

**Human Rights Council
Expert Mechanism on the Rights of Indigenous Peoples
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Agenda Item 5: Study on the access to justice in the promotion and protection of the rights of indigenous peoples

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Thank you Mr. Chair,

Access to justice of indigenous peoples in Bangladesh is a grave concern. I would like to draw EMRIP's attention to the human rights situation of indigenous peoples, in particular their access to justice in Bangladesh.

In 2012, 8 indigenous persons were killed and 23 were either arrested or detained while another 133 were tortured or intimidated; 9 communal attacks were recorded and 276 indigenous houses were forcibly demolishedⁱ.

Indigenous women in Bangladesh often face double discrimination as indigenous and as women. In 2012, a total 75 indigenous women and children across the country, of them 55 from the CHT and 20 from plain land, were subjected to violence. Of them, 7 indigenous women were killed. In addition, attempts to rape were made on 13 indigenous women and abducted 2 women from the CHT. Besides, 33 indigenous women were physically assaulted, harassed and molested.

Violence Against Indigenous Women (VAIW) is one of the major issues in Bangladesh and perpetrators enjoy impunity due to lack of access to justice – to date, no perpetrator has been given any exemplary punishment. In most of the cases, police assistance was either slow or non-existent. Further, often the perpetrators of sexual and gender based violence held positions of power. As such, in many cases, victims were either unable or unwilling to file their complaint with the authorities, or once filed, the authorities hindered investigationsⁱⁱ.

For example, Ms. Kalpana Chakma, the Organizing Secretary of Hill Women's Federation (HWF), CHT, was abducted 16 years ago from her home about 1:00AM in the morning on 12 June 1996 by members of the security forces. The investigation on this case by the government agency, the Criminal Investigation Department (CID) has been very disappointing. The court also rejected the recent report submitted by the CID, stating that the investigation team failed to do its job properly.

During a hearing of the case on January 13, 2013, Additional Chief Judicial Magistrate in Rangamati expressed his disbelief over such investigation, saying: "How can it be that the police didn't even investigate the names mentioned in the First Information Report?" However, despite repeated appeals from the petitioner's counsels, the court did not grant a judicial inquiry, citing lack of resources and judicial officersⁱⁱⁱ.

Mr. Chair,

The CHT Accord provides a framework on the traditional and customary rights, local law

enforce agencies and civil administration. It recognizes the traditional institutions and governance in the region. The failure to fully implement the CHT Accord are causing gross human rights violations and denying the access to justice.

The CHT Accord of 1997 paves way for the peace, development and opportunities to meaningful engagement of indigenous Jumma peoples. Though 15 years passed after signing of the Accord, but main issues of Accord yet to be implemented. Recent government introduced "CHT Land Disputes Resolution Commission Act (Amendment) Bill 2013" in the Parliament to amend contradictory provisions of the CHT Land Commission Act of 2001. However, out of 13-point amendment proposals agreed between CHT Regional Council and the government, only 8 provisions have been placed in conformity with the 13 point proposals. Two provisions have NOT been incorporated properly and three provisions have fully been missed out in the amendment Bill. If this Bill is passed without changes, then most of the land disputes will remain unresolved.

Mr. Chair,

We also find the challenges as the following;

- Lack of awareness and legal knowledge.
- Lack of access to public services, which are often expensive and cumbersome and with inadequate resources, personnel and facilities. Police stations and courts non-existent in remote areas, and the cost of legal processes (such as legal fees and fines) are often unaffordable to the very poor. Quasi-judicial mechanisms are non accessible.
- As a consequence of their exclusion from the mainstream, there is a lack of normative protection and sufficient recognition by policies and provisions,
- Procedural discrimination, lack of voice, participation and inclusion in policy and lawmaking processes, including legislative drafting, consultation processes, arbitration and access to media.

Therefore, reforms will require top-level support and commitment within a political environment where achieving broad and continuing consensus require persistent efforts and where there is inadequate appreciation of the role of the justice system in socioeconomic development.

The traditional and customary courts should be recognized and strengthen legal frameworks. It also requires strengthening the traditional institutions and promoting linkages between informal and formal judicial systems.

Lastly, the CHT Accord implementation, therefore, is very important to ensure the access to justice of indigenous peoples in the CHT region.

Thank you.