

**12th Session of United Nations Permanent Forum on Indigenous Issues
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Joint Intervention by

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On behalf of

International Council for the Indigenous Peoples of Chittagong Hill Tracts (ICIP-
CHT);

Indigenous Peoples Development Facilitators Forum (IPDFF), Bangladesh;

Chittagong Hill Tracts Citizens Committee (CHT-CC), Bangladesh;

Land is Life, USA.

Kapaeeng Foundation

Jumchad Metta Foundation

Agenda Item 6

Study on national constitutions and the United Nations Declaration on the Rights of
Indigenous Peoples

Mr Chairman, Permanent Forum Members and Distinguished delegates,

We would like to thank the Permanent Forum for the study on national constitutions
and the UNDRIP.

Mr Chair,

We draw your attention to the recent developments in Bangladesh in regards to
constitutional recognition of indigenous peoples' rights and culture with reference to
the rights affirmed in the Declaration, particularly in Articles 18 and 19.

The Government of Bangladesh has publicly and repeatedly denied existence of
indigenous peoples within its territory. During the 10th session of the Permanent
Forum, the representative of Bangladesh denied existence of indigenous peoples in
Bangladesh. Following this, in the fifteenth amendment of the Constitution,
indigenous peoples were termed as, and I quote, "tribes, minor races, ethnic sects and
communities" instead of indigenous peoples. Although the amendment refers to the
need to "protect and develop the unique local culture and traditions of" the peoples
concerned, these terms themselves are racist, disparaging of an accurate reference to
the indigenous or adibashi peoples of the country.

In 2012, the Government issued a circular, instructing government officials to refrain
from attending any observance of the International Day of the World's Indigenous
Peoples, and to support such events in any way.

The CHT Accord of 1997 – between Jana Samhati Samiti and the Government of
Bangladesh and post-Accord laws, including the Regional Council and District
Council laws of 1998 - state that the Government is obliged to consult the aforesaid
councils before legislating for the CHT, which clearly resonate the rights affirmed in
Article 18 and 19 of the Declaration.

Despite these safeguards a bill to amend the Forest Act 1927 is expected to be passed at the next session of parliament in next month, without any consultations with the regional and district councils. Indigenous peoples and other forest-dependent peoples and communities have protested against the several provisions of the draft law, including through representations to the concerned Parliamentary Standing Committee, but to no effect. If passed in its current form, the livelihoods and cultural traditions of indigenous peoples will be seriously threatened, through discriminatory Forest Conservation and Wildlife Protection laws.

Even though the formal justification and statement of reasons behind the proposed amendment includes the protection of rights of tribal people as recognised under existing legislation, it is undeniable that such a seemingly positive and isolated acknowledgment of the rights of the concerned groups is totally negated by contradictory provisions in other parts of the bill, which will actually undermine and weaken the rights of indigenous peoples' over the concerned lands.

We would also like to point to the fact that this arbitrary act of legislation is not an isolated event. In a similar move, the Government passed the Wildlife (Protection and Safety) Act in 2012 in dire disregard of the opinions and concerns of experts and indigenous peoples.

The net effect of both of the aforesaid laws will vest the Forest Department with arbitrary powers without any provisions for consultation and objective assessment including (i) arbitrary identification of indigenous customary lands as “other forests” (ii) the use of draconian penal sanctions against forest-dependent communities, which are presently restricted to *reserved* and *protected* forests; (iii) requiring the consent of the department prior to transfer of land or other use of such “other forests” that is deemed to be detrimental to the conservation of forests.

Assessing these recent developments, we believe that the absence of express and adequate constitutional safeguards, including recognition of indigenous peoples and laws safeguarding their rights, such as those passed after the CHT Accord of 1997, will lead to more state-initiated discriminatory policies or acts that will visibly violate and weakened indigenous peoples' land and resource rights, their identity, and their political social and cultural integrity and rights.

Hence, We would like to recommend the recommendations made in the study, particularly recommendations 46, 47, 52, 53.

Thank you Mr. Chair.