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SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN

65TH SESSION, 24 OCTOBER - 18 NOVEMBER 2016

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1. INTRODUCTION

In November 2016, the UN Committee on the Elimination of Discrimination against Women (the Committee) will examine Bangladesh's eighth periodic report at its 65th session.¹ This examination provides an opportunity to review Bangladesh's progress since its last review in 2011 in implementing, both in law and practice, the provisions of the United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (the Convention).

This submission focuses only on the issue of violence against women, and specifically on violence against Indigenous women and girls from the Chittagong Hill Tracts.² However, it is important to note that the concerns listed here are not exhaustive and that many of the issues raised in this submission are also experienced by Indigenous women and girls living outside the Chittagong Hill Tracts as well as Bengali and other women and girls across the country.³

1.1 VIOLENCE AGAINST INDIGENOUS WOMEN AND GIRLS IN THE CHITTAGONG HILL TRACTS

Indigenous women and girls in the Chittagong Hill Tracts face multiple and intersecting forms of discrimination due to their gender, Indigenous identity and socio-economic status. Sexual and gender-based violence against Indigenous women and girls does not happen in isolation from general perceptions of Indigenous people and Indigenous women and girls in Bangladesh and from the history of conflict, division and political contest over control of the Chittagong Hill Tracts.⁴

Reports of sexual and gender-based violence against Indigenous women and girls are frequent and widespread in the Chittagong Hill Tracts. The Kapaeeng Foundation, a local non-governmental organization working on Indigenous issues in Bangladesh, reported that between 2007 and 2015, 434 Indigenous women and girls were subjected to gender-based violence, including sexual violence.⁵ The Kapaeeng Foundation also recorded that 69 Indigenous women experienced sexual and gender-based violence in 2015 alone in Bangladesh - 38 of the Indigenous women are from the Chittagong Hill tracts while the others are from the Plains.⁶ In the combined sixth and seventh periodic reports to the Committee, the Government of Bangladesh recognized that in relation to figures for crimes of sexual and gender-based violence, "official data sources are also not accurate and figures vary between NGO sources, press reporting of cases and records by the police,

¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBGD%2f8&Lang=en

² There are 11 different Indigenous communities in the Chittagong Hill Tracts. Customary laws and practices within these communities vary, but they share commonalities in terms of their social and political organization. They differ significantly from the majority Bangladeshi Bengali population in relation to religion (most Indigenous Peoples are Buddhist or Christians whereas most Bengalis are Muslim), language, their social and political organization, marriage customs, birth and death rites, food, and agriculture techniques.

³ The 2011 Violence against Women Survey on Bangladesh found that about 8 percent of women have experienced non-partner physical violence in the past 12 months while 23.8 percent have experienced this in their lifetime. Around 65 percent of married women surveyed experienced physical violence committed by their current husbands in their lifetime. See *Measuring Gender-based violence: Results of the Violence Against Women (VAW) Survey in Bangladesh*, Md. Alamgir Hossen*, September 2014 available at: http://unstats.un.org/unsd/gender/Mexico_Nov2014/Session%203%20Bangladesh%20paper.pdf

⁴ The Chittagong Hill Tracts, located on the South Eastern edge of Bangladesh, was, up until 1997, the site of ethnic conflict. The conflict followed calls by Indigenous Peoples for recognition and protection of their rights to traditional lands and autonomy, and their resistance to government attempts to assimilate them within the Bengali majority culture. Clashes between Indigenous Peoples and Bengali settlers who have gradually and repeatedly occupied their land are frequent. For more information, see Amnesty International, "*Pushed to the Edge: Indigenous Rights Denied in Bangladesh's Chittagong Hill Tracts*" (Index: ASA 13/005/2013), June 2013, available at: <https://www.amnesty.org/en/documents/ASA13/005/2013/en/>

⁵ Kapaeeng Foundation, "*Human Rights Report 2015 on Indigenous Peoples in Bangladesh*", February 2016, available at: http://dtp.unsw.edu.au/sites/default/files/John%20Tripura_0.pdf

⁶ Kapaeeng Foundation, "*Human Rights Report 2015 on Indigenous Peoples in Bangladesh*", February 2016, available at: http://dtp.unsw.edu.au/sites/default/files/John%20Tripura_0.pdf

hospitals and courts”.⁷ Although Amnesty International welcomes the 2011 Violence against Women Survey conducted by the Government of Bangladesh⁸, the lack of disaggregated government data on crimes of sexual and gender-based violence against women and girls in Bangladesh means the true scale of such violence against Indigenous women and girls is unknown.⁹ Many Indigenous women and girls who experience sexual and gender-based violence do not report crimes due to fear and stigma from their communities. A report commissioned by the Chittagong Hill Tracts Commission found that 95 percent of survivors of sexual and gender-based violence highlighted a fear of stigmatization and rejection from their communities and 60 percent of survivors and their families reported not pursuing legal avenues to prevent further embarrassment.¹⁰ The culture of silence that surrounds sexual and gender-based violence also contributes to cases going underreported – either because of feelings of shame, social stigma, gender stereotypes and the low status of women in society, possible re-traumatization and re-victimization or a combination of all of these factors.

Perpetrators of sexual and gender-based violence against Indigenous women in the Chittagong Hill Tracts are most often Bengali settlers who live on traditional lands which were vacated by Indigenous Peoples fleeing violence or military and security officials based in the Tracts.¹¹ According to the International Work Group for Indigenous Affairs, there are reportedly around 50,000 to 60,000 armed personnel still stationed in the Chittagong Hill Tracts.¹² At its ninth session, the Permanent Forum appointed a member of the Permanent Forum as Special Rapporteur with the task to prepare a study on the status of implementation of the Chittagong Hill Tracts Accord of 1997 for the UN Permanent Forum on Indigenous issues in May 2011. The report expressed concern at the overwhelming presence of the military in the region.¹³ Indigenous women human rights defenders in the Chittagong Hill Tracts also told Amnesty International about incidents of rape, sexual assault and sexual harassment against Indigenous women and girls perpetrated by Bengali settlers. These crimes occurred mostly in the public spaces that Indigenous women and girls use in their everyday lives (villages, markets, fields, roads and forests) but also sometimes in their own homes.¹⁴ In her 2013 report on Bangladesh, the Special Rapporteur on violence against women, its causes and consequences also heard testimonies about ongoing violence and rape of Indigenous women by Bengali settlers in the Chittagong Hill Tracts.¹⁵ In some cases, members of Indigenous communities are the perpetrators of crimes of sexual and gender-based violence against Indigenous women and girls. However, there have been instances where members of the Indigenous community are falsely identified as the alleged perpetrators despite the evidence showing otherwise. For example, in the case of Sabita Chakma, a 30 year old Indigenous woman who was allegedly raped and killed in the Chittagong Hill Tracts in 2014, members of the Indigenous community were blamed for the attack by the police despite witnesses identifying Bengali settlers as the perpetrators.¹⁶

⁷ *Combined Sixth and Seventh Periodic Reports of Bangladesh to the Committee on the Elimination of Discrimination against Women*, CEDAW/BGD/6-7, 2010, p 87-88.

⁸ See *Measuring Gender-based violence: Results of the Violence Against Women (VAW) Survey in Bangladesh*, Md. Alamgir Hossen*, September 2014 available at: http://unstats.un.org/unsd/gender/Mexico_Nov2014/Session%203%20Bangladesh%20paper.pdf. Indicators for the survey include the types of gender based violence experienced and age of the respondents but did not collect data on ethnicity, socio-economic status, etc.,

⁹ See *Concluding observations of the Committee on the Elimination of Discrimination against Women*, CEDAW/C/BGD/CO/7, 4 February 2011, p 8

¹⁰ Chittagong Hill Tracts Commission, *“Marginalization and Impunity: Violence against Women and Girls in the Chittagong Hill Tracts”*, May 2014 available at: http://www.iwgia.org/iwgia_files_publications_files/0679_CHT_violence_against_omen_Study_2014eb.pdf

¹¹ International Council for the Indigenous Peoples of CHT, *A submission on Jumma indigenous rural women of the Chittagong Hill Tracts (CHT), Bangladesh, regarding General Discussion on Rural Women, under Article 14 of CEDAW, to the United Nations Committee on the Elimination of Discrimination against Women*, October 2013, available at:

http://www.ohchr.org/Documents/HRBodies/CEDAW/RuralWomen/InternationalCouncilfortheIndigenousPeoplesofCHT_ICIP-CHT.pdf

¹² International Work Group for Indigenous Affairs, *“Militarization in the Chittagong Hill Tracts, Bangladesh: The Slow Demise of the Region’s Indigenous Peoples”*, May 2012, p 12, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_Igia_report_14_optimized.pdf

¹³ See *Permanent Forum on Indigenous issues, Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997*, Submitted by the Special Rapporteur, E/C.19/2011/6 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/238/79/PDF/N1123879.pdf?OpenElement>

¹⁴ Amnesty International Research Mission February 2012, Chittagong Hill Tracts, Bangladesh.

¹⁵ Rashida Manjoo, *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum, Mission to Bangladesh (20–29 May 2013)*, 1 April 2014, A/HRC/26/38/Add.2

¹⁶ Kapaeeng Foundation, *“Violence spread over Sabita Chakma’s killing in Khagrachari, protest continues demanding justice for Sabita Chakma”*, available at: http://dtp.unsw.edu.au/sites/default/files/John%20Tripura_0.pdf

1.2 IMPUNITY

Indigenous women and girls face multiple barriers when attempting to seek justice for crimes committed against them, often leading to impunity for the perpetrators. According to a study commissioned by the Chittagong Hill Tracts Commission, 'impunity has been the single most crucial factor contributing to increasing incidents of sexual and gender-based violence in the Chittagong Hill Tracts'.¹⁷ A Right to Information Request to the Home Ministry by the organization Bangladesh Legal Aid and Service Trust (BLAST) about violence against women in the Chittagong Hill Tracts showed that between January 2010 and December 2011, judgements were delivered in only nine cases of sexual and gender-based violence. Yet, a study commissioned by the Chittagong Hill Tracts Commission recorded 215 cases of sexual and gender-based violence during that same time period.¹⁸ By May 2014 not a single conviction had taken place in any of these cases - demonstrating the high levels of impunity for crimes of sexual and gender-based violence against Indigenous women in the Chittagong Hill Tracts.¹⁹

Impunity for perpetrators of sexual and gender-based violence manifests in different ways in the Chittagong Hill Tracts. In many instances, accessing justice for survivors is a lengthy, difficult and expensive process. Survivors of sexual and gender-based violence and their families face administrative delays, complex court procedures, inadequate legal aid support centres, and a lack of financial capacity to complete court proceedings.²⁰ For example, in 2012, an 11-year-old Indigenous girl named Sujata Chakma was allegedly raped and killed by a Bengali settler. The perpetrator had previously been arrested for raping her 13-year-old cousin. The perpetrator committed the crime against Sujata after he was released on bail eight months after his arrest for his previous crime. In another example, in January 2015, a 20-year-old Indigenous woman with a disability was allegedly raped in Khagrachari district. A case was filed and the perpetrator was caught and arrested by the police. However, following the arrest, the perpetrator was released on bail and the family decided not to pursue the case.

Indigenous women human rights defenders also told Amnesty International of local Bengali settlers uniting to protect other Bengalis accused of committing violence against Indigenous women and girls and putting intense pressure on the survivor and her family to settle.²¹ This results in pressure to 'settle' or 'compromise' a case by seeking arbitration outside the courts and often through accepting monetary compensation from the perpetrator. For example, in February 2014 a 14 year old Indigenous girl was allegedly raped by two Bengali settlers in Khagrachari district. Although she initially received help from a local group following the crime, the survivor's family did not want to file a case with the police because of the difficult and lengthy process that would follow. Following an arbitration that was carried out by a local group in the community, the perpetrator was fined 100,000 taka upon the condition that no case could be filed against him in the future.²² The authorities failed to pursue the case further once the family decided to use arbitration to settle.

The culture of impunity for crimes against Indigenous women in the Chittagong Hill Tracts is not a new phenomenon and in some cases it takes decades for an adequate and impartial investigation to be conducted. For example, Kalpana Chakma was the organizing secretary of the Hill Women's Federation, an organization that campaigns for the rights of Indigenous Peoples in the Chittagong Hill Tracts. At 23 years old, she was abducted from her home in Rangamati district on 12 June 1996. Kalpana Chakma has never been found. Her abductors were a group of plain-clothed security personnel believed to have been from the nearby Ugalchhari army camp. Kalpana Chakma and two of her brothers were forcibly taken from their home and blindfolded with their hands tied. The brothers managed to escape despite being shot at by security personnel. Her brothers identified the kidnappers but were not permitted by the Officer in Charge of Bagaichhari Police Station to write the names of the three accused kidnappers' in their case file. The case was filed on 12 June 1996 without mentioning the names of the accused individuals, and they were omitted from the investigation.

¹⁷ Chittagong Hill Tracts Commission, *"Marginalization and Impunity: Violence against Women and Girls in the Chittagong Hill Tracts"*, May 2014 available at:

http://www.iwgia.org/iwgia_files_publications_files/0679_CHT_violence_against_omen_Study_2014eb.pdf

¹⁸ See p 37, Table 2. Chittagong Hill Tracts Commission, *"Marginalization and Impunity: Violence against Women and Girls in the Chittagong Hill Tracts"*, May 2014 available at:

http://www.iwgia.org/iwgia_files_publications_files/0679_CHT_violence_against_omen_Study_2014eb.pdf

¹⁹ Chittagong Hill Tracts Commission, *"Marginalization and Impunity: Violence against Women and Girls in the Chittagong Hill Tracts"*, May 2014, p 37 available at: http://www.iwgia.org/iwgia_files_publications_files/0679_CHT_violence_against_omen_Study_2014eb.pdf

²⁰ Kapaeeng Foundation, *"Human Rights Report 2014 on Indigenous Peoples in Bangladesh"*, p 143.

²¹ Amnesty International Research Mission February 2012, Chittagong Hill Tracts, Bangladesh.

²² Amnesty International Interview with Chittagong Hill Tracts Activist, July 2016.

In 2013, a Court Order required the Police Superintendent of Rangmati District to file a new report on Kalpana Chakma's disappearance by March that year. Although the accused kidnappers identified by Kalpana Chakma's brothers have reportedly been interviewed, there have been numerous delays with the investigation and a new report has still not been filed.²³

1.3 HARASSMENT OF INDIGENOUS WOMEN HUMAN RIGHTS DEFENDERS WORKING ON SEXUAL AND GENDER-BASED VIOLENCE

Indigenous women human rights defenders told Amnesty International that when they try to follow up on allegations of sexual and gender-based violence of Indigenous women by Bengali settlers, they are sometimes prevented by the authorities from doing so. One woman told us, "When we go to the field we face lots of challenges. We are not allowed to go to the spot where the incident happened. The administration or sometimes intelligence people or the army prevent us. The authorities always use the 'conflict card'. They say 'it isn't safe for you to go there' because of conflict between Indigenous peoples and settlers. They directly tell us – 'no you can't go there'.²⁴

Indigenous women human rights defenders also told Amnesty International of authorities or Bengali settlers putting pressure on survivors of sexual violence. "One thing that also happens, is when they [the authorities] find out someone has been raped in an area and they find out women activists are coming to speak to the victim, the army or local settler men go to the survivor and tell her what she can and cannot say to activists."²⁵

1.4 RECOMMENDATIONS

Amnesty International recommends the Government of Bangladesh to:

- Urgently investigate the extent of sexual and gender-based violence against Indigenous women and girls in the Chittagong Hill Tracts and the effectiveness of the justice system in addressing sexual and gender-based violence when it occurs;
- Ensure that full, impartial and independent investigations are conducted into all alleged cases of sexual and gender-based violence and that when perpetrators are identified, they are prosecuted in accordance with international human rights norms, without recourse to the death penalty;
- Ensure accurate, systematic and comprehensive gender disaggregated data collection and analysis measuring violence against women and girls in Bangladesh (including age, ethnicity, socio economic status, nature of the alleged crime and status of the police report);
- Ensure that survivors of sexual and gender-based violence, their relatives, and witnesses are protected from any form of intimidation or harassment;
- Develop and implement a programme guaranteeing access to health care, psychological assistance and other support for survivors of sexual and gender-based violence. Ensure the programme is developed with the involvement of the survivors and non-governmental and Indigenous Peoples' organizations that represent and/or work with them and that it includes measures designed to eliminate the stigma and discrimination experienced by survivors of sexual and gender based violence and gender stereotypes that contribute to violence against Indigenous women and girls.

²³, "Pushed to the Edge: Indigenous Rights Denied in Bangladesh's Chittagong Hill Tracts" (Index: ASA 13/005/2013), June 2013, p 16 available at: <https://www.amnesty.org/en/documents/ASA13/005/2013/en/>

²⁴ Amnesty International Research Mission February 2012, Chittagong Hill Tracts, Bangladesh.

²⁵ Amnesty International Research Mission February 2012, Chittagong Hill Tracts, Bangladesh.

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