational training, employment, mother tongue education, language rights, all of which are vital for the welfare of indigenous peoples in Bangladesh, especially in the plains regions, where there are few or no legal and administrative provisions that address the rights and particular needs and concerns of indigenous peoples. Indigenous activists interviewed during study are of opinion that most crucial issues, such as collective and individual rights of indigenous people over land traditionally occupied. Children's rights to teach in their mother tongue, constitutional recognition of the indigenous peoples etc. are yet to be implemented. In fact, Children's right to learn in their mother tongue was included to CHT Accord, but is yet to be executed.

Another international treaty ratified by Bangladesh and relevant to its indigenous peoples in the Convention on Biological Diversity. Which contains provisions on the protection of the traditional knowledge systems and genetic resources of indigenous communities and measures for their equitable utilization (articles 8j and 10c). Unfortunately, most of the aforesaid provisions remain unimplemented or under implemented, especially in the plains regions.

There are several factors behind the weak implementation of the aforesaid treaty provisions in Bangladesh. First and foremost, under Bangladeshi law, international treaty-based rights are not directly enforceable in the courts of law. Secondly, the treaty-monitoring system, especially in the case of the ILO Convention, is complicated, and provides no direct access to indigenous peoples. Thirdly, monitoring of the aforesaid processes by the indigenous peoples themselves and human rights groups has not been conducted in sustained and through manner. This itself is related to the limited capacity and organizational strengths of indigenous and human rights

organizations. These shortcomings need to be addressed by a combination of lobbying, advocacy and capacity raising work within the treaty monitoring bodies, government agencies, indigenous peoples institutions and human rights and civil society organizations.

The government is very much reluctant to implement international human rights mechanisms and conventions related to indigenous populations. The government ratified ILO convention No. 107 for Indigenous and Tribal populations in 1972. but not a single article has been implemented so far. Most government officials do not even aware of this Convention, In the CHT. lack of trust between government and indigenous hill peoples is the major challenge that needs to be overcome for the proper implementation of the CHT Peace Accord.

The Committee on ILO Convention 107 in its report in 2005 stated that it has been examining the situation in Bangladesh under this Convention for many years. against the background of allegations of human rights abuses, large-scale migration into tribal areas by Bengali settlers from other parts of Bangladesh and consequent displacement of tribal people from their traditional lands. and an armed insurgency by tribal militants-resolved by the Chittagong Hill Tracts Peace Accord. 1997. The Government's report arrived too late to be examined at the Committee's previous session. and therefore covers the period up to may 2003 only.⁴⁷

Universal Declaration of Human Rights does not have a particular provision for indigenous peoples but this declaration has been translated in Bengali for dissemination by some other NGOs and UN country office. The Draft declaration of the Rights of Indigenous Peoples is direct bearing for IPs including the self-determination. laws. traditions and customs etc but the government does not take any effective measure for the indigenous peoples

Most of indigenous rights activist are of the opinion that for the abovementioned manners are need to be addressed by a combination of lobbying, advocacy and capacity-raising work within the treaty monitoring bodies, government agencies,

indigenous peoples' institutions and human rights and civil society organizations with respectively.

In 2001, the Committee on CERD wishes to receive disaggregated information on the economic and social status of all ethnic, religious and tribal minorities, as well as their participation in public life.⁴⁸ But the Government of Bangladesh did not prepared disaggregated data on indigenous peoples in 201. The Committee on CERD also urges the GoB to intensify its efforts to implements the CHT Peace Accord. However, no progress has been made.

The two prominent human rights organisation in Bangladesh. namely, Legal Aid and Services Trust (BLAST) and Odhikar are of the opinion that the government must ratify the international conventions that are for the indigenous population and collective pressure from the human rights⁴ organization on the government should be made to execute the non-implemented issues of the indigenous peoples.

6.2 National Sectoral Policies and Indigenous Peoples

Government policy may also be understood from the national sectional policies and programmes of the government. With regard to other national sectoral policies. e.g.. healthcare, education, employment, land administration etc. there seem to be no special measures that aim to address the problems faced by indigenous communities, especially those living in remote areas. which are quite different from those faced in other places, and which cannot be resolved through the usual programmes that were designed with the Bengali-populated plains regions in mind.

With regard to healthcare and education programmes. the individuals involed with healthcare and education programmes are of the opinion that tens of thousands of

⁴ CEACR: Individual Observation concerning Convention No. 107. Indigenous and Tribal Populations. 1957 Bangladesh (ratification: 1972) Published: 2005

CERD/D/304/Add. 118. (Concluding Observations/Comments). CERD/C304/ Add. 118. 27 April 2001

indigenous people continue to be deprived of healthcare and education facilities. Therefore, in order to provide true equal access to indigenous peoples with regard to healthcare, education, training, employment, etc.-as implicitly promised in the national constitution the sectoral policies need to provide for special measures without which there will be no equal state facilities for these disadvantaged people. Interviewees are of opinion that in education policy, there is no provision for indigenous children to introduce mother tongue at primary education.

With regard to employment, there are reserved seats for certain jobs and seats in educational institutions that are reserved for “tribals”. However, most of the interviewees expressed that ⁵

details regarding the process of administration of such reserved seats are either absent or not made public.

With regard to the CHT, the Hill District Councils (HDCs) in the CHT now have a role in administering the small market centre lands, and in vetoing or allowing land transfers in other parts of the CHT, it seems that the Government is not yet ready to devolve substantial land administration authority to the HDCs. ⁵² Similarly, the work of the CHT Land Commission, which was entrusted with providing quick remedies to land disputes in the CHT, is also yet to start its work. It appears that the Government is not yet ready to amend the law establishing the commission the CHT Land Disputes Resolution Commission Act, 2001 in accordance with the CHT Accord of 1997, as asked for by the CHT Regional Council. ⁵³

One of the most crucial Acts affecting indigenous peoples in plain areas is the Vested Property Act, 1974. This Act is to deal with properties of people who went over to India. However, the indigenous rights activists expressed their grief that the Act has

⁵ Unlocking the Potential: National Strategy for Accelerated Poverty Reduction (PRSP). General Economics Division, Planning Commission, Government of People's Republic of Bangladesh, Dhaka, October 2005. Paragraph 5.405

been indiscriminately used against different minority ethnic group including indigenous peoples in the north western region and in north central region of the country. The return of lands of indigenous peoples taken over by invoking the vested property Act in one of the 9-point demands of the Jatiya Adivasi Parishad. the main organisation of indigenous peoples of the northwest region.

Though the indigenous peoples are not specially mentioned, but there are a number of other laws are of direct relevance to the indigenous peoples' land and resource rights. Among them, the Forest Act of 1927 and the Social Forestry Rules of 2004 are most crucial. Various provisions of the Forest Act concern customary land rights of indigenous peoples and empower the government to assign to any village community the right of government to or over any land which has been constituted into a reserved forest. In some parts of sylhet division. village communities of the khasi people have secured short term written agreements over use of reserved forest land. Communities of indigenous peoples in Mymensingh, Chittagong, Cox's Bazar continue to live within reserved forest areas. but no written agreements are known to have been entered into with. Their existence and livelihoods in these areas are therefore quite precarious. On the other, there is provision in the Social Forestry Rules that the ethnic minorities (indigenous, tribal or aboriginal) are among those to be given priority in selection as beneficiaries of the project. But very consistently of the other, the government officials are given powers through which they could cancel any body from the beneficiary list at any time.

6.3 Justice and Human Rights Situation

Recently present Caretaker Government of Bangladesh separated Judiciary from executive division. For this purpose, the government amended the Penal Code of Bangladesh and other necessary laws. However, the judges of lower court are still to be appointed by the judiciary. It needs long process to conduct fully separate judicial service. At present civil service officials⁶

⁶ Land and Forest Right in the Chittagong Hill Tracts. Talking Points 4/02. Raja Devasish Roy. ICIMOD (International Centre for Integrated Mountain Development). Kathmandu. 2002.

⁷ The Government passed the CHT Regulation (Amendment) Act of 2003 (Act no 38 of 2003) to bring in major changes to the CHT judicial system. including transferring of civil and criminal judicial authority. In spite of this the CHT judicial service still is operating by the executive administrative i.e. Deputy Commissioners and interference by the military. Hence. as most of the interviewees opined, the judicial section could not able to play a positive role to highlighting and upholding the rights of indigenous peoples.

On the other. the proposed National Human Rights Commission is still to be appointed. Indigenous peoples are not in a position to provide a legal challenge until and unless the aforesaid independent bodies are created.

National human rights activists working on indigenous issues said that indigenous peoples are often unable to protect themselves against social, political and economic injustices. They face a real threat in exercising their basic rights and surviving as communities. These and other major problems faced by the indigenous peoples continue to be neglected by succeeding governments and are worsened on account of the very limited participation of plains indigenous peoples in major decision making processes.

Most of the gross human rights violation on indigenous peoples. for examples. the eviction of the indigenous peoples in the name of the establishment of he Madhupur Eco-park and Muroichara Madhadkunda Eco-park in 2000-2001. the brutal killing of piren Snal by the police and forest guards during the movement against the so-called eco-park in 2000, the communal attack on 14 villages of indigenous peoples in Mahalchari in 2003 etc have not been brought under judicial enquiry.

The situation daced by name indigenous women. children and youth in Bangladesh in critical due to ongoing militarzation and exploitation of natural resouces on our

⁷ Migration, Land Alienation and Ethnic Conflict: Causes of Poverty in the Chittagong Hill Tracts of Bangladesh. shapan Adnan. Research & Advisory Services. Dhaka. 2004.

ancestral lands. Human rights violation including violence against jumma women by the military continue unabated in the CHT until today, De facto military rule continues in the CHT based upon a secret government order known as Operation Uttoran (Operation Upliftment). In September 2001, this order has replaced the earlier order known as Operation Dabanal' (Operation Wild-fire) imposed in the CHT during the conflict period (1973-1997). Military interference with and dominance over general civil administration, indigenous social affairs, forest resources etc. continue.

For instance, in August 2003 more than 350 houses of indigenous jummas of 14 villages within mahalchari sub-district were burnt, Buddhist temples and statues of Lord Buddha were destroyed, and two people, including one eight-month old child were killed and 10 jumma women were raped. All this happened within a few hours and was led by uniformed and armed soldiers of Bangladesh military (21 East Bengal Regiment) and included Bengali settlers. This is very ironic, as Bangladesh now in the biggest contributor to the international UN peacekeeping force. Moreover, Lt. Col. Abdul Awal, the concerned Zone commander, had returned to Bangladesh after completing UN peace-keeping duties abroad. Indigenous peoples demanded to the government to conduct an impartial and independent inquiry into this communal attack and to take speedy action against the perpetrators of crime. However, the government has not taken any steps in this regard.⁵⁴

The present Caretaker Government of Bangladesh imposes the State of Emergency in the country amid conflict political situation on 11 January 2007. Under the state of Emergency in the country amid conflict political situation on 11 January 2007. Under the state of emergency, the Joint Forces led army are conducting drive against the corrupt politicians, businessmen and godfathers.⁸

As part of this drive, a few godfathers and corrupt leaders of last four-party alliance government including Abdul Wadud Bhuiyan, the most wanted godfather in

⁸ Intervention by in a Hume, A human rights activist to the 4th Session of United Nations Permanent Forum of Indigenous Issues held at UN Headquarters in New York in May 2005.

Khagrachari district have also been arrested in CHT. However the military forces have been using the state of emergency with a different motive in case of indigenous peoples in CHT. Basically it has been used to suppress the voice of indigenous jumma people of CHT.

Hill Watch Human Rights Cell claims that by taking the advantage of the state of the emergency, the military forces have increased their suppressive actions against the indigenous jumma people in the CHT. Particularly the military forces have targeted the jumma activists including members of the PCJSS and UPDF and their front organisations. The indigenous activists have falsely been charged in connection with terrorist activities. To materialise their allegation, the Joint Forces have been showing arm recovery from arrestees possession putting their (army) arm and lodging false arm case against them.⁹

Kapaeeng Watch, for instance, claims that Mr Satyabir Dewan (General Secretary of PCJSS and Rangli Mro (A land rights activist and leader of Mro community as well as elected UP Chairman) were arrested with false cases in February 2007. Mr Satyabir Dewan, A senior PCJSS leader does not have tortured mentally than physical. In the case of Mr Ranglai Mro, has brutally tortured by the joint forces for the reasoning in behind of vocal in against the military land occupying in his region and systematic evicting the Mro indigenous community from their ancestral land. The court awarded 17 years imprisonment to both Satyabir Dewan and Ranglai Mro in May and June 2007 respectively, in the false arms cases.¹⁰

Kapaeeng Watch claims in its report circulated in August 2007 that since declaration of the State of Emergency, 2 indigenous youths and more than 50 indigenous activists only in CHT have been arrested.⁵⁷ In most cases, they have been falsely charged in connection with keeping illegal arms, killing, kidnapping and extortion and cases against them have been filed under section 16 (b) of Emergency

⁹ <http://www.jummonet.blogspot.com>.<http://www.jummonet.wordpress.com>

¹⁰ -report on CHT Situation Circulated by Kapaeeng Watch in August 2007

Power Rules of 2007. Section 16(b) states that regardless of whatever is stated in section 497 and 498 of the Criminal Procedure Code or any other law, an accused under the Emergency Powers Ordinance will not be released on bail during the enquiry, investigation and trial of the case against that person. This No Bail Rules is an example of how the present Caretaker Government has assumed the role of the judge and jury in clear violations of the internationally accepted cardinal principles of administration of criminal justice and subsumed the role of the judiciary.

On the other, on 18 March 2007. Mr Choles Ritchil (a potential indigenous leader) was arrested and then killed by a group of Joint Forces led by army at Kalibari under Muktagacha Upozila. Mr Ritchil was coming from Mymensingh town in a microbus accompanied by 3 indigenous persons namely Mr Piren Simsang, Mr Tuhin Hadima and Mr Protad jamble. The security forces took them to nearby Khakraid army camp at about 2:00 pm. According to the eye witnesses (names withheld for security reasons), the Joint Forces personnel used pliers to press the testicles of Mr. Choles Ritchil and put needle on his fingers. They poured hot water into his nostrils. He was then hanged upside down and brutally tortured. He vomited blood again and again and fainted many times. some of those who tortured Mr Chales Ritchil were indentified as Warrant Officer jamal, 2nd Lt. Minhaj, Sergeant Shahadat and Major Toufiq Elahi. On 20 March 2007. Choles Ritchil's wife Sandha Simsang had filed a complaint at the Modhupur Police Station but as of 2 April 2007. Modhupur Police station has not registered any case.¹¹

¹¹ <http://www.achrweb.org>

CHAPTER- 7

Indigenous Peoples as Distinct Categories in International Human Rights Law.

Article 27 of ICCPR contains the following provisions: “In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.” This article refers to three defining dimensions of the category minority, culture, religion and language, and two purposes of rights, protection and preservation. Minority rights in international law are formulated in terms of individual right exercised collectively. It is reflected in the formulation in Article 27: “persons belonging to ... minorities ...” (our emphasis). In addition, the article stresses that the basis for such individual rights is the protection and preservation of a “community”. We also note that the article does not refer to minorities as forming a “group”. The Human Rights Commission has commented on this by stating that the existence of a minority shall be decided by both self-identification and objective criteria. The first allows for self-asserting claims to a common identity based on longstanding community boundaries or more recent politics of difference. The second is to be based on distinctive characteristics (verifiable by research in combination with reliable official records) such as language, religion and relative size in relation to other communities.

In December 1992 the General Assembly of the United Nations approved the Declaration on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities (UNDM). The UNDM goes beyond the above mentioned Article 27 in elaborating the rights of minorities to protect themselves and the positive obligation of states to take action to ensure their right to development, to non-discrimination and to participation.

Indigenous people are often, though not always, numerical minorities in the countries in which they live. And there are numerous historical and contemporary examples from research and administrative records of minority communities which,

through ethnic mobilization, have claimed a distinct history, language, culture, legal codes and a homeland and have achieved acceptance of their claim of being indigenous. Perhaps not so much in spite of as because of this, there has more recently been a trend in international law to try to establish criteria for distinguishing between the characteristics and situations of minorities and of indigenous peoples.

In 1957 the International Labor Organization (ILO) took, as we have noted above, the initiative to frame the earliest convention, Convention 107 on Indigenous and Tribal Populations, Convention 107 was ratified by 27 states before it was closed for new ratifications. Amongst those states were Bangladesh, which ratified in 1972, and India, which ratified as early as 1958. Article 2.1 of Convention 107 states that the governments are responsible for “developing co-ordinated and systematic action for protection of the populations concerned and their progressive integration into the life of their respective countries” (our emphasis). No wonder Convention 107 was criticized for being assimilation’s. It was revised in 1989 as the Convention Concerning Indigenous and Tribal Peoples.

Convention 107 is still in force, since there are countries, including Bangladesh and India, which have not ratified the more comprehensive Convention 169. This came into force in 1991. Convention 169 has since been ratified by 17 countries, the last three ratifications being in 2002 by Brazil, Venezuela and the Dominican Republic. The convention has met resistance from different sides. On the one Government to ratifying convention 169, suggesting that state representatives find it too radical and binding in certain respects. Indigenous organizations have, on the other hand, criticized the Convention for serious shortcomings. Above all, we must remember that Convention 169 is presently the only binding instrument dedicated to the rights of indigenous peoples still open to ratification.

An important terminological difference in the formulations of Convention 107 compared to 169 is the shift from “indigenous populations” to “indigenous rights. This change in terminology signals a significant sociological and legal shift, recognizing

“peoples” as nationalities with a right to self-determination. The use of the term self-determination is elusive, but might in its most radical interpretation imply a right to secession. This principle of self-determination explains in large part the slow rate of ratification, and the reservations made by a number of states that have signed the Convention.

Convention 169 goes rather far in specifying governments’ responsibility for coordinated, systematic, participatory and active consultation. The Convention also elaborates measures to safeguard indigenous people’s use of land (even if not exclusively occupied by them) and a right to participate in the management of conservation of natural resources even if the state will not relinquish its ownership (this might be contested by indigenous groups) of these resources. The Convention also elaborates a basis for compensation for the loss of land they earlier often exclusively occupied.

We must also remember that, in addition to Conventions 107 and 169, there is a large group of general (universal) and inter-American laws that addresses indigenous rights. Some of them, in fact, go further than Convention 169 in accepting the scope for such rights. The Human Rights Committee, the committee on the Elimination of Racial Discrimination, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples Rights have all in different ways contributed towards elaboration rights and have in some respects gone further in progressive interpretations (in view of the Human Rights Law) of the two special conventions and of indigenous rights in general.

7.1 Monitoring by the treaty Bodies

Any government of any state (i.e a state party) that has signed and ratified any binding convention is obliged to report regularly to the responsible treaty body about the implementation of their responsibilities as spelled out in the applicable convention. In addition, cases involving individuals or groups versus a state have been brought before the treaty bodies for rulings. The committee on Human Rights (CHR) has made

a number of important rulings based on interpretations of the International Convention of Civil and Political Rights. The same is the case for the Committee on the Elimination of Racial Discrimination (CERD). This committee is also a regular monitoring body in respect of the Convention on the Elimination of Racial Discrimination.

In 2001 CERD examined five reports (due in 1992, 1994, 1996, 1998 and 2000) from Bangladesh. The situation in Chittagoan Hill Tracts figured prominently in these reports. CERD made a number of observations about the reports. Notice should be taken of the fact that the reporting occurred four years after the Chittagong Hill Tracts Peace Accord. Considering the effects of the Accord, the committee made some positive observations about certain areas in which the Peace Accord is under implementation, such as the establishment of a Hill Tracts Council and a Land Commission. The Commission also made some positive remarks on the governments' use of affirmative action in favour of the tribal peoples of Chittagong Hill Tracts. The committee expressed concern about the slow progress overall in implementing the Accord. The committee also requested specifically detailed reporting on the work of the Hill tracts Council and the Land Reform Commission, rehabilitation of refugees and internally displaced peoples, and resettlement of Bengali settlers outside the Hill Tracts. The reports from the Bangladesh state notably mentioned nothing about the ongoing human rights violations against the tribal peoples in the north-west. Nor did the committee, for its part, make any observations or ask any questions regarding racial, ethnic or cultural discrimination against the tribal groups in north-western Bangladesh.

The International Labor Organization, which drafted Conventions 107 and 169, also undertakes monitoring, technical assistance and investigations into state parties. The impact of this work has been uneven. The complaints procedure of ILO makes it impossible for indigenous organizations to file complaints on their own. The ILO has a complicated corporatist structure (balancing state, corporate and labor stakeholders) which unfortunately often acts to discourage formal complaints attempting to secure compliance with the conventions.

7.2 Tribal and Indigenous Peoples and Sustainable Development: Indigenous rights are fundamentally interconnected with what in western technocratic terminology is labeled “the environment”. Such a term is, however, utterly inappropriate when characterizing the relations between indigenous peoples and their lands, and particularly the ways in which the world views of indigenous peoples in different regions weave sacred ties between living peoples, ancestors and their native lands. Ancestral lands in different regions were always imbued with sacred meanings and often (if not always cared for in a way which would satisfy our modern criteria for “sustainable development”). The arrival of white conquerors and of successive waves of later colonial administrators and settlers often brutally severed these ties altogether or made it increasingly hard to sustain them as the colonialists created new state institutions and laws which consciously and unconsciously violated the native sacred laws of the land. These transformations had mostly devastating effects on spiritual ties, cultural practices, native institutions and livelihoods.

The last half of the twentieth century intensified commercial exploitation of native lands through tourism, mining, forestry, fishing, agriculture and hydropower development. This represented for many tribal and indigenous peoples the last phase of a centuries- old colonial history of dispossessing them, spiritually as well as socially and economically. When tribal and indigenous leaders started to attend the conference halls of the UN in the last part of the twentieth century, most of their ancestral lands had been expropriated or occupied by state authorities or private companies or by later settler populations. Very few frontiers remained globally. The Amazon rainforest, being such a major frontier, has mobilized outsider environmental groups worldwide, as well as indigenous leaders and activists from the huge but rapidly shrinking forests.

In the first World Conference on the Human Environment held by the UN in Stockholm, Sweden in 1972, George Manuel, a prominent Indian leader and member of the Canadian delegation, announced his intention to form an international organization for indigenous peoples to fight for their rights in the United Nations.

Until the publishing of the Brundtland Report (named after the then Norwegian Prime Minister Gro Brundtland) *Our Common Future*, little headway was made in environmental protection and management. The Brundtland Report specifically mentioned the role, plight and concerns of indigenous peoples and thus created new political openings for indigenous issues in the following Rio Conference. The conference agreed on the Rio Declaration on Development and Environment and a Plan of Action, The so-called Agenda 21. The Rio Declaration (Principle 22) acknowledges the vital role of indigenous peoples in management and development and calls for a recognition of their culture, identity and interests in participation aimed at sustainable development and the cultural. Based on this interrelationship and how it from the social, economic and physical well-being of indigenous peoples, all levels of government are called upon to recognize, promote and strengthen the roles of indigenous people.

As a follow-up from Rio, a Convention on Biodiversity came into force in 1993. A Framework Convention on Climate Change, the Convention on Biological Diversity, has provision (Article, 8 Points j) which acknowledges the importance of recognizing the knowledge held by indigenous communities and calls for equitable sharing or benefits arising from the commercial utilization of such knowledge and practices. Since the Rio Conference, indigenous organizations and other environmental groups supportive of indigenous rights have increasingly attended a range of meetings on more specific cultural and environmental issues in the UN system and in other intergovernmental organizations. Intellectual and cultural property rights represent one such increasingly important set of issues.

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7.3 The Roles of Bangladesh and India in the UN

India's position on minority and indigenous rights in the United Nations is multifaceted and, many would say, contradictory. Officially, India has the world's largest population of peoples. Officially classified as "tribal peoples" and thus as "scheduled tribes", some of the sub-continent's largest tribal groups, the Santals, Oraons and Mundas of the middle tribal belt and the northeast, call themselves

Adivasis. Advasi literally means the first settler or indigene. The Santals and Oraons (or indeed a number of other groups) meet the UN Convention's requirements of subjective and objective criteria for being accorded recognition as indigenous.

Historically speaking, the borders between tribes' and castes have been porous in the Indian subcontinent. The rise and consolidation two thousand years, has represented a massive assimilations force, though of varying intensity during different epochs of Hindu and Muslim empires and centralized kingdoms. An unquantifiable but probably longstanding influence or deliberate efforts) entered the Hindu "mainstream" and gradually became accepted as Hindus, though of lower caste or of untouchable status. Many others were attracted by Islam's egalitarian ideology and converted to Islam. Tribal and Adivasi cultural idioms were either discarded deliberately during the quest for ritual and social recognition (sancritisation) or they were simply gradually lost over successive generations of accommodation (Hinduisation). Proof of such a porous border operating in the past through a range of assimilations mechanisms has been difficult to establish. Now recent interdisciplinary research involving geneticists, anthropologists, historians and archaeologists has shown that Northern India has been a genetic melting pot. The finding that genetic affinities correlate with geographical proximity, and not with socio-cultural status, is indicative of intermittent large-scale conversions of both high castes and low castes to Islam. It also indicates some level of movement across tribe-castes to Islam. It also indicates some level of movement across tribe-castes boundaries, through both sanctification and a certain level of gene flow across caste boundaries, due to both illicit and formalized (but not necessarily socially approved) sexual unions. Yet many of the incredibly vast Indian subcontinent's

CHAPTER- 8

ANALYSIS OF THE RIGHTS OF INDIGENOUS AND TRIBAL PEOPLES.

In the case of almost all indigenous and tribal peoples, the colonial era started at best a significant escalation of dispossessing them of their native lands and other resources. The arrival of alien humans such as soldiers, rulers, lawmakers, missionaries and settlers radically and irreversibly transformed the very existence of the original inhabitants. At worst, it introduced a cataclysmic like period of physical persecution (in some instances amounting to genocide) and dramatically increased mortality (due to new deadly epidemics). Colonization has entailed a loss of indigenous knowledge of enormous dimensions, whose sheer scale and nature may never, for obvious reasons, be fully documented by either the conquerors or the subjugated population. Irreversible and massive loss of indigenous knowledge traditions is thus nothing new. Rather recent is a set of developments in the natural sciences, in the global trade regime and in the production globally of goods (such as ethnically inspired artifacts and music) and services (such as tourism, including eco-tourism, adventure tourism and cultural tourism). The new pharmaceutical industries can now mimic or copy the chemical properties of plants and herbs used by native helters at least over centuries and probably over much longer time spans. As a result of patent taking, these multinationals are likely to earn enormous profits. In addition, public institutions with honorable intentions of saving biodiversity create gene banks and national parks without consulting native people, often imposing new restrictions on them. Backed by national governments and national investors, the rapidly diversifying tourism industry, hunting for new niche products that may sell “authenticity”, increasingly targets the habitats of native peoples for their exotic tourism experiences. While the Draft Declaration (as discussed above) remains stuck in the UN system, due to serious disagreements, new trade and property rights agreements are agreed upon in negotiations in which indigenous peoples are not represented or consulted. The conjunction of all these developments renders indigenous cultural property rights an urgent issue indeed.

Before we address the situation in South Asia and Bangladesh in particular, it seems necessary to explicate the definitional meanings of the terms cultural property, intellectual property, traditional and indigenous knowledge. Indigenous knowledge is the body of historically formed knowledge that is essential for the longer term adaptation of a group to its environment. Indigenous knowledge is part of a more inclusive category of traditional knowledge, which also includes folk knowledge that cannot be credited with such long historical roots as indigenous knowledge. The study on the protection of the cultural and intellectual property of indigenous people produced by the sub-commission on the Prevention of Discrimination and protection of Minorities rejects the argument that an ancient tale or sonar represents such “forms of property”. The report argues instead that such oral traditions represent “but one of the manifestations of an ancient and continuing relationship between people and their territory. Stressing the interrelated nature of all the elements of a cultural heritage, the report states that the basic ideas underpinning the world view and practices of indigenous and tribal peoples are radically different from the modern secular world view with its neo-liberal economic system, in which the commoditization of nature appears boundless. Perhaps the main merit of the definition is that it may serve as a rationale for reasserting claims to domains and sites once solely inhabited by indigenous and tribal peoples. The report, based on the above argument, also rejects any effort to classify indigenous heritages into separate legal categories such as intellectual, artistic or cultural. The guardians of any cultural or intellectual heritage can be individuals, clans or some national body, depending on customs, laws and practices. These are truly vague formulations that may open up the way for innovations in customs, laws and skilled practices in order partly to preserve, partly to develop the heritage. Such a position will, of course, generate debates, even conflicts, over defining indigenous knowledge local knowledge and the acceptable balance between tradition and innovation.

It obviously makes sense to define heritage, as the report does, in terms of different media of expression (languages, oral traditions, songs, dances, rituals, knowledge of forests, agriculture, herding, hunting, sacred sites and remains). In our view it is vital

to insist on a definitional framework that includes the underling cultural models. They inform the particularly modes of expression that may be termed “spiritual”, be they expressed in practices informed by shamanism or by combinations or world religions and traditional forms of belief. Such underlying mental models have evolved over long time-spans under particular ecological and societal conditions. When these conditions are altered by natural disasters or by human imposition, the models come under intense pressure and will change more or less radically, subject to many conditions. Another definitional dimension of “heritage” refers to documentation by traditional and modern means of indigenous traditions. Such documentary efforts necessitate giving indigenous and tribal peoples the opportunity to decide on how they want their heritage documented and future rights to museum artifacts, ancestral human remains and records. These were collected by colonial looters or by archaeologists, ethnographers or collectors, who often did not bother asking tribal headmen, chiefs and clan elders for permission before they launched their work.

Currently, in Asia, the struggle for intellectual and cultural rights is closely interrelated to other struggles: retaining the right to stay in home territories; reducing or stopping infringements on forests, coastal zones, pastures or cultivatable lands; being granted basic individual rights while also claiming collective and group rights thus demanding recognition as indigenous peoples; or demanding recognition of the formal collective rights already accorded to them in national and international legislation (see the discussion below). In addition, indigenous groups in Asia have taken international initiatives to assert their cultural property rights. One such effort is the 1993 Matatua Declaration, which affirms Agenda 21 (adopted in Rio the year before) and lists many recommendations. They are based on the demand that indigenous peoples must be recognized as the rightful owners of their cultural and intellectual property. In another complementary initiative, indigenous peoples from forest regions in Asia, Africa and the Americas agreed on a Charter of Indigenous Tribal peoples of the Topical Forests. The Charter declares the world’s tropical forests as theirs, since the forests have spiritual value and form the basis for their cultural, economic and political survival as distinct peoples .

In Bangladesh the original inhabitants (known internationally as the Jummas) of Chittagong Hill tracts see their fight against eviction from their land, the rights of displaced peoples to return home, and control over commercial exploitation of natural resources (gas fields etc.) as linked to their struggle for cultural rights including protection of cultural property. In the northern plains and foothills the Garos are fighting for management rights over their ancestral forests and against the governments plan to establish an eco-park. The struggles of both the Jummas and the Garos are known internationally.

The losing struggle of the Adivasis of north-west Bangladesh to retain rights over the rapidly vanishing pockets of forests and common water sources and their enforced eviction from their agricultural lands and homesteads has never hit the international headlines or been reported on by leading human rights organizations and networks.

8.1 The Value of Popular and Indigenous Knowledge

We place ourselves in a long-standing tradition of critiques or conventional development models by our emphasis on documenting and re-evaluating local and indigenous knowledge. The implicit assertion has until recently been that “folk” knowledge is indeed local knowledge and cannot be taken out of its context and for example, compared with scientific knowledge, which claims to be universally applicable. This is too many-stranded a topic for us to address here, and two brief comments should suffice. Folk knowledge about, for example, herbal medicine has in a number of scientific tests been proven to general conclusions concerning medical folk knowledge versus grand scientific medical traditions. A great deal of folk knowledge around the world shares certain basic characteristics, revealing universal features in how people everywhere classify and order the world of living things.

In our working definition indigenous knowledge is a body of historically formed knowledge that is essential for the longer-term adaptation of a group to its environments. Local knowledge or folk knowledge is a more inclusive term for precisely “local” knowledge, which does not aimed at documenting certain selected

knowledge domains in current Adivasi society. Such knowledge domains include the living resources of the forest, processing food from wild plants, certain traditional agricultural techniques, riddles, tales and communal dances.

Much of this is know-how knowledge, i.e. knowledge that is inarticulate and known through skilled practice. In the research team we could only formulate this knowledge in language by observing how things were done in practice and gradually starting discussions between the foreign researcher, the native village researchers and the artisan and the villagers about such obvious knowledge. Our approach was based on a certain understanding of indigenous skills. Such skills, be they weaving, bow-making or brewing of rice beer, are not most fruitfully understood as pre-existing formulas or designs existing in collective representations of a collective culture, where the formula is imposed on some material substance. We might rather benefit from focusing on the skilled nature of the from-making processes themselves. They depend, of course, on a complex interplay between memory of certain skilled processing properties, often aided by observation of others engaging in similar skilled practices, the materializing forms that emerge by the fabulous human hand and other felt properties of the bow, the basket or the brew. Skills in Adivasi society and culture are thus characterized by functionality and intentionality embedded in practices, by judgments, by uttermost care and by the artisan's being embedded in social relations with other humans and the worlds of deities, ancestors and spirits. Thus careful selection of raw materials from forests, lands and waters occurs according to religious and socially approved regulations. And since the made artifacts are not so different from living things, they need, as do their maker, to be approved and blessed by supernatural agencies before they can be taken into use.

A substantial part of knowledge is "know that" knowledge, i.e. knowledge that can be articulated, but is generally too obvious for the edge was known to number of our village researchers, but some was only known by the elder generation and by some indigenous specialists.

Functionally defined knowledge domains might be influenced by underlying cultural models. Natives of a culture cannot easily declare verbally their cultural models. Such models can only be indirectly approached. There is the immediate danger that outsiders might invent models while claiming that they are native. In this book, for example, we will attempt to propose the existence of Santali models of relationships to land, of time and of wealth and happiness. We would still warn against any premature conclusions about these fascinating yet rather complicated questions. Culture, in our view, influences perception, memory and reasoning, but culture does not determine all this. Humans across all cultures share a common set of predispositions for perceptions, basic emotion, morality and language development.

We have also attempted to some degree to identify some Santali and Oraon cultural theories about certain phenomena. Cultural theories are explicitly formulated in language as myths, legends, tales assertions about causes of particular diseases, witchcraft and so on. Systematic investigations of Santali and Oraon cultural theories are very demanding, both time-wise and methodologically, and beyond the scope of this project. Whenever needed, we have drawn on earlier research this writer has conducted on Adivasi culture as well as other scholarly works on Adivasi culture.

We are concerned with the past and current conditions for cultural transmission and innovation. One major finding of our studies is that currently the conditions for cultural transmission are about to collapse, since much of the Santali and Oraon heritage is dependent on existing in a diverse forest environment. Some of this majority society and by Christian missions and churches, on the grounds that Adivasi culture is intertwined with a primitive, pagan, animist religion. Many Christian Adivasis have come to accept and to internalize a derogatory view of central aspects of their own cultural traditions.

Much culture is lost or in the process of being lost owing to environmental degradation and acculturation as a result of pressure from Western-supported institutions, the non-tribal majority society and the state. Cultural knowledge is

currently dispersed among certain sub-categories of Santal Oraon women and men, among artisans, ritual specialists, musicians, storytellers and agriculturalists. The traditional animist world view and religion is to some degree maintained among the Adi (Ancient) Santals and Sarna Oraons. Knowledge about the forest world is alive among many of the elder generation across religious divides. Women are almost the sole maintainers of the ancient skill of making rice beer. Certain specialist knowledge is also to some degree maintained, but under great pressure. As our participatory study documented what are in many respects dramatic and seemingly irreversible trends, we have attempted to search for possible ways of ensuring both future reproduction and innovation of some kinds of cultural skill. We are therefore not mainly concerned with the “museum approach” which involves storing as much as possible for future generations in texts, tapes, photos and artifacts. Rather, we are concerned with possibilities for ensuring a living cultural heritage in international law. Our proposals for experimenting with agro-forestry, forest management, herbal cultivation and processing and Adivasi Melas represent attempts to find strategies for ensuring a living heritage, which could also help in reducing hunger and underemployment and restoring dignity and pride.

There is currently not a widely shared Santali or Oraon “culture”, if defined as cosmological ideas, knowledge about the living forest world, a collective memory through a body of myths and legends, and skills in making hunting equipment, fishing traps or jewellery. Earlier practices functioning as markers of the life cycle, such as body tattoos, costumes and jewellery, have also vanished. Nevertheless, nearly all Christian and Adi Santals and Sarna Oraos, educated and uneducated, claim they are Santals and Oraons, and in certain respects different from other Adivasi groups and from Hindu and Muslim Bengalis. Santalness and Oraonness are maintained through marriage practices, Seasonal festivals, by using Santali and Kurukh languages and through the experience of a collective minority status enforced upon them by the dominant society and the modern state apparatus. Thus in the current modern situation the Bangladeshi Santals’ and Oraons’ experiences of Santalness and Oraonness are at least as much forced upon them by the very nature of the ethnicised boundary contacts

with the local Bengalis and with the Bangladeshi state apparatus as by internal distinctive traits and a common history. National-level organizations striving to gain recognition for indigenous rights, by political necessity stress the commonalities across all ethnic groups. In doing so, they have increasingly made use of the term Adivasi as a synonym for all tribal peoples of Bangladesh.

CHAPTER- 9

IMPORTANCE OF HUMAN RIGHTS:

Development approaches based on notions of universal human since the Second World War. Arguably, the spread of this development of the notion of (human) rights-based development, as part and parcel of a more comprehensive set of liberal Western political ideas, to elites, middle classes and oppressed populations has accelerated since the end of the Cold War in the late 1980s.

This chapter discusses what kind of opportunities this international development is opening up for the world's tribal and indigenous populations in their struggles for a more dignified and just existence. The principal reason we ask this question is that the actual use that the world's tribal and indigenous peoples have so far been able to make of human rights law varies considerably. Thus, we find it of paramount importance to provide and outline of what kind of recognition human rights law accords to minorities and indigenous issues. Such an outline may help indigenous organizations, development agencies, governments and academicians in their quest to assert rights and to fulfil responsibilities as parties to current international human rights law.

After a brief analysis of the protracted early development of any explicit recognition of rights of minorities in the United Nations, we discuss the rapid development of the international movement of indigenous peoples since the early 1980s. We consider in some depth the meaning that terms such as minority, indigenous people, individual versus collective rights, group rights and cultural property rights have acquired in international law. In addition, we debate which positions Bangladesh and its mighty neighbour India have taken in the United Nations on issues of minority rights and indigenous rights. The reason why we discuss Bangladesh and India together is that, as in the past, the future of the tribal peoples of Bangladesh is critically dependent on the development of India's politics of accommodation and on the development of Indo-Bangladeshi foreign relations. This reasoning is based on the recognition that

almost all the tribal/indigenous groups currently living within the state of Bangladesh are also found in India.¹²

9.1 Modern History of Tribal and Indigenous People's Rights

Between the First and the Second World wars the League of Nations recognised to some degree the rights of minorities and of tribal and indigenous populations.² In addition, some tribal and indigenous leaders made pioneering lobbying efforts. Amongst them were Levi General Daskaheh, Chief of the Younger Bear Clan of the Cayuga Nation and spokesperson for the Six Nations of the Grand River land near Ontario in Canada. He arrived in Geneva in order to be permitted a hearing at the league of Nations about a dispute over tribal self governance. Though he failed to get a hearing, his effort is historically significant, as it raised international concern and also some support for the cause he voiced.³ Minority and indigenous rights were, however, not incorporated into Covenant of the league of Nations.

The rapid development of a fully fledged human rights regime during the latter half of the twentieth century was born out of the chilling experiences of Nazi racial ideology and expansionist warfare. This warfare included an industrialized extermination of those the Nazis saw as inferior and disposable races and minorities, notably Jews, Gypsies, handicapped and sexual minorities. In 1945 the United Nations succeeded the League of Nations. The United Nations (UN) was formed as an organisation of sovereign states. The states voluntarily join the UN with the goal of promoting world peace through international cooperation, supporting social and economic progress and promoting respect for human rights. The UN Charter was ratified in 1945 by the UN's first 51 member states. A year after the United Nations was created another United Nations conference approved the Universal Declaration of Human Rights (UDHR) did not contain any specific reference to minority protection.⁴ Even though some of the delegates at the San Francisco conference had in fact suggested specific articles, they failed to muster sufficient support for their proposals. This can be interpreted as

¹² Bleie et al, A Rights-based Approach to Development Assistance. Discussion Paper commissioned Norwegian Ministry for Foreign Affairs, Bergen, November 2002.

expressing a post-war consensus that a general non-discriminatory basis for human rights would serve humankind best.⁵

However, in spite of the non-attention to minority issues in the UDHR, there were forces within the newly established world organization that were concerned with minority rights. It would nevertheless take several years before such endeavors materialized into concrete principles and provisions to be included in any covenant.

The history of specific rights for minorities, tribal and indigenous populations in the UN dates back to the late 1950 and 1960s. One major breakthrough was the adoption of Convention 107 on Indigenous and Tribal Populations in 1957. Since accession was slow, the convention only came into force in 1967. Another major breakthrough was the adoption of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. While adopted in 1966, the two covenants did not enter into force before 1976, when a sufficient number of governments had agreed to ratify them. Together with the Universal Declaration of Human Rights, the two covenants form the International Bill of Human Rights.

When indigenous and tribal peoples claimed recognition and protection under human rights law in the 1960s and 1970s, the context was an accelerated development era in Africa, Asia, the Pacific and the Americas. In addition, there was rapid industrialization in many Western countries with native populations. In both the north and the south, large-scale commercial uses of forests and pastures, of minerals and of water meant an intensified exploitation of the ancestral lands of tribal and indigenous Populations. This happened in a period of state-enforced integration, blatant assimilation and concomitant disregard for tribal and indigenous world views and concomitant disregard for tribal and indigenous world views and institution. The ruling elites of the newly independent states in Asia and the Americas and of other states in Scandinavia all put faith in infrastructural projects and industrial ventures, often located on (former) tribal and aboriginal lands. The Kaptai dam, which was built in the hills of Rangamati in Bangladesh, aroused local and international protest since it flooded a

large area of tribal land and resulted in massive human displacement.¹³ Similar interventions without prior consent or compensation stirred for example protest movements among native Indians in the United States and Canada and among the Sami and environmentalists in Norway.¹⁴

The process of decolonization, with its new focus on countries' and peoples' rights to self determination, created a political climate conducive in the longer run to accommodating new groups of claimants within a widening human rights agenda.¹⁵ Although many colonies gained independence in the period from the late 1940s to the late 1960s, few of the constitutions of newly independent states gave any recognition to their own tribal and indigenous populations. In this respect the constitution of India was exceptional. The constitution of 1947 had detailed provisions for what were termed "scheduled tribes" "Tribals" so defined, are entitled to protective discrimination. Unlike in India, in most other countries, protest movements found meagre support in their newly bourn countries, protest movements found meager support in their newly born countries' constitutions. instead, they had to turn to international law, with its increasing recognition of cultural rights and the right of self-determination, in order to gain a certain leverage to pressure their governments into negotiations and settlements. In this they gained some degree of recognition for rights to ancestral lands and to other natural and spiritual resources.

In the United States, the early environmental movement, the new women's movement and the black movement gained momentum form the 1960s onwards. Radical, well-educated strata in Europe followed suit. These political and social movements'

¹³ Anti-Slavery Society, *The Chittagong Hill Tracts: Militarization, Oppression and the Tribes*, London: Indigenous Peoples and Development 1984, p. 36.

¹⁴ Niezen, *op. cit.*, pp. 149-156 and H. Minde, *The challenge of Indigenism: The Struggle for Sami land Rights and Self-government in Norway 1960-1990*, in S. Jentoft, H. Minde and R. Nilsen (eds.), *Indigenous peoples, Resource Management and Global Rights*, The Netherlands: Eburon Delft, 2003.

¹⁵ The right to self-determination is of course a much older issue, dating back to nationalist ideology which developed in Eur..... the late.....

incisive and persuasive critiques of racist and sexist ideologies and their defiance of diversity, including the oppressed right to speak for themselves, paved the way for an incipient indigenous movement. The coupling of the awakening awareness of the rapid decimation of the planet's largest green "lung", the Amazon, with the concomitant threats to the native inhabitants of these immense tropical forests, led to the formation of European support organizations for tribal and aboriginal peoples. The International Working Group for Indigenous Affairs (IWGIA) and Survival International (SI) from early on focused their advocacy work on the United Nations.

As a result, the United Nations declared 1973-1982 the Decade for Action to Combat Racism and Racial Discrimination. A Sub-committee under the NGO conferences. In 1977 the first NGO conference on Discrimination against Indigenous Populations was held in Geneva, Switzerland. The conference brought together spokespersons for 50 NGOs and 60 indigenous nations in addition to representatives from UN agencies and observers from member nations of the UN.¹⁶ In 1981, another NGO conference with a focus on land rights was held, attracting even greater attendance from tribal and aboriginal peoples than the 1977 NGO conference.

These initiatives led the commission on Human Rights to establish a Working Group on Indigenous Populations in 1982. The Working Group had a double mandate: to review developments of particular relevance for indigenous populations; and to draft standards. In order to fulfil the first mandate, the working group pursued a policy of open access for indigenous and tribal activists. This policy, which was matched by a fund supporting the attendance of indigenous

representatives, gradually stimulated attendance from all the regions, although far from all groups were represented. The accounts given by aboriginal and tribal representatives often contained harsh critiques of governments, private companies and intergovernmental agencies such as the World Bank. The Working Group took almost a decade to complete a draft declaration. This may seem like a long time, but the working groups had to deal with serious dissent between indigenous representatives

¹⁶

and delegates from sympathetic and not so forthcoming states. The interconnected notions of “peoples” versus “populations” and “self-determination” were at the centre of contention. Big states with sizeable indigenous populations, such as India, Brazil and Canada, were against any use of the term “self determination” as it could threaten their territorial integrity. While these questions were hotly debated in the working group, the International Labour Organisation (ILO) completed their revision of Convention 107, The new Convention 169 had adopted the terms “peoples” and “self determination”, but with the caveat that it was used in a manner that should not have implications for other areas of international law. Eventually, the Working Group decided to opt for a draft declaration using the terms “peoples” and “self-determination”.

The NGO conferences and, even more so, the annual meetings of the Working Group on Indigenous populations created a global political and legal language and global arenas that were instrumental in creating an international indigenous identity and polity. When meeting in the UN conference halls, indigenous representatives observed that they spoke vastly different languages and showed many other signs of cultural difference. Nevertheless they shared common experiences of repressive nation states and commercial forces. These similar experiences heightened, if not created, a sense of distinctness, uniqueness and common interest. In this period, of all the tribal groups in Bangladesh only the jumma peoples of Chittagong Hill tracts had access to these new global venues.

The Working Group, in order to raise a broadening agenda, has produced important studies on the treaties and other agreements between states and indigenous populations, on cultural and intellectual property rights and on indigenous peoples’ relationship to land.¹⁷ Another achievement on the part of the Working Group was that, in the mid-1990s, it submitted a draft Declaration on the Rights of Indigenous Peoples to the sub-Commission of the Commission on Human Rights. This Draft

¹⁷ See UN Documents E/CN. 4/sub. 2/1999/22.

Declaration has since been rewritten by a new working group set up by the Commission on Human Rights. The Draft Declaration is a comprehensive document which recognises a range of human rights and fundamental freedoms pertaining to indigenous peoples. Amongst them is the right to unrestricted self-determination, a collective right to ownership, use and control over lands and other natural resources, and rights to keep and develop native religious, cultural and educational institutions and to protect cultural and intellectual and property. In addition, principles relating to the rights to participation and informed consent and to adequate compensation for violated rights are elaborated.

The draft provides procedures for resolving conflicts between indigenous peoples and states through national, regional and international mechanisms. Since the new working group was established nine years ago, there has been very limited progress in the negotiations. In particular, Article 3 has created staunch opposition. The Article reads: Indigenous Peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Support for the proposal of a Permanent Forum grew rapidly in the late 1990s, to the point that no government delegation expressed any formal opposition to its establishment. After the establishment was agreed upon, the battles started over the mandate, voting powers and, not least, the name of the new organ. The controversial “indigenous peoples” was avoided in favour of the less contentious term “indigenous issues”.

In July 2000 a Permanent Forum on Indigenous Issues was established. Half its members are indigenous persons, nominated through regional consultation between indigenous persons, nominated through regional consultation between indigenous organizations and finally appointed by the president of ECOSOC. At present, South Asian indigenous peoples are represented by an expert from the Tamang community in Nepal. The remaining members are nominated by the member governments of

ECOSOC. The organ is expected to be the centerpiece of UN's International Decade of the World's Indigenous people and a main mechanism for promoting partnerships between Governments and indigenous people. The Permanent Forum held its inaugural meeting in early 2002. Soon after the Permanent Forum was established, the Commission on Human Rights appointed a Special Rapporteur on Indigenous Issues for a three- year period. This Rapporteur submitted his first report to the Commission on Human Rights at its annual session in 2002, the second in 2003, and the third is due shortly.

CHAPTER-10

HUMAN RIGHTS SITUATION IN BANGLADESH OF INDIGENOUS PEOPLES

Like other parts of the world, Indigenous peoples in Bangladesh are the most disadvantaged, neglected and vulnerable people in the country. The Bangladesh government does not have any formal policy for the development of indigenous populations. Indigenous peoples have often faced eviction from their homelands in the name of development projects and conservation such as dams, eco-parks, protected areas, reserve forest and even the establishment of military bases on their ancestral and community land. Their land has been taken without their consent. Their culture is treated as inferior in the country.

Over the years the indigenous peoples experienced a strong sense of social, political and economic exclusion, lack of recognition, fear and insecurity, loss of cultural identity, and social oppression. Mainstream development efforts have either ignored their concerns and/or had a negative impact on them. Often issues and actions that affect them are not discussed with these communities or organizations representing them. Thus they are subjected to stark socio-economic deprivation. Mass relocation of non-indigenous people in the traditional adivasi/ethnic minority areas caused land grabbing, leading to livelihood displacement among the indigenous peoples.¹⁸

10.1 Demographic Status:

More than 45 Indigenous ethnic communities with a population of nearly three million people have been living in the country for centuries. According to the 201 Census Report (Provisional-2003), the total number of indigenous (officially 'tribal') people in Bangladesh is about 1,772,788, which is 1.28% of the total population of the country. However, indigenous peoples claim that the population of the indigenous peoples all over the country is about 3.0 millions.

¹⁸ UNLOCKING THE POTENTIAL: Poverty Reduction Strategy Paper (PRSP), Peoples Republic of Government of Bangladesh, 2005. p-152

Indigenous peoples in other parts of plains Bangladesh are located mainly in the border regions in the northwest (Rajshahi-Dinajpur), central north (Mymensingh-Tangail), northeast (Greater Sylhet), south and southeast (Chittagong, Cox's Bazar and Greater Barisal). According to the 2001 census report (provisional), the indigenous peoples of the plain regions were estimated to number about 1,036,060. However, plain indigenous peoples claim that their population is estimated 2.0 millions. Among them, the Santal are the most numerous, constituting almost 30% of the indigenous population of the plains, followed by the Garo, Hajong, Koch, Manipuri, Khasi, Rakhain etc.

According to the response of the indigenous activists, in the eastern zone of India among the indigenous peoples, Garo, Hajongs, Kochs and others were the worst affected communities by the partition of India in 1947. Post this period, thousands of Bengali Muslims were transferred to these indigenous areas to be settled turning the indigenous communities into a minority on their own land. Many Garos, Hajongs, Koch, Dalus and other indigenous peoples migrated to India. In 1964 and 1965, many communal riots were induced to evict Garos and other indigenous peoples in Greater Mymensingh from their territory.

In CHT, eleven indigenous ethnic groups, such as, Chakma, Marma, Tripura, Tanchangya, Mro, Lushai, Khumi, Chak, Kyang, Bawm and Pankhua who collectively identify themselves as the Jumma people (High Landers) have been living in CHT for centuries. In addition, a very small number of descendants of Assams and Gorkhas also live in the CHT. During the independence of India and Pakistan, the total population of CHT was only 247,053 out of that only 2.5 percent Bengali including 1.5 percent Bengali Muslims. But after 20 years of Pakistan period and 31 years of the Bangladesh period, the picture of the demography of CHT has significantly changed specially after the systematic illegal settlement of Bengali Muslims by the successive governments. According to the census report of 2001 (provisional), total population of CHT was 1,342,740 (including ethnic Bengali and settlers) out of that 736,682 were Jumma who are less than 0.5% of the population of

the country; and 606,058 were Bengli. However, indigenous Jumma peoples believe that their population is more than 800,000. Ethnic wise disaggregated data was not found in 2001 census. The CHT is the only region in the country with an indigenous majority.

Indigenous population in CHT

Sl.	Ethnic Group	1871	1901	1951	1981	1991
1.	Chakma	28,097	44,392	133,075	230,273	239,417
2.	Tanchangya					19,211
3.	Marma	22,060	30,706	65,889	122,734	142,334
4.	Tripura	8,100	23,341	37,246	54,375	61,129
5.	Mro*	2,378	10,540	16,121	17,811	22,161
6.	Bawm	305	696	977	5,733	6,978
7.	Khyang	306	1,427	1,300	5,453	1,950
8.	Pangkhu	177	241	627	2,278	3,227
9.	Khumi	534	1,053	1,941	1,188	1,241
10.	Lushai	..	678	3,341	1,041	662
11.	Chak	..	..	..	910	2,000
Others**						828
Total		61,957	113,074	260,517	441,796	501,144

Source: An Evaluation of Integrated Community Development Programme for the CHT

* Census report of 1991 mentions Mro population were 22,041 and Murang 126. In fact, they are same ethnic group.

** Census report of 1991 does not mention clearly about others. However, 70 persons belong to Rakhaine Community are included.

Historically, the indigenous Jumma peoples are known to have lived in the CHT even before the arrival of the Portuguese in Bengal in the 16th century. On the other hand, Bengali people, who are the most populous and dominant ethnic group in Bangladesh,

are not known to have settled in the region prior to the 19th century. However, the Bengali population has increased many fold since then, especially with the government-sponsored population transfer programme of 1979-84.¹⁹ According to the respondents, the more than 400,000 Bengali Muslims from the plain districts has illegally been given settlement in CHT by the government. The trend of demographic changes according to the census are as follows:

Trend of Demographic and ethnic composition

Year	Jumma population		Bengali Population		Total	Source
	Population	%	Population	%		
1871	...	...	...	...	63.054	
1881	...	...	...	...	101.597	
1891	...	...	...	...	107.286	
1901	...	...	...	...	124.762	
1911	...	...	...	...	153.830	
1921	...	...	...	...	173.243	
1931	...	...	...	...	212.922	
1941	239783	97.06	7270	2.94	247.053	census 1941
1951	269177	93.71	18070	6.29	287.247	census 1951
1961	339757	88.23	45322	11.77	385.679	census 1961
1970	...	...	66000	...	66.000	JSS statistics
1974	392199	77.17	116000	22.83	508.199	JSS statistics
1981*	441744	58.77	313188	41.48	754.962	census 1981
1991	501144	51.40	473301	48.60	974.445	census 1991
2001	736682	...	606058	...	1342.740	census 2001

*** In 1981:**

(1) Total Hindu population (Bengali & Tripura) is 69.802 and Tripura 58.385.

Therefore, actual Bengali Hindu population is 11.417

¹⁹ Challenges for Judicial Pluralism and Customary Laws of Indigenous Peoples: the Case of the Chittagong Hill Tracts, Bangladesh By Raja Devasish Roy, Arizona Journal of International and Comparative Law, 2004.

(2) Total Bengali population (Muslims & Hindu) is 313.188 and Bengali Hindu population 11.477. Therefore, actual Bengali Muslim population is 310.771

10.2 Political Status

The first Constitution of Bangladesh, adopted in 1972, did not recognize the presence of indigenous peoples in the country. The Constitution also did not even recognize the separate administrative arrangement. There are no reserved seats for indigenous peoples to the parliament and local government bodies.

Plains Land

For the plain land indigenous peoples in Greater Mymensingh district, the British government declared five thanas such as Sribardi, Nalitabari, Huluaghat, Durgapur and Kolmakanada as partially Excluded Areas.²⁰ in 1935 . These areas bordering the Garo hills were predominantly indigenous majority areas. By declaring these areas as Partially Excluded Areas, some safeguards were given to indigenous peoples. The Former partially excluded areas of Mymensingh were not included in the tribal areas list in the 1962 Constitution of Pakistan, unlike the CHT. The Changed Constitutional status of Mymensingh resulted, among others, in a huge influx of settlers into the region, starting from the 1950s and continuing into the 1980s. The self-government systems of the indigenous peoples of the plains districts remain totally unrecognized.

In the plains, there is a law namely the East Bengal State Acquisition and Tenancy Act, 1950 (at section 97), which forbids the transfer of lands owned by aboriginals to non-aboriginal persons without the express consent of the government's district officer. This law is specially protected in the Constitution (Article 47(2) and First Schedule), on account of administrative implications of legal challenges regarding complex land issues, rather than on account of political arrangement for plain indigenous peoples.

In fact, at present there are no special political arrangements for plain land indigenous peoples in the country. Even, the government does not pay due attention to the

²⁰ 'Partially excluded area' denoted a comparatively mixed, but still predominantly tribal-dominated territory, whose administrative system was more integrated into the regular administration of the province (than was the case with excluded areas), and a higher number of laws of general application were allowed to function therein.

In addition to the above institutions, the CHT has a traditional structure based on the customs of the local indigenous groups with Circle Chiefs or Rajas, and Headmen at Mouza²¹ and karbaries at village levels.

Politically, the question of the Bengalis settlers who were settled down in CHT by the government from plain districts in 1979-85 remains one of the most difficult problems in the context of the CHT at present. Indigenous peoples including political leaders, regardless of whether they support or reject the CHT Peace Accord, continue to call for the rehabilitation of Bengali settlers outside CHT with dignity. On the other hand, to date no major political party of Bangladesh have demonstrated any desire or political will to entertain such a demand. The civil society of the country as a whole has also been quite silent for a long time on this issue.²² It is worth mentioning that during and before the Mughal period in the Indian subcontinent the hill people of the CHT region were independent and their territory was much larger than the present CHT region. Even during the British colonial period (1860-1947), the CHT was regarded as an 'Excluded Area', in order to protect the indigenous Jumma people from economic exploitation by non-indigenous people and to preserve the indigenous peoples socio-cultural and political institutions based on customary laws, community ownership of land and so on. In fact, several provisions of the CHT Regulation of 1900 functioned as a safeguard for the Jumma people and it prohibited immigration into the region and land ownership by non-indigenous people.

Though 'Excluded Area' status was retained in the first Constitution of Pakistan passed in 1956, the government of Pakistan amended laws that restricted the entry of non-indigenous people into even after Bangladesh became independent in 1971, the entire CHT region was thrown open for unrestricted migration and acquisition of land titles by non-indigenous people, in violation of the letter and spirit of the 1900 Regulation.

²¹ A Mouza in the plain districts only denotes a revenue unit. In the CHT, it is in addition, an administrative unit comprising of several villages under a Headman. A mouza can be multi-ethnic.

²² Conference Report on Human Rights and Governance, January 16-18, 2005, Manusher Jonno and Partners.

Soon after the independence of Bangladesh in 1971, Mr. MN Larma, Member of then Constituent Assembly, raised the demand for autonomy in the Parliament in 1972 prior to the adoption of the Constitution. But all his efforts ended in failure and the first Constitution was passed without recognizing the presence of indigenous peoples in the country.

with a view to control the movement of self-determination of the Jumma people, the government initiated suppressive measures including militarisation and infiltration of Bengali Population. Finding no other alternative to ensuring their very survival, the Jumma people rallied behind the banner of the Parbatta Chattagram Jana Samghati Smiti (PCJSS) led by Mr. Larma. The peaceful democratic movement turned into an armed struggle in 1975, when democratic avenues failed to draw attention of the government and the nation.

CHT Peace Accord and its implementation

However the PCJSS always kept the door open for a negotiated dialogue for resolving the CHT Problem through political and peaceful means. Hence the formal dialogue was started in 1985 with the government. Finally, during the period of the Sheikh Hasina government on 2 December 1997, the CHT Accord, popularly known as CHT Peace Accord, was signed between the government and the PCJSS.

The Accord ends more than two-decade old armed struggle for self-determination and paves the way for the peace, development and representation of the Jumma people. It recognizes CHT as a tribal-inhabited region, establishment of CHT Regional Council, three Hill District Councils, CHT Affairs Ministry and Land Commission, demilitarization of the region, rehabilitation of the victims etc.

Though Awami league government signed the Accord, but she had no sincerity to implement the accord. Only a little of the Accord was implemented during her three year and eight months tenure. During the period of BNP led last four-party coalition government, it had violated vital clauses of the Accord. As a result, though more than

ten years have passed away after signing of the Accord, most of the provisions, especially the main issues like land & land management, law a& order, police (local), land commission, primary education in indigenous language and secondary education, forest & environment and etc, of the Accord have not been taken into account for implementation.

Lack of political will is a major challenge for no-implementation of the Accord. There lacks not only government sincerity in implementing the Accord, but vested groups from ruling parties, civil administration, military in CHT and Islamic fundamentalist have also been impeding the Accord from the very beginning.

10.3 Economic Status

The disaggregated data on the actual socio-economic condition of the indigenous peoples in Bangladesh is not available. However it is accepted all over the country that the worst poverty situation in Bangladesh is among the indigenous peoples who live in the rural and hilly areas. Poverty among the indigenous peoples is pervasive and severe, particularly in northwest region of the country. Indigenous peoples are represented disproportionately among both the poor and extreme poor. This trend has been worsening over the past decade due to dispossession of land. So, indigenous peoples are the poorest of the poor in the country.

Indigenous peoples lack access to information and technology. This prevents them from participating in and benefiting from technological and other changes in the society, particularly economic reforms and developments. Many suffer from ethnic prejudice, ill-health, bad nutritional conditions and bad hygiene. These problems are slowly but steadily resulting in their marginalization and corroding their social fabric. Indigenous peoples live in remote areas and also far away from each other, and as a result of poor communications it is difficult to mobilize and organize them. Inadequate representation at various levels of government and policy processes has

hampered the possibility of indigenous peoples and their leadership to influence policy decisions which affect their lives.²³

As far as development activities are concerned, the indigenous peoples of Bangladesh have had little or no voice in decision-making. They do not have control over their own developments. They have become only the target groups or so called beneficiaries. Social discrimination operates at various levels and in various ways. Even where measures are undertaken by government agencies (and to a lesser extent, by NGOs) for indigenous peoples, the proposed beneficiaries are seldom consulted prior to the formulation of development projects or in the process of implementation. As a result of the administrative devolution in the CHT, indigenous people are now more in control of deciding their development priorities, but even here, major decision-making powers and financial authority are retained by the ministries based in the national capital.

The indigenous peoples are neither enjoying the benefits of development programmes nor are they getting back their lands (their main source of livelihood) from the occupants. Many indigenous youths without any sustainable alternatives are finding themselves in a difficult socio-economic situation and in this way they are losing their traditional ways of livelihood. For instance, a good number of Garo young girls have migrated to cities and are working in the beauty parlors. These young girls often face discrimination and harassment at work place. They are low paid (most of them get tk. 2000-4000 per month), which are also irregular. They work for almost 10-12 hours per day; in many parlors they do not even have weekly holidays. The Garo girls merely get the permission to meet their relatives or go out with friends. Sometimes the girls are battered by their employers for minimal mistakes.²⁴

The main means of economy of indigenous economy is agriculture which includes Jum cultivation, fruit orchard, horticulture and wet rice cultivation in CHT while plains mostly wet rice. The unique method of agriculture of the CHT is known as Jum

²³ UNLOCKING THE POTENTIAL: Poverty Reduction Strategy Paper (PRSP), Peoples Republic of Government of Bangladesh, 2005. p-152

²⁴ Beauty Parloure Mandir Meyera Kemon Achen' published by Garo Indigenous Women Association, 2006.

or Sweden Cultivation (slash and burn), totally different from the other plain areas. The Jum cultivation method was suitable for its land pattern and the Jumma people were well acquainted with the process.

It is to be noted that only 3 percent of the total land is suitable for rice/plough cultivation and 21 percent suitable for horticulture and tree crops and rest is suitable for forest only. The unique hilly land pattern and the sufficient number of population was auspicious for the Jum base subsistence economy. The Kaptai Dam built in 1960s and continuous process of giving illegal settlements in the CHT made a catastrophic effect on the indigenous economy. On the one hand, Kaptai Dam submerged 40 percent of the cultivable lands on the other the artificial increment of the population has been severely effecting the Jum base economy.

Presently, the people of CHT are surviving with a number of professions. Still many numbers of people are wholly surviving with the Jum cultivation and some are shifted to grove cultivation and plain area cultivation. Paddy, cotton, oil seeds, banana, pineapple, ginger, turmeric etc. varieties of agro-products are produced in the region. The plenty of forest resources e.g. the woods, bamboos etc. is also found in CHT. On the other hand, the free market economy is slowly expanding its arena in CHT. There are a number of industries e.g. Karnaphuli Paper Mill, Rayon Mill etc are also giving a large portion to the CHT economy. Note that the control of this part of the economy is totally in the hand of the non residents of the CHT.

Lack of skills makes it difficult for them to enter the job market. Indigenous peoples have meager access to means of production such as capital, entrepreneurship etc. They face obstacles in contributing to and benefiting from economic growth.

Trade and commerce in CHT are controlled almost exclusively by Bengali traders and merchants.²⁵ Therefore, the influence of the Bengali population has risen significantly over the years, commensurate to its growing numbers, economic clout, and its closer

²⁵ The Economy of the Indigenous Peoples of the Chittagong Hill Tracts: Some Myths and Realities by P B Chakma, Workshop on Development in the CHT organized by Forum for Environment and Sustainable development in the CHT, 1998.

links with the social, economic, and political elite in the capital city of Dhaka. Although there is a growing middle class among the indigenous people, its economic and political influence is in comparison quite limited, especially where it concerns decision-making at the national level. Large sections of the indigenous population, therefore, remain socially and economically marginalized, especially due to displacement and land alienation on account of privatization, the imposition of inappropriate development and economic policies by the state and state-sponsored population transfer of non-indigenous people into the region.²⁶

Employment and Urban Migration

Indigenous peoples are also discriminated in the field of employment and occupation. They are deprived of the most challenging and attractive government and non-government jobs, just because of their racial distinction from the mainstream people. Although government reserves 5% quota reservation in Bangladesh Civil Service (BCS) for indigenous peoples, however, this is not followed in practical. In this regard, the Public Service Commission (PSC) and Ministry of Establishment have not published any information on the trend of representation of indigenous peoples in the civil services. A total 29,67 persons got BCS job through 20 BCS examinations since 1972.²⁷ According to 5% quota, a number of 1483 indigenous persons supposed to be appointed to the BCS job. But, indigenous activists responded that in reality, the figure is far lower than expected as per 5% quota. On the other, they said, no measure has been taken on the part of the government to provide quota to the indigenous peoples for overseas employment. Every year thousand of Bangladeshi laborers have been sent particularly to Middle East and South-East Asian countries.

The indigenous peoples face lack occupational opportunity in the remote areas of their habituate places, widespread livelihood insecurity, unresolved political issues, widening social injustice, massive eviction from traditional land. So, many of them

²⁶ Challenges for Judicial Pluralism and Customary Laws of Indigenous Peoples: the Case of the Chittagong Hill Tracts, Bangladesh by Raja Devasish Roy, Arizona Journal of International and Comparative Law, 2004.

²⁷ Situation of Indigenous Women and ILO Convention on Discrimination by Dr. Sadeka Halim, Professor of Dhaka University, Sanghati 2007.

decide to migrate to the cities as there are many livelihood options available. This is the reasons for the Garo girls to work in the beauty parlors or the Jumma youths to work in the EPZs. This internal migration of the indigenous people is contributing to their economic advancement but many also face various sorts of discrimination, like wage discrimination, abuse, mental and physical assault etc.²⁸ The trend of urban migration becomes clear after interviewing different indigenous men, women and organization.

Land dispossession and poverty

Land dispossession is the main problem that the indigenous peoples in Bangladesh face. Like other countries of the world, the lands, forests and territories of the indigenous peoples in Bangladesh have been and are still being taken away without free, prior and informed consent of the indigenous peoples to build dams, reserve forests, protected areas, national parks, eco-parks, tourism, and even for settlement of government-sponsored non-indigenous migrants, expansion and establishment of military bases and training centers. Land dispossession is particularly glaring in Bangladesh, where not only have indigenous peoples continued to suffer from violent land-grabbing and other forms of land alienation, but many have been evicted, or threatened with eviction, from their traditional homes and lands.

It is worth mentioning that land management system of the indigenous peoples is fully different from general land administration of the country. The indigenous people have right to the traditional lands and its resources, by virtue of their common ownership of these areas and traditional economic activities such as fishing, hunting and gathering are carried out in these areas. They maintain traditional land management, which does not require registration with government offices.

Government does not formally recognize the rights of the indigenous people to the common lands as a collective right. It regards these lands as state-owned. They are also known as Khas lands i.e. state lands, while the forest Department categorizes

²⁸ Ibid

these lands as Un-classed State Forests (USFs). The traditional land management system is not codified. The non-recognition of their traditional land management system in Bangladesh is one of the main causes behind land dispossession of the indigenous peoples.

In the plains, the East Bengal State Acquisition and Tenancy Act of 1950 is law regulating land administration in the plains, which forbids the transfer of lands owned by aboriginals to non-aboriginal persons without the express consent of the government's district officer. The Application of this Act, however, unequal across the plains except in some parts of greater Mymensingh district; less institutionalized practice in Dinajpur district; and not in Rajshahi district. There are widespread reports of non-implementation of this Act, which leads to illegal encroachment by Bengali settlers and also by the government for various development programmes.²⁹

In north-west region of the country, the indigenous peoples have lost their land as government administration listed traditional land of the indigenous peoples as Khas land. In June 2005, for example, government officials destroyed 65 houses of Santals and their indigenous families in Parbatipur in Dinajpur district to evict them from their traditional lands. No compensation was paid. Government also undertook to extract coal in Fulbari of Dinajpur district in 2006. Jatiya Adivasi Parishad claims more than 76 villages of Santal and Oraon ethnic communities will be evicted if the project is implemented. Execution of the project will also be severe for the environment of the area.

Among the large-scale programmes that have affected indigenous peoples in the plains were the commercial forestry projects undertaken by the Forest Department with financial support from the Asian Development Bank (ADB). For example, a large number of indigenous Mandi and Koch peoples were evicted from their lands in Madhupur forest area within the Mymensingh and Tangail districts for the creation of rubber plantations. It is the common allegation of all the Khasis that miscreants often job their valuable timbers from betel leaf garden and damage betel leaf plants. The

²⁹ Roy, 2006

conflict over land use between Bengali and Khasis often led to the eviction of Khasis from their punjies by means of criminal force, criminal intimidation and physical assault.

It is witnessed that in Moulvibazar district, more than 1000 families of indigenous Khasi people have been facing threats of eviction from their ancestral homeland by a government project called eco-parks initiated in 2001. A similar project has been taken up in the area inhabited by Garos leading to the eviction 20,000 Garos in Madhupur forest in 2003. In 2004 Garo youth leader Piren Snal and very recently in 2007 Chales Ritchil were killed in Madhupur forest particularly cause for protesting against the establishment of eco-park. In 2000, a Santal leader, Alfred Soren was killed by land grabbers in Naogaon district. No justice has been received in any of these cases.

In 1960, for example, the Kaptai Dam in CHT flooded the lands and homes of thousands of indigenous Jumma people and even today many of them remain unrehabilitated. In addition, due to state-sponsored migration of Bengali settlers in CHT started since 1979, the indigenous Jumma peoples have lost their lands. Since, no cultivable land was vacant for settlement, the settlers occupied the land of indigenous Jumma people.

Although CHT Accord provides to be resolved CHT land disputes through a Land Commission, but during the ten of post-Accord period, the function of Land Commission is yet to be started. Mr. Jyotirindra Bodhipriya Larma, Chairman of the CHT Regional Council (CHTRC) and Member of the CHT Land Commission said that only one meeting of Land Commission was held on 8 June 2005, but no single land dispute is yet to be resolved. On the other, the government passed CHT Land Dispute Resolution Commission Act in 2001 without having consultation with CHTRC. As a result, so many provisions crept into the Act which were contradictory to the CHT Accord and detrimental to the interest of the Jumma people. Section 7(5) of the Act, for example, states that if no consensus is reached, the decision of the

Chairman alone shall be considered as the decision of the Commission. It will make the Commission an undemocratic institution by empowering its Chairman with a dictatorial power. Though government agreed to amend the act in accordance with CHT Accord, but it is yet to be executed.

One of the major issues in loosing traditional lands by the indigenous peoples in CHT is leasing out huge amount of land non-residents for commercial purpose, such as, rubber plantation, a forestation and land acquisition for military purpose. Movement for Protection of Land Rights and Forest claims only in Bandarban district in CHT, 40077 acres of land were given lease to the outsiders, who are basically political leaders, military and civil officials and businessmen. Moreover, total 94,066 acres of land for so-called a forestation and 75,686 acres for military base have already been acquired only in Bandarban district. Indigenous peoples including Khyang and Mro ethnic groups, the smallest and most deprived and disadvantaged Jumma group in the CHT are on the verge of total eviction from their ancestral land where they have been living and cultivating Jum from generation to generation.

For example, recently in March 2007, the authority of Ruma cantonment ordered to leave are 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 will loose their5 land due to acquisition.³⁰ Mro leaders requesting not to be named claim that local people have not been consulted before taking land acquisition.

Hill Watch working on promotion of human rights in CHT complained in their report in August 2007 that military forces deployed in CHT resumed settlement programme of Bengali settlers occupying the land of Jumma people prticularly in Khagrachari by taking advantage of the State of Emergency imposed on 12 January. For example, one of the affected villagers of this recent drive Mr. Prithwiraj Chakma of Kantkupya village in Khagrachari sadar sub district informed that last July 2007, government

³⁰ The Daily Prothom Alo, 13 July 2007 reported by Ms. Kurratul-Ain- Tahmina.

forces settled down at least 200 families of Bengali settlers at Dantkupyra village evicted 12 families of indigenous people from their traditional land. With an aim to provide security to the settler families, the military forces set up a camp on 8 March 2007 at this Dantkupyra village.

10.4 Socio/Cultural Status

The indigenous people in Bangladesh are totally different from the rest of the people of Bangladesh in all respects, such as in social, economical, political, cultural etc. The indigenous people mainly practice Buddhism, Hinduism, Christianity and Animism as religion. Each group has been exhibiting distinctly different languages, culture, religions and even customs. The mainstream population is less known to the indigenous cultures of the country and because of this they are ignorant of the ceremonies and rituals that the indigenous people celebrate. With the help of different organizations, like Bangladesh Adivasi Forum, Jatiyo Adivasi Parishad, Bangladesh Adivasi Odhiakar Andolan, Society for Environment and Human Development (SEHD), the indigenous people are now organizing various cultural events in the capital and district towns of the country.

For example, Adivasi organizations are celebrating the International Day of the World Indigenous Peoples every year on 9th August, Santal Uprising Day on 30th June etc. But there are no government initiatives at all in this regard. On these occasions, different indigenous communities come together, share their happiness and express their demands in front of the mass population. Media coverage and attention of the civil society in these events are making the mass population aware of the indigenous culture. These activities are very recent so the impact is still not visible in an effective way.

Indigenous peoples are susceptible to crises of cultural and social identity. They are losing their own heritage, which threatens their sustainability. They are slowly and steadily losing their language, culture, customs and music. Indigenous peoples are

rarely able to influence national decisions that affect them.³¹ Even indigenous name of the places in indigenous people-inhabited areas have been changed into Bengali name.

Culture of the indigenous peoples was treated inferior. Mr. Babul Rabidas, an indigenous lawyer of Joypurhat district court said that in north-western Bangladesh, the social discrimination faced by indigenous people is so severe that many ethnic Bengalis refuse to serve food and drinks to indigenous persons in rural hotels and restaurants. In the Social Science book for 4th and 5th grade published by the National Curriculum and Text Book Board (NCTBB) provided information that they lead backdated life, eat whatever they find here and there and live in forests and so forth. Mostly animal products dominate the diet of Santals, Garos and Marmas. Indigenous peoples contested this discriminatory information. Mr. Sanjeeb Drong, General Secretary of Bangladesh Adivasi Forum said that this issue was taken to the NCTBB for proper correction; however, till today not attempt has been taken to change the information in the textbooks. Further in *Banglapedia* published in 2003 by Asiatic Society described different indigenous peoples in derogatory manner.

In CHT, indigenous peoples have been peacefully co-existing with each other with their traditional economic system and develop their own socio-economic-cultural and political system under the umbrella of their traditional Jum economy. Jum Cultivation was not only a mode of cultivation but constituted the core of the cultural values of the indigenous people in CHT and over a period of time it become their way of life. The indigenous people in CHT are more familiar and comfortable with the traditional administrative system and it is this system that forms the basis for decision making at local levels within communities. This system still remains as the most common way of resolving disputes and conflicts within the community.

³¹ UNLOCKING THE POTENTIAL: Poverty Reduction Strategy Paper (PRSP), Peoples Republic of Government of Bangladesh, 2005. p-152

Traditionally, the Circle Chiefs and the Headmen have been discharging their duties and functions according to customs and traditions (partially recognized by the CHT Regulation of 1900 enacted by the then British government. Among the important duties and responsibilities of the Headmen are collection of land tax, providing recommendation for distribution and settlement of land, maintenance of land records, preservation and maintenance of community forest resources and settlement of social disputes in accordance with the indigenous peoples customary laws. The responsibility of land settlement and land management is primarily vested with Headmen.

Traditionally the common lands are those, which belong to the indigenous community with shared rights of access. Jum lands fall within this category, as do the lands used for orchards, grazing and for growing sun-grass (used to make thatched roofs). The forests are also included within this category of mouza commons, and are the common property of the indigenous community with equal rights of access, use and extraction. Traditionally no taxes were levied for the use of these lands. Government does not formally recognize the rights of the indigenous people to the common lands as collective right.

The CHT Regulation recognizes some of the rights of occupation and extraction of common lands, although taxes are levied for some extractive activities. The indigenous people have qualified rights to homestead lands, the extraction of sun-grass, the right to herd and the rights to Jum. Due to non-recognition of customary laws of indigenous peoples by the Court, they are losing their land day by day.

10.5 Educational Status

Indigenous peoples mainly live in isolated areas, outside the mainstream of national economies and development support. The areas they inhabit are even more likely to lack basic infrastructure such as roads, markets, schools and health facilities than the other areas of population. Indigenous peoples enjoy opportunities in education and skill development than their mainstream counterparts. As a result the illiteracy rate

among them is very high. Existing regulations on setting up schools do not take into consideration the dispersed and remote nature of their settlements, particularly in the CHT.³² There is no information from the government side on the educational status of the plain land indigenous peoples. Below are some of the literacy rates that are available through NGO surveys.

Sl.	Community	Literacy rate
1.	Santal	22% ³³
2.	Koch	17% ³⁴
3.	Mahali	25% ³⁵
4.	Buno (Bagdi)	7% ³⁶
5.	Rajbongshi	14% ³⁷

Majority of indigenous children usually attend NGO or private schools. Among the Garos, Khasi and some other indigenous children mainly go to Christian Missionary Schools. The primary enrollment rate is 12.5%. The 2001 census does not provide information regarding the indigenous population because there were no columns in the survey format for including information on indigenous issues.³⁸

There is little or no information available on the status of education in CHT. National surveys like the 62 village study conducted by the Bangladesh Institute of Development Studies (BIDS) and the 'Assessment of Basic Competencies' conducted by BRAC bypassed CHT. However, it is a fact that the literacy rate in the CHT lagged behind the national rate and levels of education in the CHT are very low. The status of women's education is even lower. Seven out of every ten women in the CHT have

³² UNLOCKING THE POTENTIAL: Poverty Reduction Strategy Paper (PRSP), Peoples Republic of Government of Bangladesh, 2005. p-152

³³ A study conducted by an NGO, Research and Development Collective (RDC), Baseline Survey, on indigenous Peoples in North-west Bangladesh, November 2000

³⁴ *ibid*

³⁵ *ibid*

³⁶ Source- Bhumija, a local NGO working in the South-west region

³⁷ *ibid*

³⁸ Situational Analysis for Mainstreaming Indigenous Children's Education PEDP-II

received virtually no education.³⁹ In some cases, education for girls is than boys.⁴⁰ The study shoows that the literacy rate, of the children aged 11-12, varied significantly by the ethnicity. In a study in some particular villages in CHT Conducted by Mohammade Rafi and A Mushtaque R. Chowdhury shows that the literacy rate was highest in the Chakmas (37.7%) and lowest in the Mros (only 3.2%). The following literacy rates among children are also shown in this study,⁴¹ though this data does not reflect whole picture of indigenous peoples in CHT.

Community	Literacy Rate
Chakma	36.2%
Marma	26.6%
Mro	2.9%
Tripura	

It was observed that only one in five villages had primary level educational institutions in CHT. In contrast, at the national level there are two schools in every three villages. Thus it can be concluded that children in CHT have less opportunity for education compared to children in the rest of Bangladesh. At the primary level, the net enrollment rate was 56% in CHT, whereas it was 77.1% in the entire country. Again, gross enrollment ration was 64.2% in CHT as against 107% in the whole of Bangladesh. Even, in the case of the literacy rate of the children aged 11-12, CHT was lagging behind the rest of the country.⁴² The turbulent situation during armed conflict disturbed the smooth functioning of educational activities in the CHT. Even after the signing of the Peace Accord, the situation is almost the same due to non-implementation of the Accord. These realities have contributed to the present educational status of the region and also its variation from the rest of the country.

Having to study in the national Bengali language- which is not the mother tongue of the indigenous peoples – is known to lead to learning difficulties. The Constitution of Bangladesh also stretches the importance of advancing the back warded society with

³⁹ Gender Profile: The Chittagong Hill Tracts, CHTDF-UNDP 2005

⁴⁰ CHT Livelihood Security Assessment Report, CARE-Bangladesh, Sutter, Phil, 2000

⁴¹ Counting the Hills, Assessing Development in Chittagong Hill Tracts, edited Mohammad Rafi and Mushtaque R, Chowdhury, UPL, 2001

⁴² Ibid

special arrangement.⁴³ Mr. Meshah Kamal, Associate Professor of Dhaka University suggests that all the indigenous community have the rights to be educated in their own mother tongue other than Bengali at least to the primary level for their proper development. This will enhance their ability to learn. In this way they will also achieve their one of their basic needs. Moreover, the CHT Accord of 1997 provides for the introduction of primary education in the languages of the indigenous peoples. but concrete measures to reform the school curricula are yet to be taken. No similar arrangements have been proposed for the plains. These omissions are contrary to the provisions of the ILO Convention No. 107 and the Convention on the Rights of the ~~Child~~ ~~both~~ ~~rati~~ ~~fied~~ by Bangladesh.⁴⁴ The situation is still same though the demand is increasing at national level through various awareness programs.

Mr. Mangal Kumar Chakma, an indigenous rights activist said that drop-out of indigenous children is one of crucial; barriers for education of indigenous peoples. In most cases, language barrier, acute poverty among the indigenous society, inconsistent of school timing to work season like Jum season, long distance of school from the home, lack of awareness among guardians etc. are the main causes behind drop-out of indigenous children from primary and secondary level. Dr. Sadek Halim, who conducted study on indigenous peoples, said that in CHT the nearest primary, secondary and higher secondary schools were located 2.5, 5.7 and 16.3 miles away from the home villages respectively.

In the fields of higher education the scenario is also unsatisfactory. Under the provisions of the constitution, the government undertakes some affirmative actions in favor of indigenous peoples including quota reservation undertakes some affirmative actions in favor of indigenous peoples including quota reservation in the government jobs and educational institutions for 'tribal' students. However, government does not have any written policy of quota reservation. In regard to the higher education, the public universities in Bangladesh do not have clear policy in terms of admitting

⁴³ Article 2494), Constitution of Peoples Republic of Bangladesh.

⁴⁴ An assessment of the United Nations First International Decade of the World's Indigenous Peoples 1995-2004, conducted by International Centre for Integrated Mountain Development (ICIMOD), Nepal in 2006.

indigenous students. Dr. Sadeka Halim, Professor of Dhaka University said that the passed mark of the Multi-Choice Question (MCQ) test of Dhaka University is 40. Majority indigenous students, particularly belong to disadvantaged small ethnic group are not in advantageous situation and thus fail to get admitted. Most of the indigenous students responded that public universities are yet to sensitive and develop liberal policies to proved admission to students from different indigenous ethnic groups. The situation of indigenous women in the section is more vulnerable. The absence of constructive policies in the universities is affecting the indigenous women more than men as they are more discriminated against.⁴⁵ In addition to that, no measures has been taken on the part of the government to provide scholarship to the indigenous students for higher education and research studies in foreign countries.

10.6 Indigenous Women

Disaggregated data on indigenous women is not available in the country. However, it is widely accepted that indigenous women are most vulnerable section of the indigenous society. Indigenous women are traditionally considered as occupying a lower socio-economic and political standing than their men, and they are encountering various forms of human rights violation. Indigenous women's status is low in terms of the rights to inheritance, legal and political rights, decision-making powers and other spheres. Indigenous women, except Garo and khasi women of matrilineal communities, have no rights to inheritance to property.

Dr. Meghna Guhathakurta, Executive Director, Research Initiatives Bangladesh explains their situation. The Bengali population has a stereotypical idea about the image of the indigenous women that they are promiscuous. This kind of thought is none of the main reasons of their discriminatory and inhuman attitudes towards indigenous women that make them justify their actions. The colorful attires of the indigenous women are regarded as indecent by the mainstream Bengali populating. This often elicits verbal and sometimes physical harassment and abuse in extreme circumstances. Indigenous women are now changing their dress, which is conform

⁴⁵ Ibid.

more to Bengali and Muslim sense of property and decency.⁴⁶ All the changes of rituals and attires in the CHT and in the plains are due to the strong presence of dominant Muslim and Bengali culture in the country.⁴⁷

The education levels of the indigenous women are far from satisfactory. It is evident that indigenous communities fall behind the Bengali population in education system; the indigenous women are weaker in this category. The gross enrollment ratios for boys were higher than those of girls in all the indigenous peoples. A survey revealed that the adult literacy rate for peoples of CHT (Benglai, Chakma, Marma, Tripura and Mro) were 42% for male and 20% for female.⁴⁸ These prove that indigenous women are not being able to empower themselves, though many organizations in the indigenous inhabitant areas are working particularly for women. The indigenous women need to raise their voice against discrimination and they should work with their male counterparts to change their deteriorating situations, opines Ms. Pabitra Manda.⁴⁹ Indigenous women lack proactive participations in politics and other decision making platforms. For example, there is no female member in te three interim HDCs, though the institutions are democratic and works hard for the deprived jumma community in the CHT.

The human rights situation in the CHT was especially bad during the years when armed struggle was going on, Jumma women constituted the most vulnerable section of the Jumma people and were exposed to various forms of violence, including relocation programmes, military operation, molestation, assault, rape and kidnapping. In addition, women in the CHT were also exposed to other forms of violence such as domestic violence, sexual harassment by Bengali settlers, displacement by various development programmes etc. They are victims not only of repression and negligence

⁴⁶ Halim, Sadeka, 2007 "Situation of Indigenous Women and ILO Convention on Discrimination."

⁴⁷ Roy, Raja Devasish and Sadeka Halim, 2007 Population Transfer & Ethnic Conflict in the Chittagong Hill Tracts, Bangladesh NCCR-North-South IP 7 SUB-Project 2, Indigenous Communities and Settlers: Resource Conflicts in Frontier Regions of South and Southeast Asia. Department of Social Anthropology, University of Zurich, (unpublished)

⁴⁸ BRAC Research and Evaluation Division, 1999, Socio-economic and Health Profile of Chittagong Hill Tracts, August 1999

⁴⁹ interview with Ms, Pabitra Manda, General Secretary, Garo Indigenous Michik Association

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 in police custody as well. According to BLAST, a human rights organization in Bangladesh, after the horrific incident of Maischari in Mahalchari sub-district, 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. Mr. Masud Rume, Assistant Coordinator, Investigation, BLAST said that BLAST helped the victims to come out on bail.

One women rights activist in CHT requesting not to be named is of the opinion that besides the violence against women by the military forces. Jumma women are under risk of sexual assault from Bengali settlers, forest guards and abuser of drug and alcohol, which is growing. Those indigenous women who come to the market to sell products are facing difficulties. Unlike in the plains region, rural indigenous Jumma women are used to marketing their product independently of their male partners and relatives. However, Bengali settlers and traders are hampering this age old tradition and rights to sell-produce due to violence against indigenous women. Moreover, the indigenous women are encountering severe economic hardship due to poverty, dislocation, loss of forestland and globalization. For example, the poverty, dislocation, loss of forest land to the state induced Garo women to migrate to the city to work in the beauty parlors and as domestic help.⁵⁰ Again the Khasi women, who traditionally for centuries are selling betel leaf, are being deprived of getting the actual market value for betel leafs due to their non-access to the market directly. The Whole marketing process is controlled by the non-indigenous Bengali middlemen in such a manner that Khasis are bound to sell their products to these middlemen with very cheap rate.⁵¹

⁵⁰ Asfia Gulurukh. *Ethnicity and Migration: The Case of Mandi Beauty Workers*, Department of Women's Studies(2004) University of Dhaka.

⁵¹ Mizanur Rahman, *Combating the Khasi Uprooting: Humanity Cries, Empowerment through Law of the Common People (ELCOP)*, Dhaka (2004)

The aforesaid women rights activist also mentioned that many indigenous women had been kidnapped; forcibly convert to islam and married. An indigenous woman who refused to be converted and married was murdered. Generally, the indigenous women move freely and are not bound by the same cultural and religious impositions that restrict the freedom of movement of Bengali Muslim women. These cultural differences combined with the military presence and the increasing domination of Bengali Muslim culture have made the indigenous women more exposed to sexual attacks by the Bengali settlers. Abduction and forced marriage of indigenous woman is a process of assimilation where it is used as mechanism of state oppression. This is a way to change the ethnic composition of the targeted community.

Referring internally displaced persons who are yet to be rehabilitated in CHT, Dr. Guhathratha said that internally displaced women face more difficulties as they have to suffer more than men and their household system become uncertain. Indigenous women are contributing tremendously in their economy through their handloom works as well as agricultural activities. They are sustaining the indigenous cultures. Indigenous women are vulnerable both in their communities and in Bengali community. Many women are deprived of their due rights in indigenous communities, especially in regard to legal rights, like inheritance. The Bengali community has a stereotypical idea about indigenous women that they are promiscuous.

One of the leaders of CHT Women Association expressed that due to the non-implementation of the CHT Accords, Jumma women are still not safe. Rape and kidnapping in particular by both armed forces personnel and Bengali settlers is reported with regularly. After the signing of the Accord from 198 to 2006 the security forces and Bengali settlers raped 36 women, molested 13 women, kidnapped 9 women and tortured more than 25 women.⁵² Many of the incidents were reported in leading national dailies but none of the accused was punished. Sometimes the culprits go unpunished even when they are identified by the victims of the witnesses. For example, on 3 April 2006 in a communal attack on indigenous Jumma peoples at Nua

⁵² PcJSS webpage: www.pcjss.org

Para and Joysenpara villages in Maischari under Khagrachari district by the Bengali settlers and security forces, four indigenous Marma women were raped allegedly led by Ahad Mian, member of the local Union Council and Mohammad Abu, ex-Union Parishad member. Two of the rape victims were identified as Thoaf Prajai Marma (16 years), daughter of Momong Marma and Abeng Kroi Marma (20 years), daughter of Saila Pru Marma.⁵³

Indigenous women face serious violation of human rights, insecurity, harassment, threats and so on in their daily life. When indigenous women and girls migrate to the cities to look for jobs, they face insecurity and sexual harassment in their working place such as beauty parlors, houses, factories etc.

On 19 July 2007, Shupta Chakma, a Jumma female worker in the Chittagong EPZ area was gang raped by 4/5 Bengali Muslims. The Bengali men accused her of involving in immoral activities with her Hill friends when she was visiting a friend in two mile area of Bandar Thana. The Bengali gate keeper of the house along with his friends forcefully locked the hill men in a room and raped the girl. A rape case was filed in the near by police station. Shupta Chakma is an inhabitant of Sijokdor village of Baghichori Upazilla of Rangamati.⁵⁴ In the plain lands area, Bengali Muslim miscreants killed a Garo women leader Gidita Rema in 2001 in Modhupur forest. She was vocal in protecting their land from Bengali Muslims. Before killing her, the Bengalis abducted her younger sister Namrata Rema and raped her. Cases were filed against the killers, but still no justice has been accorded. This is an example of an extreme event; very little information is available about these kinds of incidents as the indigenous people are most times afraid to take any step against the Bengalis.

The indigenous women lag behind their male counterparts in politics as well as political organizations. In both types of the political organizations, the indigenous and the state's political structures, the indigenous women are excluded from important

⁵³ <http://www.achrweb.org/Review/2006/119-06.htm>

⁵⁴ The Daily Prothom Alo, 21 July 2007, pg. 3

roles. For example over the past centuries only 10 out of the 384 headmen were women in the CHT.⁵⁵ Politically the indigenous women are marginalized; they merely represent women's interest in the political agenda. Even the matrilineal Khasi and Garo community are no exceptions. The majority of the Montri⁵⁶ in Khasi and Nokhma⁵⁷ in Garo are male. Form 45 indigenous groups no one so far has been directly elected the member of the Parliament. Only Ms. Malati Tanchangya from CHT region and Ms Ething from Cox's Bazar in 80 and 90s had the privilege to capture a seat in the Parliament as a selected member. However, some indigenous women in both CHT and in the plains got directly elected in the lower tier of the administration, like Union Parishads. A few women has become Municipality Commissioner in greater Mymensingh district and CHT region.⁵⁸

10.7 Indigenous Children

Though Government of Bangladesh ratified the International Convention on the Rights of the Child, but the worsen situation of the child have not been improved in general. In addition, GOB also formulated the National Child Policy in 1994, but it was not focused to the national budget. Moreover, there is no single word on indigenous child in the National Child Policy. In fact, indigenous children are deprived of education, health-care, nutrition and other basic needs of livelihood. They are confronting double discriminations as children and as ethnic minority.

As mentioned earlier, the infrastructures of the hills and also the plains where indigenous people live is not in good position. As a result, the students are reluctant to go to schools. Again, these children help their families in various works, like farming, weeding, household work etc. their school timing is a hindrance to their household work. Raja Devasish Roy Chakma Circle Chief said that many of the children are

⁵⁵ Oishwarja Chakma (2004), Situation on Indigenous Women of Bangladesh, in the proceedings of 2nd Asian Indigenous Women's Conference. Heightening Asian Indigenous Women's Empowerment and Solidarity, March 4-8, Phillippines.

⁵⁶ Montri: Traditional head of a Punji (like mouza head in CHT)

⁵⁷ Kokhma: Traditional head of a village (like Karbari in CHT)

⁵⁸ Sadeka Halim, Situation of Garo Women: Some Observations in Indigenous People have the right to territory, land and resources, Solidarity, 2006 and Situation of Indigenous Women and ILO Convention Discrimination. Solidarity 2007, Bangladesh Indigenous Peoples Forum, Dhaka, Bangladesh.

engaged as house servants in the CHT region; they are well-fed in these houses. So, they do not want to go to schools. The girl children are great helping to their families. So, the parents are not willing to send them to schools.

One of the leaders of Pahari Chatra Parishad (PCP) said that drug addiction by the indigenous children and youths is one of the growing issues in CHT. Huge numbers of drug addicted indigenous children in three hill districts of CHT are found. They have been basically targeted by drug smugglers. PCP believed that CHT is used as route of drug smuggling, i.e. heroine, alcohol, ganja etc. However, the administration takes passive role against the drug smugglers. He also route and place to the police. But the police have not taken any action against the smugglers. PCP leader expressed that the main cause in keeping passive role by the government forces is to destroy the backbone of the youth generation of the indigenous peoples by giving opportunity to addict drug indirectly. He also added that in some cases the military forces provides huge money to some youths and children to enjoy themselves. This is nothing but to encourage indigenous children and youth to be drug addicted.

Indigenous activists responded that indigenous Jumma children have been victims of torture, rape and other sexual abuses at the hands of the security forces and the illegal plain settlers. On 23 January 2005, a 9 year old boy named Bandachya Chakma, son of Pagana Khulo Chakma of Dojar area was sexually abused by army personnel. The victim and his friend had gone to the forest to collect forest products when the personnel encountered them. The accused sent the victim's friend to buy him food, and simonized the minor boy. Later, the accused gave Taka 50 note to the victim to not to disclose the matter.⁵⁹

There were no juvenile correctional homes in the CHT and the juveniles were often put in prisons along with adults. On 6 August 2005 the army arrested two teenaged supporters of UPDF, identified as Santo Chakma (14 years) and Iron Chakma (16 years) from Machlaong Baghaichari upazila in Rangamati and sent them to

⁵⁹ <http://www.jpnu.org.uk/hr/hr2005.htm>

Rangamate district jail. The army claimed that they were arrested during a raid at Macholong forest areas and sophisticated arms and ammunitions were recovered from them.⁶⁰

⁶⁰ Two UPDF supporters arrested in Machalong, Human Rights Monitoring Cell, United Peoples Democratic Front, 22 August 2005.

CHAPTER 11

PRIORITY ISSUES IN RELATION TO THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLES

Recognition of indigenous people's rights and existence in the Constitution is most crucial for indigenous peoples in relation to their human rights and fundamental freedoms in Bangladesh. The government should implement international human rights mechanisms and conventions related to indigenous populations including ILO Convention No. 107 for Indigenous and Tribal populations in 1972.

Secondly, land alienation is one of the crucial issues faced by the indigenous peoples. Collective and individual rights of indigenous peoples over land traditionally occupied should be recognized by the state and court as well. The non-recognition of their traditional land management system and collective rights of indigenous peoples in Bangladesh is one of the main causes behind land dispossession of the indigenous peoples.

Thirdly as far as development activities are concerned, the government should ensure the full and effective participation of indigenous peoples in all development works including decision making. Development programmes should be taken with free prior and informed consent.

Fourthly implementation of the CHT Peace Accord needs to be given priority with an aim to build confidence among the indigenous peoples. In the CHT lack of trust between government and indigenous hill peoples is the major challenge that needs to be overcome for the proper implementation of the CHT Peace Accord.

Fifthly, the idiosyncratic mindset of the Bengali Muslim ruling elite, intelligentsia and bureaucrats deeply affected by a chauvinistic mentality is largely responsible for the total non recognition of the human rights and fundamental freedoms of indigenous peoples in Bangladesh. Lack of political will is a major challenge for indigenous

peoples in Bangladesh. The political leaders will need to be made aware of and sensitive to issues faced by indigenous peoples such as economic and social development, health, education, culture, environment and human rights in the country.

Therefore, according to the majority respondents' opinion, the following issues should be given priority in relation to the human rights and fundamental freedom of indigenous peoples in Bangladesh.

- (1) to ensure the constitutional recognition of indigenous people;
- (2) to recognise collective and individual rights indigenous peoples over land and natural resources. Customs and traditions etc; and to return back their land and homestead;
- (3) to ensure rights to self-determination of indigenous peoples including implementation of CHT Peace Accord in letter and spirits international convention ratified by Bangladesh;
- (4) to ensure full and effective participation of indigenous peoples including decision making level in the development activities;
- (5) to make aware ruling elite, political leaders, intelligentsia and bureaucrats in Bangladesh for sensitization them human rights and fundamental freedoms of indigenous peoples.

CHAPTER-12

QUALITATIVE FINDINGS OF THE CASE STUDY

Section-01

Economic Condition

Economic Distribution

The majority of indigenous people belong to the marginal category, and the poorest and the most disadvantaged section. From the quantitative data it appears that the majority people do not have their own cultivable land, which is also evident in the qualitative analysis. A number of them live on either other's land or Khasland. A large number of the surveyed population are day labourers, and they remain so for the most time of the year during the off peak season, sometimes they have to borrow money for their survival. Some of the poor house holds either do not have any land of their own or possess less than three bighas of land. Most of their earning members are day labourers and a few of them engage in petty business and fishing either in leased ponds or in riverside. Most of the time they need to purchase their food.. A small percentage of indigenous community belongs to the middle class, and owns land up to or less than 20 bighas. Some of them possess cows, cattle, trees, and ponds. The middle class people are involved in agriculture, different types of services, and businesses. Only a few belong to the rich households which own the best quality cultivable land of 20-25 bighas within the indigenous communities. Those the rich are self-sufficient in food; and they do not have to purchase their food.

Occupation

As mentioned earlier, the main occupation of the indigenous communities is agriculture. A very few families cultivate their own land and most of the indigenous people work as agro-based day laborers for most seasons of a year. They used to cultivate land in a traditional method. Although their main occupation is agriculture they are gradually becoming landless. In an FGD session with a group of adult men in Rajbari, some participants mentioned other occupations among the indigenous such as the plying of rickshaws and vans, petty trade, etc. Besides these, there are indigenous

people engaged in varieties of occupation i.e. artisan of handicrafts made of bamboo or cane, and services, and work as teachers in schools run by the BGOs, muchis (cobblers), fishermen, and quack doctors,

Change in Occupation¹

The occupations of indigenous communities are very much confined to natural resources i.e., land, forest agriculture, etc. Still they are involved in agricultural activities as their primary occupation. But the employment opportunity in this sector is gradually decreasing. Recently some of them were pondering if they should change their professions. From the mobility mapping, a PRA exercise, it was found that the participants from Ambaria village of Niamatpur upazila were moving to Dinajpur 120 km away from their village, to work in cold storage. According to the case study, the Mahali community people of Krishnashall Mahalipara under the same upazila, who are traditionally dependent on handicrafts for their livelihoods expressed their concerns by saying, Handicrafts business is now at stake because of lack of capital and lack of access to market. We are now engaging in the agriculture sector for our livelihoods.”

Special Characteristics of indigenous economy in Northwestern region

The entire economy of indigenous people in northwestern region is based on agriculture.

Very few families cultivate their own land and most of the indigenous people are agro based day labourers.

Lack of scope for and attitude to cope with new professions and modern technology are the barriers to changing their occupations.

Massive poverty is caused by landlessness, lack of or underemployment, and low wage for most indigenous people.

The indigenous women work with the men, especially in the field of agriculture.

Case Study : Occupational change

Mr. Luis Kisco (50) is a member of the Oraon community. He lives in Village Puthimaree Misssion under Boda upazila. He grazed cows and goats for several years, and gradually got involved in agricultural work as a day labourer. He heard that his grandfather had some land which ultimately was lost. He has limited knowledge mud houses. He goes to other areas for agricultural works on a seasonal basis. He does not want to go outside his own area for work. He said. "There is no relative outside. There is none to take care of him in case of his illness." He does not feel comfort where there are neither relatives nor the people he knows around. He informed that now a days agricultural work is insufficient and it is difficult to live only by doing agricultural activities. Once he went to Dinajpur for working in cold storage to pull potatoes, bags etc. But after some days he became homesick. He said, " We have to know other activities besides agriculture and need the skill to work at workshops, mills etc." But he did not try to acquire these skills.

Social Conditon

Family Structure

The indigenous communities of the North western part of Bangladesh have the patriarchal family system. They maintain extended or nuclear families. Whatever the system is, all the communities possess strong family cohesiveness and ties. The family values o the indigenous people are very high. Family is the center of all of their activities. Their joys sorrows, amusement and economy are centred upon their families.

Social Structure : Governance and Judiciary

Indigenous communities have strong social ties. They used to control their judiciary system in their traditional ways until in recent years when this system started collapsing due to several reasons including their conversion into Christianity, increased level of education and migration to towns, and formal court system. They

had a village leader called Mandal/Manjhiram to solve any social problems and dispute raised within the communities or with other communities. The Mandal or Manjhiram system was based on a Chieftainship system. A person is assigned to be the chief of several villages to make decisions to resolve any conflicts among themselves. The number of villages varies in situations. The common practice is to govern 12 villages in the judiciary system. The Mandal and other respectable persons controlled the society. Social governance was strict, so people could not easily do any misdeed. If somebody was found guilty, s/he was fined in the same community. This fine was realized and spent for the entertainment of the villagers. But now a days, the Mandal does not receive importance. They are becoming dependent either on the Bangalis for administering "shalish" or on formal courts.

Relationship with other communities

The indigenous people maintain good relationship with other communities. However, there are some restrictions. Traditionally, their social and cultural activities were confined to their own communities. They had prohibition on taking food from others communities. They did not marry outside their communities. But now it is gradually changing and they are extending relationship with others. However, the Roy community never takes food from others. Even they maintain endogamous marriage pattern strictly. The paharias do not have any relationship with others but they maintain a brotherhood relationship. Sometimes they are called to take part and help other communities in their shalish.

There are increasing differences of opinions among the adivasis/adibashis due to their convention in different segments of Christianity. There are also conflicts due to their dependence on scarce resources. Their souls are, however, close to each other. This is an opinion of a young Oraon adibashi. While responding to some of his fellow community people who think that the adbashis are increasingly being involved in conflicting situation, he said tahta the adibashi society was tied together like several pots in a rope hanger, and that they would knock one another and make a noise during their interactions. Incase any outsiders hit them they will be united on a common

identity and entity. He also added that they had separate expressions which might cause tension and conflict among some segments over morality, feelings, future plans, unemployment, monetary issues, etc and that they might form different organizations, and sometimes stop talking to each other in extreme cases but get back together when there was any issue of indigenous community's interest or clash with the Bengalis.

One NGO personal opined that indigenous people were very much concerned of their unity and tried to avoid situation which may create tension among themselves. He gave an example from his experience that the Indigenous people did not form any groups for being the NGOs target population within their community to avoid conflict among the community members.

On the whole, the respondents expressed the opinion that the unity among the indigenous communities was increasing. Language is identified as a barrier to intercommunity interaction. The increase in the number of educated people and the movement outside their communities for education jobs and participation in social activities gatherings / movements, and the activities related their rights are the reasons that they are getting closer to one another.

Dowry is becoming a curse for the indigenous communities and a matter of conflict. Though 'bride price' was common practice for them but due to the influence of mainstream population's practice of dowry, it has become an integral part of their marriage system too causing unhappiness and inconveniences to the bride's families.

Bengali- Pahari (Indigenus) Relationship

Earlier there was severe enmity between the Bangali and Adbashi communities. During the PRA exercise at the community level, the people of different communities have expressed their views regarding this. The Oraon community people mentioned the discriminatory attitude of the Bengalis towards the indigenous communities. The Rabidas community people talked about attacks on religious/ marriage ceremonies by

the Bangalis. The members of the Santal community pointed out harassment and torture by the Bangalis. Though reduced the violent activities of the Bangalis still exist. Because the people of both communities work together they are involved in political activities, they belong to the same organizations and their children study in same schools.

Context of Relatively Positive Relationship: Analysis of the Findings from an In-depth Interview

The overall increase in the level of education, access to media and information flow, and awareness has influenced both the communities about the irrationality of discriminating attitudes.

Breaking the isolation of the indigenous villages and the amalgamation of the residences by people of both the communes in the same village made them to come closer and to be dependent to one another.

Poverty level: More people have been crippled by poverty in both the communities, so they have common concerns of livelihoods. Survival and fellow feelings.

The indigenous communities have the patriarchal family system.

Social arbitration has decreased rapidly and participation in social disputes has been reduced gradually.

The strong social structure of indigenous communities has been changed.

The community people used to settle their conflicts among themselves under the leadership of a headman but now a days outsiders are invited to and involved in their internal affairs.

The indigenous people are the most disadvantaged segment in the society.

Communiy Heritage: Values, Norms, Customs and Practices:

Language

Some of the indigenous communities have their own languages. During an in-depth discussion, Rai community people told that their language had been changed, Even they evern have changed the terminology. Most of the Rai community people now speak Bangla. The karmaker language has been abolished and this community has adopted Bangla as its own languages. The Santal and Oraon communities have their own languages. Small children face problems, as they do not have any organization of their own language. In recent time the provision of pre-schooling indigenous language initiated bythe BGOs includidng BRAC has given an oppportunity for them to access th government facilities including free schooling and stipend. The indigenous communities consider this a positive step forward for their children to be educatied and find a place in the mainstream.

Religion, Ritual and Customs

Religion

The majority of the indigenous communities in the study areas maintain their ancient rites, beliefs and customs. The majority respondents indentify them as following the sanaton religion which has close resemblance to the Hindu ritual. Many people also indentified them as Hindus. The Rabidas community believes in Hindu religion. A significant number of the indigenous people are converted to Christians. There are three segments of Christians in the study areas due to the presence of three different Christian churches.

Most of the Santals now have been converted to Christians. Many still observe their traditional rituals even as Christians alongside following their sects of Christianity. There are three sects of Christianity which create segmentation, indentity crises and conflict.

Religious Festivals

All the indigenous communities celebrate several festivals. They arrange religious festivals for worshipping such as Durga puja, Lakshme puja, Swarashwati puja, goal puja, jatra puja, parul puja, dal puja and bheluc bharimanasha puja. Most of the communities observe Durga puja, Kali puja, Lakshmi puja, and Swarashwati puja. Besides, the above-mentioned pahans observe different festivals like Bhagawati puja, Bishari, and Lakshi. Swarashawati puja is their largest festival. Regard Swarashwati as the goddess of knowledge.

Karmaka, Roy and some other communities observe Dal puja, and jitia puja in the Bangla month of Bhadra. The Karmakar community people celebrate their festivals on the eleventh day of a lunar fortnight, the night of full moon and day of the new moon. They build a statue whose name is Jitbahan. They worship it with the belief that Jitbahan will save them from dangers. Their ancestors used to this for many years, s predecessors follow it. The Rabidas community people worship eight-nine goddesses like Kali, Manasha, Asharhia, Baishahi, Lakshi and so on. They worship their gods and goddesses for their better life in future. They do not worship goddess Swarashwati, which is known as the goddess of knowledge. The Santals celebrate the harvest or Sahrai festival for three or four days. The Santal men and women dance and sing to the accomplishment of cymbals and flutes.

Dal puja: During this festival they wipe our some tress of Kali which is called Jawa. After the wiping of the tres, they get together and dance to music.

Asharhia: Asharhia is celebrated in the Bangla month of Ashar. This festival is celebrated by offering the seasonal fruits They worship their goddess by offering the latter seasonal fruits and them distribute these fruits among the pujaris (worshipers) as the goddess blessing.

They purchase new clothes for them and arrange other necessary things. They spend a lot of money during these festivals.

In the case studies on different indigenous communities, detailed description of these are added.

Other Rituals and Ceremonies

Marriage

In the past indigenous people had the provision of intra-community marital relationship. Previously people of some communities such as Mahalis and Rabidas did not marry in other communities, even if they had to remain single all their lives now it is changing. They have extended their affinal kinship outside their communities. The members of the Mahalis used to marry within their communities. In the past, it was maintained strictly. Now the Mahalis have extended their marriage relationship to the Mundas (Pahan), Rai, Singh, Goala, Hindu Rajbongshi, Kuram and Napit Communities. The member of the Oraons community cannot marry within their own clans. A Santal wife becomes a part of her husband's clan. The divorced and the widowed are permitted to remarry among the Oraons. Divorce is permitted on the grounds of incompatibility, impotence or the wife's infidelity. However, though divorce is allowed, it is rather rare.

Wedding Rites: There are similarities as well dissimilarities in the wedding rites of different indigenous communities. Most community marriages are based on love matches with the bridal couple getting to know each other before marriage. The majority of indigenous communities practise early marriage in their societies. The Oraons do not allow child marriage. They have prohibitions on weddings during the Bangla months of Chitra, Bhadra and Paus. Grooms have to pay bride price. Pre-wedding ceremonies include seeing a bride, panchini (Confirmation fo a match) and gaye halud (applying turmeric paste on the bodies of both of groom and the bride). The women of both sides sing nuptal songs on the day of wedding. The Oraons put up colourful wedding pandals. They install Mangalghat, a vessel of water, as symbol of divine blessings in the wedding pandal. At the wedding ceremony which takes place n the pandal, the groom and the bride daub each other's forehead with vermilion as

women of both parties raise the uludhwaani (a sound produced by quickly turning the tongue in the mouth). The Oraons bridal couples go round the pandal to be greeted with paddy and durva grass. The Oraon and The Santal wives put vermilion on their foreheads or in the parting of their hair. Among the Oraons women can accompany the groom's party to the bride's house.

In the Karmaker and the Rai communities the groom's family visits the bride to see her before marriage and she is given goldmade ornament and sari. The bride's family also sees the groom and gives him dhuti and gold ring. Then the preparation and marriage-related ritual continue for 5-7 days and thus the marriage rituals conclude on the 7th day.

Role of the Community: In the past community played a major role in the wedding. The marriage ceremony should be organized at the dictation of Thakur (spiritual guide), Napit and Dhopa. Nowadays Dhopa is not a necessary. In the marriage ceremony there is invariably an arrangement of a dance party. All villagers enjoy the marriage ceremony. The cost of a marriage ceremony is minimum 10,000 to 12,000 taka.

Bride Price and Dowry: They used to practise bride price earlier, but nowadays due to the influence of mainstream wedding they have dowry systems. In the marriage the bride's father has to pay dowry to the groom in terms of money or cycle, radio, etc.

Birth Rituals

The Oraon give either goat milk or mother's milk to a new born to drink while others give it honey. The new mother is given turmeric water to drink. The Oraons keep either an iron knife or an arrow near the head of the child and at times fling arrows. In the Santan religion, during the births and deaths of children, the Pahans need a napit (barber) and feasts are offered to him during these times. These practices are traditional but still exist among the Pahans. The Mahalis observe the rituals related to childbirth with mass celebration. During the first shaving of the head of the first child

weather male or female, the Mahalis keep a bit of hair unshaved. When the baby's head is fully shaved they arrange a big feast for the whole of the village. They sacrifice patha (he-goat) to arrange the feast with Bilati (drink). The sacrifice and the onset of the ritual start before sunrise. Villagers can eat and drink as many times as they want till sunset. The uncles and the aunts of the new born baby have to fast for three days before the ritual starts. They break their fasts after the patha is sacrificed.

Death

Disposing of the Dead and Death Ritual: Indigenous people sacrifice animals and weep to propitiate the deceased so that their angry souls do not create trouble for the living. They then dispose of the body with gifts according to their capacity and later hold *sradhha* (feast) for the relatives of the deceased person. Among the Oraons, family members shave their heads after the funeral rites. Death rituals and ceremonies of the Mahalis depend on their financial condition. The Mahalis who can afford money cremate the dead bodies while the poor people bury the dead bodies. The close kins of the dead person can have only vegetables for ten days. During this period, the relatives have to eat *atop chal* (rice husked from paddy boiled) cooked in a new pot. Fish, meat, oil, turmeric, onion, garlic, etc are prohibited in meals during this time. After ten days people of the Shomaj (Community) are invited to a feast. This whole procedure is known as *sradhha*. The Mahalis still try to follow these rituals.

Among the Pahans, when a person dies, his or her dead body is put under *Tulshi* plants with the head placed towards the north. After some time when all relatives come the dead body is washed and rose water is sprinkled on it. Then the dead body is covered by a piece of white cloth and then is put into a *khatia* (cot made of bamboo) and all people sing *kirtan* (song in praise). Then the dead body is taken into crematory for its cremation. Normally the eldest son has to put fire on the mouth of the deceased. If s/he has no child then some others can do the task. After that the dead body is buried. Then these people have to take bath and purified by fire they enter into their house. Then on the 13th day it is sanctioned by the scriptures with *Thakur* (spiritual guide) and *Napit* (Barber). The Pahans in their religion, need a *napit* when a child is born and

when a person dies in their community. They have to arrange parties after the births and the deaths.

Social Rituals: The Oraons take great care of cows. In some festivals they wash the cows and then rub them with oil. On the day following the dark of the moon, they paint their courtyard with rich paste, burn incense in the cowsheds, wash farm implements, and put vermilion on them for good luck.

Social festivals and dance:

Dance and songs are part of major festivals of the indigenous communities. The karam dance is very popular among the Oraons. This dance is performed on the occasion of the harvest. This dance continues for several days and nights. It imitates the farmers' sowing seeds and harvesting. The Jhumur dance is performed for various reasons: the worshipping of the god and goddess for rainfall, and even for lovemaking. The dance is named after the string of bells worn round the ankles and is performed with various bodily gestures and postures (Banglapedia: 210)

The Jatur dance is an integral part of the Santal social life. Both the men and the women perform this dance on the occasion of harvesting or the spring festival. The dance pays a tribute to the god of crops. It is performed in two circles by keeping the girls in the inner circle and the boys in the outer circles. The dancers raise their hands and kneel down to express their devotion to the god and goddess. This is to please the god to keep them in happiness round the year, to give them more crops, and to keep them free from epidemics.

The dance is popular among the Rajbangshi, particularly in Rangpur and Dinajpur districts. Huduma (the goddess of rain) dance is performed in Chitra month during the draught; and women go to fallow land and dance all over the field.

Religious Beliefs and Taboos

The period of the full moon and the dark of the moon are of special significance to the Oraons. The Oraons believe in the saying of DAK and KHANA. They have many superstitions. One of these is regarding journey. The Oraons do not journey if they stumble in the dark, if anyone calls them from behind, if a huse-lizard calls out, if they receive a message about a death, if a corps appears in the way, if a crow caws on a dry twig, or if an empty pitcher comes in view (Banglapedia, 2003:205). They start cultivating the field from the east. They wait for an auspicious day to build hair outside at night, sweeping a house at sun set giving something to someone at dusk, hearing and ow hooting and a dog weeping at night are indications of ill-fate. These superstitions are quite similar to those of Bangli traditional culture. The Oraons give away first yield of milk from a lactating cow. They believe that the spirit of a still-born child is reborn and that some Ayurvedic physicians have the power to prevent the appearance of evil spirits.

There are many superstitions and taboos against the Oraon women. A pregnant Oraon woman is not allowed to eat rats or eels in fear of making her child hideous. After childbirth, khesari (a type of lentil), potatoes, and stale food are forbidden for an Oraon woman to take. She is not allowed to drink cold water. This means that if a pregnant Oraon woman gets different kinds of nutritional intake during her pregnancy it may have an impact on her health. Oraons do not let the menstruating women and the women who have not completed the period of confinement after childbirth enter a cowshed (Banglapedia). They believe in magic used to enthrall women. They believe in the power of spells and charms. For protection against witches they go to ayurvedic physicians (Kabiraj). The Oraon women must not utter the name of her husband's elder brother.

The Mundas (Pahans) believe that the spirits of dead children and ancestors may visit a house and therefore they erect a stone platform for these spirits.

All indigenous communities believe in household gods that regulate their well-being.

Livelihoods, and Beliefs and Taboos

There are taboos related to livelihoods. The indigenous communities which are dependent on agriculture and farmwork for their livelihoods regard earth as their mother and worship the earth-mother. The Oraons revere the cropland and believe that the earth-mother's menstruation produces crops. They celebrate a number of ceremonies where the earth produces crops. They celebrate a number of ceremonies where the earth is treated as a menstruating or pregnant woman (Banglapedia)

Housing Food and Costumes

Dresses: The men of the Oraon community commonly wear dhutis and their women wear saris. The Santal dresses are called panchi, Panchatat and matha.

Ornaments and Cosmetics: The Santa and the Oraon women wear ornaments on their hands, feet, noses, ears and necks. The Oraon women peak up their hair on the head and wear a tikli on their foreheads.

Food and Drink: The indigenous peoples eat rice, fish and vegetables. Though differ from one to another, generally chicken, beef, spinach, eggs of ducks and hens etc. are their favourite foods. The Oraons eat like potatoes and khesari pulse, Alcohol made of fermented rice is every indigenous community's favourite drink. In the FGD sessions, the respondents of the participating communities informed that now a day even their food habit is being influenced by the Bengalis. But drinking liquor during the religious and cultural festivals still exists quite strongly, but the trend is decreasing.

Houses: The Oraons coat their house with plaster made of mud and cow dung. Usually, their houses are made of earth, and with thatched roofs, but they also build houses with fence made of sola (sponge wood). They draw leaves and vines on the mud walls of their houses. There is not much variation among the housing patterns of northwestern

indigenous communities nowadays. It is a common trend in the region to build houses of mud with a little extension of on the roof. Due to the availability of tin, its use is increasing.

Sub-culture of Drinking Habit

Drinking sub-culture means drinking excessive liquor in cultural rituals and social functions.

Context of this culture

Both the men and women of the indigenous communities drink huge amount of alcohol. Locally, they prepare different types of liquor. Earlier most of the family members including adolescent boys and girls used to drink alcohol. Traditionally drinking habit is the integral part of their festivals and different cultural and social functions. Recently the drinking sub-culture has been reduced due to increased awareness in this regard and the rising pressure from junior members of the families to give up liquor.

Male adults of the indigenous communities expressed their opinion that the young generation had been able to give up this habit as they had acquired knowledge about its harmful effects through education.

Perceptions of Indigenous people on Drinking sub-culture

There are differences of opinions regarding the practice of alcoholism. Elderly people still perceive it as an integral part of their culture and expressed their opinion in favour of continuing in even in a restricted form. The young men and women as a whole have a negative attitude to this because of their awareness of their acute financial loss and health problems due to this. Now the traditional trend of the seniors to introduce this to the juniors in cultural rituals has been decreasing noticeably. There is resistance against it these days but it still exists in their society due to cultural rituals.

Status of Indigenous Women

Women's Position in the House hold

The indigenous communities in the study areas are patriactchal. Residences are patrilocal as well. Women's status varies in different communities. As a whole, women are subordinate in both the family and the society. Women in are seen as the child bearers and rearers. Though the majority of women in indigenous communities participate in workforce and earn cash but their household activities remain their major responsibilities. Women's movement other than economic reasons is confined to their homesteads. Women have limited decision- making power.

The following section highlights the different aspects of women's status and roles.

Women as Workforce

The women of indigenous community are mostly involved in income- generating activities both inside and outside of their home. Most of the women work in agriculture sector, paddy field homestead gardens etc. They have been engaged in earthwork, catching fish in the ponds and rivers. Even some of them sell commodities in haats and bazaars. The majority of them are agricultural day labourers. Those who cannot afford to go beyond their regional boundaries for earring income make mats, handicrafts, fishing nets, etc. Most of them reported that they had contributed to their families' income for purchashin essential commodities. The major obstacles to their income-generating activities as articulated by the women are, lack of capital and employment opportunities, low wage and restricted mobility.

Nature of Women's Mobility

Women's mobility is still quite restricted, though it has relatively increased in the recent years.

The indigenous women always try to find out jobs in their locality. But they sometimes have to go to different places for earning their income. They are capable of going to the neighbouring villages, often 5-10 kms away from their places. In the rice-harvesting season i.e. in the period of Agrahayan-paush the demand for female workers increases and the indigenous women take part in the harvesting activities in the house of landlords or rich people. Even in the same period, they also work in the vegetable fields. They also go to bazaars frequently to sell their products.

Besides the economic purpose, the women mainly move outside the villages for treatment of their children. They go to the village quack doctors for the treatment of simple diseases but in the case of emergency they have to walk about five kms away from their houses to see the MBBS doctors. The places like Upzila health Complex, Rajshahi Medical College Hospital, Lamb Hospital, etc, are far away from their villages. Sometimes the women also move for the emergency delivery purpose. The villagers also go to the kabiraj in the case of 'batas laga' of their babies.

They also travel to get services from the NGO offices, and land offices occasionally. Recently, they attended parent's meetings at school premises. Visiting and meeting relatives, attending religious festivals, and taking part in worship (puja) and fair are also reasons for their mobility.

During an FGD at Jamdanga Adibasipara, the participants of a women's group said, "We cannot go out of our houses without the permission of our husbands. If anyone dares go, she must face criticism of neighbours and torture from their husbands' said." They also mentioned that the group members of the NGOs were able to go outside easily rather than others among the indigenous women.

Role of women in Decision-making process

The level of the involvement of women in the decision-making process may differ on the particular issue or the problem area for which the decision ought to be made. The women felt that their decision-making power in the family is increasing. The majority

of decisions regarding children now are usually made in consultation with the mothers. However, in case of arranging the marriages of children, the father's decision is usually considered final. For any major purchase or sale of assets men nowadays talk to their wives though women's opinions are always not taken into account.

The women are not allowed to make any new decisions regarding themselves At Jamdanga Adibasipara in an FGD with a women's group, the participants said, "We cannot spend a single furthing though we earn money. This is because our male counterparts treat us as their subordinate." Husband's prior permission is essential for anything done.

All over the area, the role of family decision-making is steadily being increased. The women are appreciated for their respectful decision-making status in the community and in the family as a result of their awareness raised through group meetings and training sessions.

Oppression of Women

There was a Split among the women regarding this issue. Some of the women strongly felt that there existed strong oppression of women In an FGD session, the women cited an example of oppression at the family level that some of them were compelled to have sex with their spouses just eight ten days after child delivery. The women mentioned dowry clearly as a severe form of oppression which has become alarming. They emphasized that wife-beating was common and widespread in some indigenous communities. The women also reported that due to the increasing awareness of the negative sides of drinking sub-culture, the attitude of men towards their female counterparts has undergone a positive change. Their arguments were purely based on their own experiences.

Case Study: Oppression of women

In an FGD session dowry was seen as a major form of oppression among the Oraon community. An old Oraon father of a young lady was describing his pains regarding dowry. He along with another old community man had seen a man and talked to his family for his daughter's marriage. The man's family also had seen the lady and had chosen her as his bride. They started talking about the amount of 'dena paona' (dowry) in a form of 'upahar' (gift). The lady's father informed that he could afford up to Taka 5,000 and some small gifts by borrowing money from the fellow community people. The man's family did not agree to that and rather demanded a cycle and taka 5,000 cash. He was very much upset as he could not afford it but did not refuse the proposal, as he was afraid of not having another suitable proposal like this or similar proposals from others too. He was negotiating with the man's family either to reduce the cash amount or to consider giving the bicycle later on. He mentioned a cured, vulnerable and painful situation among others in the community and they find it as a curse for the women's families.

Special characteristics of indigenous women's status

- Indigenous women are the major workforce for the family as well as society.
- Women cannot take part in decision making though the attitude to this is changing.
- Adolescent boys and male children have scope for enjoyment, but girls hardly get time to relax or enjoy leisure.
- Subordinate position of women in the society is apparent.
- Strong gender discrimination exists in the indigenous communities.

Institution: Capacity and Access

Major Institutions

The indigenous communities identified the different government and private institutions from where they received different types of services. They identified all types of institutions including those related to administrative and land-related issues such as police Station, A.C. Land office, and registration office. Some others are the service centers such as government health center, post office, secondary school, primary school, etc. They also mentioned local government institutions, i.e. Union Parishad, NGO offices, village doctora money lenders, village headman, NFPE School and their religious institution, i.e. mandir, etc.

They ranked the village quack doctor as less qualified but they fell to remain closest to him because the village quack doctor only can help them in the mergencies even at mid night. On the other hand, they are aware of the capacity of government health center but they have been facing difficulty accessing the institution for receiving the services. In the case of their accessibility, they have better access to the NFPE schools, NGO offices than the other institutions. They perceived the secondary school as more important than the primary school. They go to the A.C. Land office and registration offices too. They have good faith in socio-cultural norms, values and customs. Traditionally, the village headman acted as the main leader and was treated as the nearest person.

Special characteristics regarding the capacity and accessibility of the Institutions

They perceive the upazila administrative office, land and law informing agency, health service centers, educational institutions, and NGO offices as the major institutions.

They have less access to the big and relatively capable and resourceful institutions.

There is a mistrust about those institutions.

They have more access to the NFPE schools, village headman, village doctor, mandir (temple), and the NGOs and they feel comfortable with their services.

Participants

Male: 1. Luis Kisco, 2. Sarker Baske, 3. Suter Baske, 4. Roben Baske, and 5. Estifan Baske.

Female: 1. Terazina Kisco, 2. Shipon Hemran, 3. Nanni Baske, 4. Jespina Kisco, 5. Andrias Kisco, 6. Dato Kisco.

Major Issues of Indigenous Communities: Trend and Context Analysis

Any community should be changed in terms of belief, thoughts and perceptions. The nature of such change in the perspective of the indigenous communities in north western Bangladesh was segmented over decades in order to have a clear idea about it. The divisions were done in the 70's, the 80's and in the 90's. Subsequently, the participants were requested to give comments on the specific changes in the above decades, and the nature and mode of changes. According to them, the changes brought about positive trends in education, child marriage, drinking sub-culture, exploitation of the moneylenders, awareness of health, participation of women in decision making, access to government facilities, etc. While the negative impacts were created in the fields of social security, employment opportunities, landlessness cultural events, social arbitration, converting to Christianity, communal harmony, etc.

The indigenous people of different areas took part in the analyses of the following issues as below.

Landlessness

A negative trend has been found in the particular issue which denotes that landlessness evolved as a social phenomenon as the increasing number of people has been becoming landless over the time.

Factors

Frauds and touts are active to take over land property of the people of indigenous communities.

Population increased over time.

There is difficulty getting the mortgaged land released.

Education

Gradual advancement was achieved in this sector in the period from the 70's to the 90'. Access to education doubled in the 80's as it did in the 70's. In the 90's it was double again what was in the 80's.

Factors for increase in the rate of literacy

Earlier most people were ignorant of the need for education.

People are increasingly realizing the importance of education.

The income of people has been augmented.

Employment Opportunities

Employment opportunities in the nearby areas have been lessened remarkably leaving many people jobless.

Factors

The main occupation of most of the indigenous communities is agriculture. The scope and the attitude to cope with new professions are a hindrance.

Drinking Sub-culture

A downward trend has been noticed in this area as the incident of drinking habit declined over the mentioned period. The harmful practice of excessive drinking and alcoholism was lessened during the time. The situation developed in this particular area.

Factors for reduction in drinking sub-culture

Some people used to mortgage land to collect money for buying alcohol but now they have become landless.

Awareness among the young people about health and financial problems caused by increased.

Cultural events decreased.

Health Awareness

The awareness of health issue, particularly of the EPI and the FP methods, among the indigenous communities was remarkably enhanced in the nineties. It was double in the eighties what was in the seventies.

Factors

Go B interventions on the EPI and the FP sectors increased at the field level.

NGO interventions on awareness rose.

Promotional activities of electronic media such as radio and television increased.

Exploitation of the moneylenders

The exploitation of the moneylenders declined spanning over the time from the seventies to the end of the twentieth century.

Factors

Awareness among people increased.

Operational activities of the NGOs have created the alternative opportunities and access to cash.

Cultural Events

The issue indicates downward trend as the cultural programme decreased. The activities of cultural events decreased due to a lack of money, young people's migration to other areas for study and their increasing interest in modern media based recreational facilities.

Factors

Financial hardship

Impact of modern media

Conversion to Other Religions

A huge number of indigenous people in the different communities were converted to Christianity. Some are following the Hindu religion. Conversion increased in the eighties. It was more or less nil in the seventies while the figure double in the nineties compared to what was in the eighties.

Factors

Some people were converted to other religions at their own accord.

Some of them have been benefited financially through conversion to Christianity.

Social Security

Social Security was lessened in this time. Progress in this area has been made at a slow pace. A downward trend has been shown indicating the decrease in social security.

Factors

Lack of safety net

Discriminatory attitude of the Bengali people.

Communal Harmony

This social stigma was lacking a bit in the eighties compared to that in the seventies. But in the nineties the state of communal co-existence was rebuilt as it was in the seventies.

Factors

Increased relationship with the people of other communities
Participation in cultural as well as socio-political and economic activities together.
Increase in closeness/cohesiveness in residences.

Child Marriage

As analyzed by the participants, the events of child marriage either remained almost static or declined slightly.

Factors

Consciousness among people has risen through promotional activities of electronic media such as radio and television.

Participation of Women in Decision-making

Slow progress was made in the nineties while it was zero in the seventies. Advancement was achieved in the issue very slowly.

Factors

Prejudice of people including women declined.
The enhancement of education and awareness among people helped increase the participation of women in decision making.

The operational activities of different NGOs helped increase the participation of women.

Financial hardship continued.

Access to Government Facilities

Relationship with the people of other communities increased.

Problems Identified by the Indigenous Communities

Barandra Development Organization (BDO) carried out problem identification in several tiers of six indigenous communities the Santal, the Oraon, the Pahan, the Mahali, the Rajooar and the Rabidas at six different spots in Niamatpur Upazila In addition to that, Barendrabhumi Social Development Organization (BSDO) included three different spots in Mahadebpur and Patntala upazilas Gram Bikash Kendra (GBK) two spots in Parbatipur upazila In spite of cultural and ethnic diversity, there are often striking similarities of many problems faced by the indigenous communities.. Some of the problems varied from one community to another and from one area to the other. So it was decided to conduct problem identification separately in different indigenous communities in different villages/areas. The participants were both the male and female group members of the indigenous communities.

The participants themselves identified and wrote down the problems and impediments that they were encountering in their practical life. They used illustrations to visualize the problems in symbolic forms. They were involved in the process to illustrate and categoriae the problems they encounter in their day-to-day life from the most crucial to the least critical ones.

Compilation of the Identified Problems

Here, the problems are compiled into four major groups, i.e. Political Problems, Economic Problem, Socio-cultural Problem, Health and Environment Problems.

Political Problems

They suffer a lack of fair justice, leadership and access to land. The Santal and Oraons expressed their concerns about their being evicted from their own land and deprived of the possession of Khaspoods. The Pahans and the Mahanlis expressed their fear that the khasland might be occupied by the outsiders. The majority of the indigenous households are suffering due to a lack of dwelling houses or personal homesteads. Landlessness was identified as the ultimate consequence of different land-related problems, such as, lack of dwelling houses, deprivation of personal assets, eviction from their own land, fear of khasland occupation by the outsiders. The Oraons also expressed their concern about the lack of access to government facilities. The group members of the Oraon and the Pahan communities who are working with the BDO also mentioned the lack of constitutional recognition.

Economic Problems

The life of the indigenous communities is dominated by traditional agricultural activities. Most of the households are directly dependent on the continued productivity of natural resources. These- resources are increasingly less accessible to them due to different reasons. They suffer the lack of access to employment opportunities. They said that their major economic problem was poverty which might be the root cause or effect of all other problems.

Inadequate communication and network in the areas of indigenous communities especially in Niamatpur and Nachol upazilas in Naogoan district were mentioned as a problem by the respondents. It hampers their mobility and economic development.

Case Study: Landlessness

Luis Kisco of Village- Puthimaree, upazilla Boda, District- Panchagar had 78 bighas of land of which 27 bighas had been auctioned due to non-payment of land-tax. During the liberation war in 1971, they took refuge in India and after the independence of the country they returned home. During the liberation period, the

Muslim neighbourers occupied his land and began cultivation. After he had got back to his village, he wanted his share of crops but they gave him only 3 monds of paddy. They did not return the possession of his land. Some villagers suggested to him to sell three bighas of land and file a case in the court against the occupants to get back his land. The man who suggested this to him himself got all of Shulap's land registered instead of three bighas.

Social-cultural Problems

The indigenous communities are very much affected by the social problems including the lack of education, and unity, drinking sub-culture, oppression on women, discriminatory attitude or harassment by the Bengali community people and the loss of the possession of crematories.

The Pahan and the Rajooar communities identified child marriage as a problem. The pahan and the Mahali communities regarded dowry as a major problem. The incidences of dowry in indigenous communities are increasing day by day.

The Oraon and the Rajooar women were concerned that they did not inherit their paternal property. They also analyzed the subordinate position of the women in the society, especially in the Oraon community. The Santals and Pahans said that some traditional prejudices, taboos, and superstitions are the hinderances to their progress.

They also expressed their concern for their concern for their own language and culture. The Santhli language exists, and they found the lack of their abilities to use their own vocabulary as a problem. They reported the attacks on their religious/marriage ceremonies by the Bengalis. The indigenous communities of north western region are afraid of gradual degradation of their social security. They perceived that the lack of social security promotes the rate of social crime. During a problem ranking exercise, some of them said that they did not have enough boldness to establish fair justice.

Health and Environment Problems

The people discussed a number of problems related to their health and environment the most important problem according to the people of indigenous communities is their lack of sanitary latrine facilities. The second problem is the inadequacy of safe water supply, i.e. supply of tube well facilities. The lack of modern treatment facilities is also a major problem. People have to seek treatment from the village doctors and kabiraj though they prefer proper medical treatment. They are well aware of the availability of government medical facilities but usually they do not get proper medical treatment there is inadequate access of the disadvantaged communities to these medical treatment facilities due to their language problem and distance from their localities.

The community people discussed another problem, i.e. the degradation of environment due to the destruction of tress, the killing of the birds and animals, etc. They realized that the lack of awareness of personal health care and hygienic environment led to the problem of diseases.

Section 2

This section presents the detailed case studies on the communities the information as contained in this section was gathered from the oldest persons of the communities concerned by the researchers by employing local and/or-indigenous interviewers. Issues discussed in this section include the background history of the indigenous communities, their traditional occupation, rituals, and social customs. Information was gathered in informal indepth conversations and was also crosschecked by local community people. Some references are used from published materials mostly from the Banglapedia.

Case Study: Rajoar community

Identity: The Rajoar community is one of the small ethnic communities in north-western Bangladesh. There is not much established fact about this community. They are divided into two groups. One is Shikria and is the other Goluar. The shikrias and the Goluars came from Shikar and Nagpur states respectively approximately 400 years ago. At that time nothing except corn was produced in those states. They migrated to Bangladesh in its forest areas and settled there. Once they had their language but due to poverty and migration, they have lost their own language.

Economic Condition: The Rajoars are very hard working and they sell their labour in others' houses. For this, they were reluctant to receive education. Now they are showing interest in education their children.

Rituals

Birth: After the delivery of a new child, a dai cleans the mother and the child and the house. The mother is not allowed to touch anything at the time. All people of the shomaj then are shaved by a napit. On the 21st day, the napit cleans the nails of the newborn and the mother. The earthen pots that were used in the house before the childbirth will not be allowed to anymore. A Brahmin purifies the mother by spreading shantijol (divine water).

Marriage: The marriage rituals of the Rajoar community are important. They do not practise dowry in their traditional system, though recently it has penetrated into their society. Bride price was Taka nine. The date of the wedding is decided on basis of the star calendar. When the day is fixed, the bride's brother-in-law and the groom's brother-in-law tie jute rope, turmeric and grass together, one each and exchange these as many times as the distance of the wedding day and finally they take each other's ropes. As days pass, they untie each knot of the rope each day. This is used to count the days. The bride's father visits the groom with gold ring and dhuti (one piece of white cloth for men's wear) and offers them sweetmeat the groom's gather the bride

with clothes, cosmetics, sandals, etc. The new bride stands with a pot of water in front of the groom's father. The groom's father asks her name, and her father's name. He says to the bride, "Are you offering this water forever?" In reply the bride says, Yes, I am giving it forever. Then groom's father cleans his face with that water. The Brahmin then conducts the wedding. The bride and the groom stay separately at that night. The families and shomaj attend a dinner. The next day the bride and the groom are sent to the groom's family. Traditionally, the divorced women are not allowed to remarry.

Death: Among the Rajoars when a person dies, his or her dead body is put under the Tulshi plants putting the head in the north. After some time when all relatives come the dead body is washed and covered by a piece of white cloth. Then it is put on to a khatia (Cot made of bamboo) and all people sing kirtan (song in praise). Then the dead body is taken into crematory for its cremation. Normally, the son or a nephew of the deceased after taking bath sets fire to the kaphon (cloth covering the dead body) by using ghee), and then sets fire to its mouth. If she/he has no child then its nephew and some others can perform the task. The son of the dead person ties a piece of kaphone cloth round his neck. After the burial, they pray for salvation of the departed soul and give money to the poor the person who puts the dead body on fire is not allowed to eat fish, meat, turmeric and oil 11 days. He has to buy white unboiled rice (habish onno) on the 8th day of the death and has to cook it with his own hand in a new earthen pot. If the relation is his father, he eats it with milk and if the relation is his mother, he eats it with brown sugar. He has to eat it at 12 O'clock in mid night. If he listens to any animal's sound, he will have to stop eating. He has to do it at next night as well. After 11 days, all male members of the dead person have to have their heads shaed. The Brahmin will do this on the bank of a pond and they will stand there during the 'pinda' at that time the people present there will distribute clothes among the dead person's relatives. Then these people have to take shower and after being purified by holy water (shantijonl) they enter into the house. The Holy gita will be recited this time. The Brahmin is given payments in kind and cash as much as the family can afford. He will mix water and oil together and the family members will start eating it.

The person who sets fire to the dead body will have to stay in bare foot for a year and will not be allowed to put on an umbrella over his head.

Case study: Pahara/Singh Community

Identity: The pahara or the singh community people believe that they had come from the hilly areas to sultanpur (Bangladesh) several years back, and asked the powerful local people for shelter. In response, they were told to clean the jungle of Dhasha village and to settle there. Since then they have been living in Dhansha village. They identify themselves as 'Paharas' as they have come from the 'pahars' (hill). They use 'singh' as their title as their forefather Kale Singh was the first to come and settle here.

Marriage: The Paharas were known to be an endogamous community which means they used to marry only within their community. Now they have extended their affinal relation to the Hindu Kayostho and Boiragi communities. Early marriage is their trend.

Divorce was not a practice among the Paharas traditionally but the educated Paharas now have created the provision of divorce. Though bride price was a common, accepted practice among the Paharas, now the curse of dowry has grasped their marriage system and is creating social problems within the community.

Religion: Kali puja and Griha puja are most prominent among their religious rituals.

Judiciary: They used to solve their own problems by themselves through the enforcement of shalish. In case of resolving a difficult problem they seek help from others as well.

Economic Condition: According to them once they owned land and until 1920 they had seven hundred bighas of land. But now outsiders have captured their land illegally. Now they live in poor economic condition. Their traditional source of

income was agricultural wage labour which they are still continuing. They want to change their occupation if opportunities are created or if they receive financial help to generate income in other ways.

Education: Their older generations were not educated. Now a days they are becoming interested in education and educating their children. They think the lack of education for which they do not have alternative livelihood opportunities is a problem for them. Thus, They are happy with the opportunities to educate their next generation.

Gender Relation: They have the provision of equal rights of the men and the women in all aspects. They also incorporate women's voices and give them decision-making roles in any issue. The community members respect their women. In case of any problem they consider women equal to men and give them the scope to express their views.

Relation with Other Communities: They usually do not interact with other communities regarding familial or social reasons. They however, maintain courteous relationship as neighbours. They sometimes support other communities in the latter's judiciary activities if invited.

Case study: RAVIDA Community

Identity: The Ravidas are known as Darastha or Das. According to them, they used to be the 'Das' (slaves) of Jaminders or Maharajas, so they were addressed as 'Das'. An elderly man of the community named Sri Majeshwas Rabidas of Satghora village of Niamatpur upazila, Naogaon district opined that their origin was in Raj Mahal of India. He described the reasons for the Ravidas to arrive and settle in Bangladesh. Bangladesh was full of fallen, fertile land where any body could come for cultivation. They also cultivated huge land and occupied it but due to the fear of taxation by the Jaminders they did not get the land registered. Consequently, they lost their possession.

Occupation and Livelihood: As they were dependent on land, they did not know any other activities. After being free from slavery, they started polishing shoes and make leather goods for their livelihoods as these activities did not require a big amount of cash and these were easy to do. They had been involved in these activities for decades but in course of time these jobs were not treated as decades but therefore, they shifted from these activities to agriculture based labour which turned to be their main occupation in the recent time.

Family and Marriage: Though they have moved from one place to another, due to the loss of livelihood sources, they maintained a joint family structure. Though they have limited sources of the scope for income they have large family sizes which created poverty in their every life. They send their children to rich families to graze the cattle of the late, so they cannot send their children to school. Their houses are built of straw and palm leaves and tin roofs, and the whole family lives in such a house.

They used to be an endogamous group too. Nowadays, they have started to marry outside the adibashi communities. Early marriage was a common practice among them. There is dowry provision as well. They celebrate the wedding ceremony by singing and dancing in groups and all villagers take part in it. Wedding ceremonies are expensive for them as it cost them a minimum of taka 10,000, 12,000

Judiciary: Their social bondage was very strong. They had their own judiciary system consisting of one matabbar (Village leader) and several assistants. Village leaders administered the 'shalish' to resolve any disputes of punishable crimes. Monetary fines and physical punishment were the ways to deal with crimes. The villagers respected their leaders. Nowadays, the community people do not solve their problems collectively. They rather seek help from outsiders for resolving all sorts of problems and sometimes are trapped by the cheats.

Religion: The Ravidas community members follow the Hindu religion. They celebrate eight- nine pujas including Kali puja, Monosa puja, Ahari puja, and Boishakhi puja. They do not celebrate the 'Swarashati puja' though they are aware that 'Swarashat' is

the goddess of education. Pujas are expensive for them, even the minimum expenditure for a puja which they address as 'goribi halat' costs TK 400-500.

Dress: Traditionally, the Ravidas men used to wear dhuti and markin clothes and put wooden chain. They had long hair. The women used to wear small cloths, sharees, wooden necklace, and shankha round their wrists. The married women used to put vermilion along their hair parting. Now the men wear lungis as Bengali community men do and they do not use any wooden chain anymore. The women always do not put on wooden necklace and shankha because they cannot afford these.

Gender Relations: There is a strong gender disparity in the Ravidas society. The women do not have rights equal to men's. They do not have the decision making power and cannot take part 'shalish' They hold that the women cannot take part in therefore they exclude the women from the social activities and decisions. The women do not take part in public celebrations as men think that the women may be then considered consumable good, and consequently may be repressed and insulted by other men. Women are excluded from the recreational functions. Women are needed to give birth to children. Women also sell their labour for wage. Nowadays, they are changing their attitudes towards the women. Women are now allowed to take part in recreational activities and decision-making process.

Case Study: Pahan Community

Identity: The Pahans are also known as Mundas. An elderly Pahan named Sri Rameshwar Pahan from Niamatpur upazila in Naogaon district gave an account of the pahan's origin and the history of their settling in Bangladesh. He opined that the Pahans came to Bangladesh from Nagpur of India. At first, they arrived in Rahanpur village of Chapai Nababgonj. Then they spread across Naimatipur, particularly in Ambaria village of Parail union. Like the Ravidas, they also settled there by cleaning jungles. Most of their land was auctioned due to their not paying revenues. The

Pahans also lost their land to the Bengalis due to poverty while some outsiders encroached upon their land.

They are dependent on agriculture.

Family and Marriage: They usually live in a joint family structure. They have big family sizes and due to poverty, children also have to work and cannot study at schools. Earlier they got married in the different segments (goshti) of their Pahan community (Jati). But marriage was forbidden within the same segments of the Pahans. Now there are a few evidences of marriages outside their community.

The Pahans had a bride price system during their marriages. The groom's family used to give seven and a half mounds of rice, seven and a half taka, and three and a half shares of white colour with red border to the bride during the wedding. Dowry was absent in the Pahans community. Now due to the impact of mainstream practice of dowry they also have to give dowry in their daughters' marriages. The average amount of dowry is about taka 5,000-12,000.

Their housing patterns are two storied mud and straw-built houses with the extension of tin on the roofs.

Education: The majority of the Pahans did not go to schools earlier. Now they have realized the lack of education as the reason for their backward position. Hence, the trend of sending children to school is increasing. Kalpana, an adolescent girl who is hoping to appear at the SSC exam in the next couple of years expressed her sincere interest in continuing education and reaching up to the level where to get a prestigious job. She stated the reason for her community's backward position in education compared to the Santals and Oraons. In her word, In the Santal community if a anyone wants to study, other will follow him or her to compete and send their children to school. But the Pahans do not have this attitude; rather they criticize the family which sends a girl alone to school. That's why we are far behind the Santals and the Oraons. But now they have started to send their children to the pre-schools run in their own

language and then to the mainstream Bangla medium school. They now dream that their children are educated and are in prestigious occupations like teaching.

Judiciary: The Pahan social system was Mandal-based. A Mandal represented 22 villages and used to preside over the Shalish. Now The Mandals are becoming weak while the Pahans call for organizational support. For example, they ask the union Parishad to mitigate their conflicts.

Rituals: The Pahans believe in Sanatan religion. It has significant similarity with the Hindu rituals. Many Pahans identify themselves as the Hindus and also as Sanatanis. They celebrate Shwarashati puja, Bishohor puja, Lokhhi puja, and Kali puja which incorporate the major pujas of Hindu religion. Shwarashati is identified as the devi (goddess) of education and knowledge, and Shwarashati puja is the most significant of all these pujas. They spent around taka 700-800 per family on celebrating each puja. They purchase new clothes on this occasion and organize different cultural activities.

Birth and Death

If woman of this community gives birth to a child, she is not allowed to work for at least few days. Some respondents opined that traditionally it was five months in a few cases. The family members also have to be purified and sanctioned by the scriptures with napit (barber). After that they take food and drink.

In Sanatan religion, during childbirth and death, the Pahans need anapit (barber), and feasts are offered to him during these times. These practices are traditional but still exist among the Pahans.

Dress: Regarding clothing, the Pahans had their traditional dress. Men used to wear white markin cloth with a length of around eight feet. They put on wood chain. Women used to wear white sharees with red borders. Married women used to use vermilion along their hair parting. Now men wear lungis while women wear sharees like Bengali community.

Gender Relations : The women are secluded from social and cultural life of the Pahans as the Ravidas. Women are seen as the child bearers and nourishers. Fathers do not take care of or play and role in nurturing the babies. Women do not have access to social and political organizations. They do not have any formal scope for recreations. Recently some women are becoming conscious due to their participation in NGO activities and their education. They are now taking part in meetings and exercise decision-making power in some social issues.

Case Study: Mahali community

Identity and History: The Mahali is one of the nine small communities among nine ones in Parail Union under Niamatput upazila in Naogaon district. The Mahalis live in Khrishnashil Toltolia para. An elderly Mahali named Bolram Mhali who is 85 years old described their history of settling in Bangladesh. Their forfathers lived in Birbhum district of India. The place was known as Domaka Saontal Porgona. They use to earn their livelihoods from agriculture and handicrafts made of bamboos. It became difficult for them to earn enough for their living, so they started looking for new opportunities of income generation. Eventually, they arrived in jorkura pond side in Khrishnashail Mouza after moving to different places. They took shelter in this place and later started cleaning adjacent land and made the area cultivable. They slowly occupied the area.

Now a days, they are mostly dependent on handicrafts made of bamboos.

Education : Earlier, the Mahalis did not take part in formal education. They worked in other's houses for their livelihoods. They considered their occupation their education. This meant that learning the traditional skills was synonymous of education to them. Now, people are becoming more concerned and aware of education. They are sending their children to schools and the adults are also taking part in literacy programmes.

Judiciary: The Mahalis also had their own judiciary system where anyone having committed any crime and broken social norms was punished by the village Morol (leader) in the shalish. Any sort of crime was strictly scrutinized for punishment. While fined the money was spent for the social recreation purpose. Now, their social structure has become weak and they do not have unity as before. They invite outsiders, particularly for the shalish to solve their problems. In some cases, it creates more problems.

Marriage: The Mahalis used to marry within their own communities. In the past, it was maintained strictly. Now the Mahalis have extended their marriage relation to the Mundas (Pahan), Rai, Singh, Goala, Hindu Rajbonshi, Kuma and Napit communities. The wedding ceremony is conducted by the Thakur (spiritual leader).

In a Mahali wedding both the fathers of a bride and a bridegroom traditionally used to sit together with some other members of the respective community. A pot full of water with a branch of a mango tree in it was put in the middle of their meeting place. Both the fathers used to sprinkle water on each other with a leaf of a mango tree. This time the bridegroom put sindur (vermillion) on the bride's shinthi (middle part of hair). He used to do it three times. Everyone cheered up with horibal. Both the fathers used to embrace each other to celebrate being close kins. The other members of the community demand money from them to enjoy and they used to give the same affordable amount of money. The brides and the grooms were not asked for their opinions as their families settled the marriage.

Dowry has become an integral part of the marriage. The bride's father gives cash, cycle, radio, cassette player, etc. as dowry items to the groom during the wedding.

Divorce was unknown to the Mahali community. In any case of a divorce which was rare, the community people gather and called upon the bride's parent or relations to take away the bride's own goods with her and declare the dissolution of the marriage. They also follow this rule till now.

Childbirth: The Mahalis observe the rituals related to childbirth through mass celebration. During the first shaving of the head of the first child whether male or female, the Mahalis keep a bit of hair unshaved. On the day when the baby's head is fully shaved they arrange a big feast for the whole of the village. They sacrifice a patha (sterilized he-goat) to arrange the feast with bilati (drinks). The sacrifice and the onset of the ritual start before the sunrise. Villagers can eat and drink as many times as they want to until sunset. The uncles and the aunts of the newborn baby have to fast for three days before the ritual starts. They break their fasts after the patha is sacrificed.

Death: The death rituals and ceremonies of the Mahalis depend on their financial condition. The Mahalis who can afford money burn the dead body while the poor people simply bury the bodies of their dead relatives. The close kin of the dead person can have only vegetables for ten days. During this period, the relatives have to eat atop chal (rice husked from once-boiled paddy) cooked in a meal. Fish, meat, oil, turmeric, onion, garlic, etc are prohibited in meals served this time. After ten days, the people of the shomaj (community) are invited to a feast. This whole procedure is known as Saadhha. The Mahalis still try to follow these rituals.

The Mahali community thinks that their situation is improving now. They Mahalis are getting opportunities to educate their children. They are having more crops now. Child marriage rate is reduced and they are now becoming aware of the need for marriage registration.

Case Study: Oraon Community

Identity: This ethnic group has the Proto-Australian origin. According to the anthropologists, the Oraons, the Mudas, the Malpaharis, and the Santals belong to the same group of 'aborigin' people. Regarding religions, they are to the same Austric family. Many specialists consider that the word Oraon is a distorted form of a totem in the ancient Kurukh language.

Religious Beliefs and Ritual: Like many other ethnic groups the Oraons worship nature. They believe that there is a creator of the earth, who exists in the sun, and therefore most of their religious ceremonies revolve round the sun. The Oraons believe in different gods having symbolic representation in villages' agriculture, assets, forests, epidemics, etc.

The Karam rituals are similar to the Hindu Bhadu Festival. This is a worship of trees (symbolic Kadam) or its branches. Religious festival- Hariari and Sarhul are associated with praying for the fertility of land and a good paddy harvest. The karam dance is very popular among the Oraons. This dance is performed on the occasion of the harvesting; continue for several days and nights. The dance imitates the farmer's sowing of seeds and harvesting. The Jhumur dance is performed for various reasons the worshipping of the gods and goddesses, rainfall, even lovemaking. The dance named after the string of bells worn round the ankles is performed with various bodily gestures and postures (Banglapedia: 210).

Judiciary: The Oraons also have their own judiciary to resolve social crisis in the village by the Manjhi (leader) in the shalish. The Manjhis rule the judiciary covering 12-22 villages. Now in some cases, they invite outsiders, particularly the Benglis, to the shalish to solve their problems.

Marriage: The Oraon used to marry within their communities. But they cannot marry within their clans. They have several clans, and clan men and women are considered brothers and sisters. So, marriage is prohibited among them. It is maintained strictly.

The Oraons do not allow child marriage, nor do they permit weddings during the months of Chaitra, Bhadra and Paus. Grooms have to pay brides price. Pre-wedding ceremonies include seeing a bride, panchini, (confirmation of a match) and gaye halud (applying turmeric paste to the bodies of both the groom and the bride). The women of both sides sing nuptial songs on the day of wedding. The Oraons put up colourful

wedding pandals. They install mangalghat, a water vessel as a symbol of divine blessings in the wedding pandal. In the wedding ceremony which takes place in the pandal, the groom and the bride daub each other's forehead with vermilion as the women of both parties raise uludhavani (a sound produced by quickly turning the tongue in the mouth). The Oraons bridal couple goes round the pandal to be greeted with paddy and durva grass. The divorced and widowed women are permitted to remarry among the Oraons. Divorce is permitted on the grounds of incompatibility, impotence or the wife's infidelity. However, though divorce is allowed, it is rather rare. The Oraon wives put vermilion on their forehead or in the parting of their hair. The Oraon women can accompany the groom's party to the bride's house.

Death ritual: Among the Oraons, family members shave their heads after the funeral rites are over.

Religious Beliefs and Taboos:

The period covering the full moon and dark of the moon is of special significance to the Oraons. The Oraons believe in the saying of DAK and KHANA. They have many superstitions. One of these is regarding journey. The Oraons do not make journey if they stumble in the dark, if anyone calls from behind, if a house-lizard calls out, if a massage of a death or a corpse appears in the way, if a crow caws on a dry twig, or if an empty pitcher comes in view (Banglapedia, 2003:205). The Oraons cultivate the field from the east. They wait for an auspicious day to build a house. They also believe that combing at night, throwing women's hair outside at night, sweep a house during sunset, giving something to someone at dusk, and hearing an owl hooting and a dog weeping at night bring misfortune. These superstitions are quite similar to those in Bengali traditional culture. The Oraons also give away the first yield of milk from a lactating cow. They believe that the spirit of a still-born child is reborn and that some ayurvedic physicians have the power to prevent the appearance of evil spirits.

Taboos Related to Women: There are many superstitions and taboos against the Oraon women. A pregnant Oraon woman is not allowed to eat rats or eels in fear of making

her child hideous. After childbirth, khesari (a type of lentil), and potatoes, or stale foods are forbidden for an Oraon woman to take. She is not allowed to drink cold water. This means that a pregnant Oraon woman gets different nutritional intake during her pregnancy which may create an impact on her health. The Oraons do not let the menstruating women and the women who have not completed the period of her confinement after childbirth enter a cowshed. They believe in magic used to enthrall women. They believe in the power of spells and charms. For protection against witches they go to ayurvedic physicians. The Oraon women must not utter the name of her husband's elder brother. The Oraons revere the cropland and believe that the earth- mother's menstruation produces crops. They celebrate a number of ceremonies in which the earth is treated as a menstruating or a pregnant woman.

Social Rites: The Oraons take great care of cows. In some festival they wash the cows and then rub them with oil. On the day following the dark of the moon, they paint their court yard with rice paste, burn incense in the cowsheds, wash farm implements, and put vermilion on them for good luck.

Dress, Ornaments and cosmetics: The men of the Oraon community commonly wear dhutis while their women wear sharees. The Oraon women wear ornaments on their hands, feet, nose, ears and necks. They peak up their hair on their heads and wear tiklis along their heads.

Houses: The Oraons coat their houses with a plaster made of mud and cow dung. Usually, their houses are made of earth and with thatched roofs, but they also fence their houses with sola (sponge wood). They draw leaves and vines on the mud walls of their houses.

Case Study: Santal Community

Identity: The Santals are the descendants of Austric-speaking proto-Australoid race. Their complexion is dark, their height medium, their hair black and curled, and their lips heavy. The Mudas, the Oraons, the Paharis and some others ethnic groups have

similarity with the Santals in physical features. The sandals are the inhabitants of RADHA (in west Bengal), the forests of Bihar, Urisssa and chhoto Nagpur. There is no historical account of when and how the Santals started settling in Bangladesh. But they are spread in different districts of Rajshahi division. The 1881 census shows the Santal's presence in Pabna, Jessore and Khulna districts. The Christian missionaries in the 1980s mentioned one hundred thousand and the 1991 census recorded two hundred thousand Santals in Bangladesh. The Santals are among the earliest settlers of the sub-continent, and are acknowledged as the progenitors and maintainers of the agricultural production system and agri-based culture.

The Santal language (Satali) belongs to the family of Austric languages and it has profound similarity with Kole and mundari language (Banglapedia). Though there is no written script they have rich cultural heritage of folk songs and folk tales. Now the Santals speak their own language as well as Bangla.

Religious Beliefs and Rituals: The majority Santals identify themselves as the followers. Sanaton religion which has close resemblance and many others identified them as the Hindus. Most of the Santals have been converted to Christians. There are three sects of Christianity which create segmentation, identity crisis and conflict. Many Santals still follow their traditional rituals despite their being the Christians along side following their ritual of Christianity.

The chief god for the Santals is the god of the sun which is known as Singh Bona in their language. The god of mountain is known as Marang Budu in their language. The Santals believe that soul is immortal and that the supernatural soul (Bonga) determines worldly good and evil nature. House deity 'Abe-Bonga' is quite mighty. The influence of the folk Hindu deities is evident in their religion.

The Santals are very fond of festivals and their rituals are very much based on dances. They have festivals all over the year, particularly following the Bangla months and

mostly related to agriculture. Sahrai in Poush, and 'Bongabongi' in Choitra, 'Home' in Boishakh, and 'Dibi' in Ashwin are the major festivals.

The Santals celebrate the harvest or sharai festival for three or four days in the month of poush. The santal men and women dance and sing too the accomplishment of cymbals and flutes. The jatur dance is an integral part of the santal social life. Both the men and the women perform this dance on the occasion of harvesting or the spring festival. The dance pays tribute to the god of crops. The dance is performed in two circles- keeping the girls in the inner circle and the boys in the outer circles. The dancers raise their hands and kneel down to express their devotion to the god and goddess. This is to make the god pleased to keep them in happiness for the whole of the year, to give them more crops, and to keep them free from epidemics.

Dresse, Ornaments and Cosmetics: The Santal traditional dresses are called panchini, panchatat and matha. The santal women wear ornaments on their hands, feet, noses, ears and necks. Nowadays men wear 'duthis' (dhuti is a piece of white cotton-made indigenous wear) or 'gamchhas' (gamchha is piece of colourful cotton-made indigenous wear). The women wear colourful coarse sharees.

Marriage: A Santal wife becomes a part of her husband's clan. The Santal wives put vermilion on their foreheades or along the parting of their hair.

CHAPTER- 13

CONCLUSION AND RECOMMENDATON

The indigenous peoples of Bangladesh are far from a better situation without respect for their culture and customs and traditions. They do not have the right of self-determination, control over their own land and territories, full and effective participation to the development including decision making level. Their century old systems are at the edge of extinction. On the view of that we would like to make the following recommendations:

The Government of Bangladesh should strengthen the mechanisms to take prompt action into the gross and ongoing violations, to study militarization processes on the indigenous peoples land and territories, as well as the systematic human rights violations on IPs of Bangladesh:

- Bangladesh Government can play a positive role for implementation of the Chittagong Peace Accord of 1997.
- The Government of Bangladesh should conduct a detailed study on militarization, situation of land possession, transmigration of the mainstream population to the indigenous peoples' territories and its impact on the indigenous peoples such as in Chittagong Hills Tracts and other regions of Bangladesh.
- The Government of Bangladesh should give special priority for implementation of the agreement between the state and the indigenous peoples as for the Chittagong Peace Accord of 1997 in Bangladesh. If possible to create monitoring system on the implementation progression by the high-level assignment or expert appointment or to conduct a regular monitoring cell by the local government.
- The local government should review the national constitution on regarding the recognition and the existence of the rights with effective participation by the indigenous people
- The Bangladesh Government should withdraw their various restrictions on human rights treaties such as The Human Covenants, ratify the ILO Convention 169 and the treaty of the Criminal Court.
- Bangladesh Government should implement the concerns and recommendations made on the elimination all forms of Racial Discrimination with regards the Chittagong Hills Tracts indigenous peoples

Appointment of local influence of people

- To initiate regional consultation meeting on the concepts of indigenous people and their situation with regard to the Human Rights and fundamental freedom of Bangladesh
- To initiate a detailed study for the forcible demographic change perpetrated in indigenous peoples land and territories through the state-sponsored population transfer as of Chittagong Hill Tracts
- To launch a study on land alienation and Human Rights situation of indigenous peoples of Bangladesh
- To initiate for paying official visit in the areas where indigenous peoples are located , to see the condition Human Rights and fundamental freedom of indigenous peoples in Bangladesh

Bangladesh Government should

- Ensure the basic rights as well as the rights of their land possession and social and economic rights as recognized in the constitution
- Ensure the representations of the indigenous peoples at the local government and national level
- Implement all the provision of the 1997 Chittagong Hill Tracts Accord
- Implement the International Conventions and Declarations including ILO Convention 169 for preserving the rights of indigenous people
- Formulate development policies with meaningful and effective participation of the indigenous people
- Establish an independent commission for protecting the rights of the indigenous peoples and to create an institution for developing some educational programs for them
- Recognize and protect the cultural uniqueness of the indigenous people
- Find out a way through which occupation of illegal land possession from the indigenous people can be stopped
- Provide legal support and justice to the indigenous people for their secured lives

Human Rights Organizations NGOs and other Agencies should

- Set up a special office for the indigenous people to monitor and observe the Human Rights situation
- Take an initiative for the continued study regarding the changing situation of the indigenous and their area
- Increase the involvement of the indigenous peoples with HR organizations, NGOs and other relevant agencies to fulfill the further achievement of the Development Millennium Goals of 2015 as declared on the Second International Decade of the World's Indigenous Peoples by United Nations
- Protect and promote the culture, tradition, and customary rights of the indigenous peoples in respect to the international laws
- Involve the members of the civil society to advocate for the rights of the indigenous people and make a link between the government and those indigenous people
- Create an effective mechanism for monitoring the effectiveness of the Treaties and the Peace Accord of 1997
- Ensure the social, economic and infrastructure development of the area in respect of the local demands.

CHAPTER- 14

ROLE OF THE INTERNATIONAL ORGANIZATIONS AND AGENCIES TO PROTECT THE HUMAN RIGHTS OF THE INDIGENOUS PEOPLE

Though several international organisations and agencies including UN specialised agencies have own policies when they undertake development projects in the territory of indigenous peoples. They do not even try to incorporate indigenous people's perspectives in their development initiatives. For example, the ADB organised consultations on the formulation of ADB Country Development Strategy Paper (CSP) for Bangladesh in 2003 but, the indigenous peoples have not been involved properly in these consultations. It is only the Danish Government which followed its strategy paper with regard to indigenous peoples. The Human Rights and good Governance HRGG Programme of DANIDA organised consultations for formulating its five year long programme on indigenous peoples of Bangladesh in 2003, where indigenous peoples were appropriately consulted. Royal Danish Government's development agency, DANIDA has been among the strongest supporters of the peace process in the CHT.

UNDP undertakes a project titled promotion of Development and Confidence-building in the Chittagong Hill Tracts aiming at (a) facilitating resumption of substantial international development assistance to the Chittagong Hill Tracts (CHT) which was suspended in February 2001 as a result of a serious kidnapping incident in the CHT and (b) support the formulation and start-up of a multi-sectoral Development Support Programme in the CHT which is funded by UNDP and other donor institutions. The first objective is promoted by the creation of a CHT Development Facility with modest offices in Dhaka and Rangamati, while the second objective is pursued by the elaboration of various project initiatives aimed at (i) institution-building support to all relevant CHT institution. (ii) community development pilot schemes at the grass-roots

level in the CHT. (iii) confidence building measures to strengthen communal harmony and cooperation in the CHT.⁶¹

But the project has created controversy on whether it is consistent with the CHT Accord of 1997 and the UNDPs Policy on indigenous peoples or not. The project has included outsider Bengali settlers (transmigrated population in order to make the indigenous jumma people a minority in their own homeland) as target beneficiaries. The participation of jumma peoples and their local institutions have not been ensured and indigenous peoples' perspectives have not been incorporated into the planning and decision making of this project.

Following the signing of the CHT Peace Accord and the consequent repatriation of exiled internally displaced people. In July 1998 WFP Launched a three year Expanded Food Assistance (EFA) programme in all three districts of the CHT. The objective was to improve the livelihoods food security and nutritional needs of the poorest of the poor, particularly vulnerable women and children, and to support the peace process by building trust among the population. The programme covered three activities: Integrated Fish Culture, Livelihood Support Initiatives and Rural Road Maintenance (RM).⁶² However, this project was not taken up specifically for indigenous people or for implementation of the goals of the Decade. Consequently a huge numbers of Bengali settlers who have been receiving free rations of food grains since 1979 were included in the project as beneficiaries.

UNICEF has been involved in community development programmes in cluster villages for many years. Among others by funding the construction of community centres and is continuing its support to these programmes.

UN specialised agencies, such as UNDP, WFP etc. should recruit indigenous people as project staff to their on-going CHT projects. But there are still some whisperings that effective participation of CHT institutions in planning and implementing the project are not regularly maintained. For example there are staffs belonging to

⁶¹ Preparatory Assistance Document of BGD/02/006/A/01A34- Promotion of Development and Confidence building in the Chittagong Hill Tracts. Project of the GoB and UNDP. 15 April 2003.

⁶² Rural Road Maintenance Project in the Chittagong Hill Tracts. World Food Programme. SFO Update April 2006.

indigenous people in the CHTDR-UPDF Project but they do not have access to decision making as well as policy making level.

The Asian Development Bank (ADB), along with UNDP and other donors in among the very few institutions that have been funding programmes in the CHT on a large scale for many years. The ADB has funded mainly road construction, afforestation and cluster village programmes which were manifestly all part of the counter-insurgency programme of the Bangladesh army particularly during the armed conflict. After the CHT Peace accord, the ADB expended its support for the preparation of a Ten Year Regional Development Plan for the CHT in 2000. An ADB team visited the CHT in July 2000 to assess the feasibility of the projects which included development of rural roads and infrastructure prevention of hill erosion and establishing women's rights.

For the plain land indigenous peoples UN Agencies or international donor communities did not take up any development programmes with indigenous peoples. Some national NGOs led by non-indigenous people received funds for the development of indigenous peoples but indigenous peoples were not able to properly participate in these programmes. Very rarely have indigenous peoples been consulted. Danida and Oxfam were different and tried to engage indigenous peoples, in their programmes. Even IFAD and UNESCO took some programmes for indigenous peoples outside CHT but no proper consultation was made with indigenous representatives and organisations in Bangladesh.

Though various multi-lateral and bi-lateral organizations and agencies are engaged for the development of the indigenous peoples. It is important for the international community to respect each country and the principle of Free Prior and Informed Consent (FPIC) before giving the priority for any further activities on indigenous Peoples.

Mesbah Kaml. Professor of Dhaka University said that the international community must come forward to help to restore the human rights of the minority communities of Bangladesh. They can work as watchdogs and pressurize the government to take positive policies towards the indigenous Peoples through their proactive roles. They can also support both logistically and financially. The indigenous peoples must develop their skills in various fields. The international community should closely

monitor atrocious and follow up the developments and actions taken by the legal authority or the government.

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- 27 ¹ See UN Documents E/CN. 4/sub. 2/1999/22.
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predominantly tribal-dominated territory, whose administrative system was
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case with excluded areas), and a higher number of laws of general application
were allowed to function therein.
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