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RIGHTS OF INDIGENOUS PEOPLES

The last year has seen a continuum of abuses against Adivashis, with violations of their fundamental rights both in the Chittagong Hill Tracts and the plains. The chapter first examines the situation in the CHT, then in the plains, focusing mainly on land rights, civil rights as well as socio-economic rights in each case.

Indigenous People's rights are recognised under ILO Convention No. 107 and 169 and now most recently have been extensively elaborated in the UN Declaration on the Rights of Indigenous Peoples. Bangladesh ratified ILO Convention No.107 in 1972, and Article 11 has recognized indigenous people's lands in relation of the traditional occupation. The Bangladesh Constitution also ensures affirmative action for indigenous peoples and prohibits discrimination on grounds of race or religion or place of birth, among others.

Nevertheless, during 2008, despite publication assertions of indigenous people's rights, including demands for constitutional recognition, citizens' action and media attention on specific violations remained highly limited. Particular difficulties were faced regarding the highlighting of issues in the Chittagong Hill Tracts (CHT) given the intensity of the security forces' presence, and the silence of key political actors on the prevailing situation.

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The major issues highlighted in this section include those of land occupations in the plains and new encroachments in the CHT,¹ non-implementation of the CHT Accord in particular with regard to failure to fully activate the civil administration or withdraw army camps from the region, or activate mechanisms and processes mandated by the Accord for resolution of land disputes and rehabilitation of repatriated refugees, as well as concerns regarding the voter registration process. Abuses of the criminal justice process regarding indigenous peoples were a continuing concern: thus there was no progress on earlier demands for prosecution of persons responsible for extra-judicial killings of human rights defenders engaged in protests in the plains against displacement due to eco-parks (Choles Richil, Piren Snal) or action to provide release or redress to others (Rang Lai Mro) who had been reportedly tortured following arrest after his protests regarding forcible land acquisitions in the CHT. Positive measures during the year, included the appointment as Special Assistant to the Chief Advisor of Raja Devasish Roy, a prominent human rights defender and community leader from the CHT, followed swiftly by the removal of the long-time ban on the use of mobile phone networks in the region, the establishment of civil and criminal courts in furtherance of separation of the judiciary nationwide, and the announcement that the Land Commission would be reactivated.

¹ For indigenous people's land rights, see Article 14(1) on Convention No. 169 including the rights of shifting cultivators, the UN Declaration of the indigenous peoples (Article 10) guaranteeing that Indigenous peoples shall not be forcibly removed from their lands or territories, and that no relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Withdrawal of restrictions on the use of mobile phones in CHT

Following an early interview in which Raja Devasish Roy, the Special Assistant to the Chief Advisor, expressed a hope that the Government would lift the ban on mobile phones in the region,² the Chief Adviser (on 15 May 2008 formally inaugurated the mobile phone network in the CHT in the district headquarters.³ This ended a de facto ban that had operated in the region for several years, ostensibly justified due to 'security' concerns, depriving all those within it of the basic communications facilities enjoyed across the rest of the country.

Establishment of Courts

On 24 February, the High Court in a landmark judgment directed the Government to set up three separate civil and criminal courts in the CHT, as soon as possible but no later than one year from the date of judgment. On 4 June 2008, the Government through a Gazette notification gave effect to the implementation of the CHT Regulation (Amendment) Act 2003 from 1 July 2008 and these courts were established in Rangamati, Khagrachari and Bandarban respectively. It is expected that over 3,500 pending cases will be taken up for immediate hearing with the establishment of courts in the CHT.⁴ The Courts were not physically established yet.

Implementation of the CHT Accord

The CHT Accord of 1997, executed between the PCJSS (*Parbattya Chattagram Jana Sanghati Samity*) and the then Government of Bangladesh, had sought to address the ongoing conflict and had guaranteed ensuring indigenous peoples' representation in local and regional government, resolution of land disputes through establishment of a Land Commission, withdrawal of military camps, rehabilitation of refugees, and framing of a separate voters list on the basis of permanent residence.

By 2008, eleven years after the Accord, and as in previous years, despite a few important confidence-building measures, there was little systematic progress on the implementation of its provisions.

- In April 2008, the Government⁵ announced that the governing statute for the Land Commission would be amended, giving rise to hopes for the activation of the Commission, established in 2001 and non-operational since. However, no further action was taken by year end.
- The Hill District Councils (HDC) are functioning with the Government-nominated five representative in each HDC instead of the 31 persons mandated by law. On the other hand the supervision and coordination role of the Regional Council has not as yet been activated.
- No military camps were withdrawn from the area in 2008.⁶
- Refugee rehabilitation process not stated yet.
- Although the CHT Accord provided for a separate electoral roll for the area, to be limited to permanent residents of the area, the electoral roll for the parliamentary elections was prepared on the basis of inclusion of all inhabitants of the region, both permanent and non-permanent residents. This roll was prepared pursuant to the constitutional requirement of one electoral roll for each constituency, and the High Court directive to include non-permanent residents (see ASK report, 2007); it was understood that the Regional Council and other prominent leaders from the area had received assurances from the Election Commission that the roll would be revised for the holding of local government or regional council elections.

² "CHT finally coming under mobile network", *The Daily Star*, 29 March 2008.

³ "CA opens CHT mobile network", *The Daily Star*, 16 May 2008.

⁴ *Bangladesh Legal Aid and Survises Trust (BLAST) vs. Bangladesh*, Writ Petition No. 606 of 2006, judgment dated 24 February 2008.

⁵ "Govt to reconstitute CHT Land Commission soon", *Bangladesh News*, 1 April 2008. See www.bangladeshnews.com.bd.

⁶ Earlier 30 camps were withdrawn out of more than 500.

Land Rights in the CHT

As in previous year, several incidents of land-grabbing and settlements of indigenous lands were reported from the CHT. In one report from Khagrachari, it was alleged that some 133 indigenous households were affected, when about 400 acres of land including a school, were occupied by Bengali settler, reportedly in the presence of security forces.⁷

BOX XVI.1: Sajek Incident

The arson attack on eight indigenous villages in Sajek union, Rangamati district on 20 April 2008 catalysed national and international concern. At least nine people were injured and 132 houses burnt down after unknown assailants attacked Gangaram Mukh Chhara in Sajek union under Baghiachhari upazila in Rangamati on 20 April night. The attack occurred at around 9:00 in the evening and lasted for almost 4 hours. The attackers however fled before police and security forces reached the area. Local administration has deployed police and security forces in the village after the incident. However some tension still prevails between the Bengalis and indigenous people inhabiting the village. Quoting witnesses, police said that a group of unidentified assailants, numbering about 150, equipped with weapons and sticks attacked the village on 20th night. The assailants beat up the villagers mercilessly, attacking some with sharp weapons, injuring at least nine people. They also burnt down 132 houses in the villages; 79 belonging to Bengalis and 53 to indigenous inhabitants.

The reason behind the attack is not clear. The identities of the attackers also remain unclear with counter allegations from the Bengalis and the indigenous villagers, police said. Some Locals pointed out that there has been some resentment amongst locals about encroachment on land in the area.

Two cases were filed, one by a beglali settler Nurul Alam⁸ and other by a adibashi Anu Chakma.⁹ The three adibashi youths arrested on 28 April from their village and were implicated in a case filed by one Nurul Alam. They were granted bail after one month on 29 May.¹⁰ The three youths are Novel Chakma (age 23 years), Sunil Chakma (age 22 years) and Ratan Bikash Chakma (age 17 years). All of them come from Bamey Baibachara village in Sajek. But nobody were arrested in connection with the case filed by Anu Chakma.¹¹

Another development noted was the furtherance of such settlements through the involvement of private agencies and corporate interests ostensibly for purposes of development, tourism, small industries, or horticulture. For example, it was alleged that DORP (Development Organization of the Rural Poor) a local NGO, led by Bengali settlers, had effected the displacement of Tripura indigenous peoples and destruction of ten acres of their teak and fruit orchards in Bandarban.¹² Due to continuing restrictions on *jum* cultivation imposed by the Forest Department on the practice of the traditional Jum economy, some 100 *Kheyang* families in Rangamati were displaced and forced to seek alternative livelihoods.¹³

7 "porikolpito bhabe adibashider bhumi theke uchched kora hochche", *Sangbad*, 11 February 2008.

8 GR Case No. 121 of 2008.

9 GR Case No. 122 of 2008.

10 Bangladesh Legal Aid and Services Trust (BLAST) provided legal assistance to the accused.

11 Ain o Salish Kendra (ASK) investigation report, investigated on 28 and 29 April 2008. See also "132 houses burned in CHT arson attack: Nine injured", *New Age*, 22 April 2008.

12 "Lamai puria deya shai bagan: adibashi der uchched kore nijader sromik dukiyache beshorkari shongstha DOROP" *Prothom Alo*, 27 July 2008.

13 "Dukkho durdoshai din katche Rangamati-r Khyang o Juri-r Kashia der", *Prothom Alo*, 9 August 2008.

A survey on 332 indigenous shows about 61 per cent of them are discriminated against in different ways while 76 per cent fall victim to violence and threats. The survey was conducted on 332 indigenous people in Jessore, Mymensingh, Chapainawabganj, Gaibandha, Jamalpur, Pabna, Rangamati, Sylhet and indigenous students of Dhaka University between March and April last year. The findings showed about 18.67 per cent of them were evicted from their ancestral land. Besides, 6.02 per cent participants in the survey believe that justice cannot be ensured by court while 5.72 per cent of them are ignorant about legal process.¹⁴

Ladu Moni Chakma

These were further highlighted during a mission of the International CHT Commission to the area in August 2008. On 19 August, the killing of Ladu Moni Chakma (age 50 years) greatly heightened the atmosphere of fear and insecurity in the region, with many indigenous peoples fleeing their homes into the neighbouring forest. Ladu Moni Chakma s/o Kuji Kumar Chakma of Retkaba village of Sajek union under Baghaichari upazila in Rangamati district was killed by a group of Bengali settlers. On that day around 10.00 p.m. a group of Bengali settlers led by Mohammad Ali encircled the house of Ladu Mani Chakma. Of them, three Bengali settlers, with their faces under cover, entered the house while the others remained outside. They caught Ladu Mani Chakma and brought out him from his home. Victim's wife Ms. Chikanpudi Chakma (alias Shanti Bala) (age 45 years) was also hit on her head with a knife when she tried to prevent Bengali settlers from bringing out her husband. Then Ladu Mani Chakma was taken into the place nearby his house where he was brutally chopped to death. Soon after kidnapping her husband, Chikanpudi with my son and daughter fled into the forest.

Bengali settlers who entered the house were identified as Mohammad Ali (age 28 years) s/o Nachor Ali, Jahar Ali (age 24 years) s/o Achaniya Ali and Nurul Alam (age 24 years) s/o Julfu Ali. The dead body of Ladu Mani Chakma was recovered from the place barely 50 yards from the army camp at Gangaram area. The military forces immediately seized the dead body and sent it to Khagrachari hospital. Military forces had cordoned off the hospital during the postmortem and no Jumma was allowed to enter it.

Chikanpudi Chakma filed a murder case against Bengali settlers including Mohammad Ali, Jahar Ali and Nurul Alam with Baghaichari police station. Police arrested Mohammad Ali but other accused including Jahar Ali and Nurul Alam were not arrested. They were staying at Baghaihat bazaar openly and have been threatening Jumma villagers for severe actions.¹⁵

Continuing Impunity for Human Rights Violations

Case of Ranglai Mro

Mr. Rang Lai Mro, age 43 years, son of Eyam Tui Mro, is widely respected as a community leader, an environmental activist and a human rights defender. He is the President of the Mro Social Council, the representative body of the Mro community and the Chairperson of Mrochet, a local non-governmental organisation. He was also the elected Chairman of Sualok Union Parishad. As an executive member of the National Committee of the Movement for the Protection of Forests and Land Rights in Chittagong Hill Tracts, he has long been active on issues of the protection of land rights of local communities including both Bengalis and Paharis, in the CHT and other parts of the country.

Rang Lai Mro was arrested on 23 February 2007 at around 4.50 a.m. from his home in Ujanipara by the Joint Forces. He was detained and taken blindfolded to the Army Cantonment from his Ujanipara home by officials of the Joint Forces, and reportedly subjected to severe ill-treatment. At around 12 noon he was handed over to the custody of the police, and then was admitted to Bandarban General Hospital in a critically ill condition. He was later transferred to the Chittagong Medical College Hospital due to the lack of facilities for treatment in Bandarban, and remained there for 17 days before being imprisoned in Chittagong

¹⁴ The survey conducted by Dhaka University teachers Prof Dr Nazrul Islam and Prof Dr Asif Nazrul. See "61pc indigenous people face discrimination: Sample survey" *The Daily Star*, 19 May 2008.

¹⁵ On file with the author.

District Jail. While in Hospital, Rang Lai Mro was diagnosed as having suffered a heart attack, and having undergone a blockage of the left ventricle. He had been in good health prior to his arrest.

Mr Mro then found himself implicated in Special Case No. 13/2007 (arising out of G.R. Case No. 31/2007) and Bandarban Police Station Case No. 11(2)07). Subsequently on 16 April 2007, an order of sanction was issued by the Divisional Commissioner, Chittagong, under Sections 19Nio(1) and (5) of the Emergency Powers Rules (EPR), purporting to bring the case within the purview of the EPR.

The FIR contained the allegations that on 23 February 2007 pursuant to General Diary No. 1080 of the Bandarban Sadar Police Station, Rang Lai Mro's house was surrounded by the Joint Forces under the leadership of Major A. B. M. Mohsiul Islam at 4.50 a.m, PWs stated that a local pistol, 23 rounds of bullets of an AK 47, 1 round of bullets of a pistol, 1 toy pistol, 1 SBBL gun and 12 rounds of bullets for the same were seized from Rang Lai Mro's home. However, the search and seizure do not appear to have been conducted according to law. Further, witnesses testified that the items seized included a pistol that did not have a firing pin and was inoperative, bullets which had been already used, and a toy pistol, and that a valid licence was available in respect of the other seized items, namely the guns and ammunition, and that there were no previous cases against the accused Rang Lai Mro. Witnesses also stated that they had been intimidated during the investigation, including made to sign blank pieces of paper.

On 13 June 2007, the Court convicted Rang Lai Mro, and sentenced him to 17 years' rigorous imprisonment under Sections 19(A) and 19(F) of the Arms Act in June 2007. Citizen's group and human rights organizations are deeply concerned regarding the manner of Rang Lai's arrest and his treatment during interrogation as well as the manner of conduct of the trial. In a memorandum to Chief Justice of CTG they said that Rang Lai Mro has still not received appropriate medical treatment which is urgently needed in view of his serious health condition, including the blockage of one artery which may have further deteriorated in the intervening year while he has been in prison. They further said that the circumstances of Mr Mro's arrest and detention and subsequent trial and conviction constitute a gross miscarriage of justice, and urge you to review the case.¹⁶

Cholesh Richil

Two years after the March 2007 custodial death of Cholesh Richil, an *adibashi* leader of Modhupur, there are no affirmative steps from the Government to ensure justice. The investigation commission established following the death has still not been made public. ASK noted that while establishing the commission was an important measure to probe into the cause of Cholesh Richil's death and ensure justice, its delayed publication had resulted in '*a roadblock, denying justice to Cholesh Richil, his family, indigenous people and all citizens of Bangladesh [and was] an impediment to establishing the rule of law in the country.*'¹⁷

BOX XVI.2: Survey on Land Grabbing¹⁸

Ethnic minority communities living on the plains have continuously been thrown out of their ancestral lands, allegedly by Government agencies, influential quarters and private organisations, revealed a survey. It said the lands of poor ethnic minority people were being grabbed by a section of influential quarters using different techniques including use of forged documents and forcibly ousting them from their lands while the Government was expropriating their lands for various development projects. Land acquisition by the Government for its so-called social forestation has made the highest number

¹⁶ "Memorandum Seeking Urgent Release and Medical Treatment of Rang Lai Mro, Chairman of Mro Social Council and Sualok Union Parishad, Bandarban District", 12 February 2008.

¹⁷ "*Adibashi neta Cholesh Richil-er mritur ghotonai nyay-bichar nishchito kora hok*" ASK Press Release, 17 March 2008.

¹⁸ "The state of Land Rights of Indigenous People", 2008. The survey, conducted jointly by the *Jatiya Adibashi Parishad*, Incidin Bangladesh and Jahangirnagar University's Department of Anthropology, of the north-western ethnic minority communities since January 2008. The finding of the survey launched on 11 May 2008 at National Press Club. See Nazrul Islam, "Ethnic minorities continue to lose lands", *New Age*, 11 May 2008; "Ethnic minority rights to ancestral land must be respected", *New Age*, 12 May 2008.

of ethnic minority families landless in the north-western areas. The preliminary result of the study showed that a total of 1,983 ethnic minority families in ten north-western districts lost control over 1,748.36 acres of land in the last few years. The forest department grabbed the largest area of 1,185.76 acres, followed by 356.7 acres by different influential quarters who evicted the rightful owners from their ancestral lands by forging documents. Lands used as common property, graveyards and shrines were also grabbed and made the shocking that every indigenous family lost more or less than one acre of land.

The majority of the indigenous people's household income basically depends on agricultural work. But their food security and habitat are at stake, as a result of land-grabbing and loss of their traditional sources of livelihood. The study showed that influential quarters stole land from 285 indigenous families in Naogaon district. Almost a similar situation is seen in Natore, Bogra, Rangpur, Rajshahi, Chapainawabganj, Thakurgaon and Panchagar districts. In Dinajpur district alone, the forest department occupies 1,182.07 acres of land after dispossessing 411 indigenous families.

Land occupations in the plain lands

Some two-thirds of Bangladesh's indigenous peoples live in the plains (mainly in Mymensingh, Rajshahi and greater Sylhet). As in the CHT they face persistent land and resource grabbing, as well as endangerment of their mother tongues and culture. Through observance of international events such as Indigenous People's Day, and through greater collective mobilization, such communities are becoming increasingly visible in the national political discourse, claiming constitutional recognition for indigenous peoples' rights, mother tongue primary education, formation of a permanent land commission and creation of a separate ministry for plain lands indigenous peoples.

There were new concerns raised in some areas regarding the exclusion of certain communities from the voter registration process – such as Khasi people in Kulaura upazila in Moulvibazar District.¹⁹

In practice, the absence of any significant response from the Government to these demands, has been accompanied by further sporadic incidents of land-grabbing and insecurity. Such cases reported in 2008 included the following:

- About 1200 acres of land were occupied and 4000 trees owned by the Khasi people in Srimongal, Hoibigonj were cut down with the cooperation of the Forest Department.²⁰
- Fifty-two Santal and Oraw families in Naogaon on 25 October demanded stern actions against a group of local influential people for trying to grab their cremation ground at Sonapur village through fake documents. They made the demand at a press conference at the Metropolitan Press Club in Naogaon. The indigenous people have been using about 0.19 acres of land as their cremation ground at Sonapur village of Manda upazila for over a century. But recently a group of local influential people including Rakib Pramanik and Rafiqul Pramanik are trying to grab the cremation ground, they alleged. They were barred from cremating bodies there and also received death threats from the influential group, the indigenous people alleged. Later, Ranjit Oraw, president of Lahanti Akra Forum, an organisation of indigenous people, handed over a written complaint to Manda Upazila Nirbahi Office (UNO) Bipul Chandra Biswas at the latter's office. The UNO asked the land office to investigate the allegations and submit report to him. But the land office is yet to submit the report. The indigenous families also alleged that the influential people have managed fake documents and are trying to evict them from their 3.42 acres of khas land and 3.43 acres of khas pond they leased from the authorities concerned at Borambari village of Niamatpur upazila.²¹ The land Laksmi Santal (age 55 years) of Godaighat, Sylhet were grabbed on 1 February by the local influential people including Shamsul Alam Shamsu and Rubel Ahmed. After the incident police arrested one person but he released on bail. No further action taken by the police.²²
- Eight families in Bagatipara, Natore were displaced during 15 April by the local influential people. The families claimed that local influential people headed by Jillur Rahman displaced them and broke down their houses. They are then living under the sky. They were living there since 1965. Police and Upazila Nirbahi Officer went their but not took any affirmative action.²³
- Thirty-seven ethnic minority community families in Godagari upazila of Rajshahi on 30 August alleged that a vested interest group was trying to evict them from their land. Addressing a news conference at the Rajshahi Press Club, they also claimed that the influential persons were threatening to kill them if they did not leave their dwellings in Pakri union of the upazila. 'They [influential persons] have arranged fake documents of 3.33 acres of land of the 37 families and asked them to leave the land immediately to avoid dire consequences,' Sushen Kumar Shyamduar, general secretary of the Rajshahi district unit of Jatiya Adibashi Parishad, said reading out a statement. 'They have threatened to kill the adivasi family members and burn down their houses if their order is not followed immediately,' Sushen told the conference arranged by the parishad. A General Di-

19 "Kulaurai tin sotadhik adibashi nij alakai voter hote pareni", *Prothom Alo*, 29 June 2008.

20 *The Daily Star*, 24 October 2008.

21 "Cremation ground of indigenous people grabbed", *The Daily Star*, 26 October 2008.

22 "bedokhol houa bari phire chan Laksmi Santal", *Prothom Alo*, 8 March 2008.

23 "Natore-a at-ti adibashi poribar khola akasher niche", *Prothom Alo*, 8 March and 22 April 2008.

ary (GP) was filed with the Godagari Model Police in this connection on 19 July, but the police are yet to take any step. They also alleged that on 6 August some armed activists of the influential persons, after filing of the GD, had gone to the village and forced Disco Mardi and his father to give their signatures on a white paper.²⁴

²⁴ “37 ethnic minority families in fear of eviction from their land”, *New Age*, 31 August 2008.