

Bangladesh:

Sexual Violence in Chittagong Hill Tracts

Justice Delayed, Justice Denied: Sexual violence against indigenous women and girls in the Chittagong Hill Tracts and their access to justice

There have been no prosecutions of perpetrators of sexual violence against indigenous Jumma women and girls since the 2008 establishment of formal courts in the three hill districts of the Chittagong Hill Tracts (CHT).

Indigenous people make up half the population of the CHT. In the 1970s their calls for regional autonomy were rejected, and the government started a transmigration programme that settled 400,000 Bengali people in the CHT, displacing indigenous people from their land and aiming to assimilate them into Bengali society. Troops deployed to counter armed elements of the indigenous movement. 1/3 of the Bangladeshi army remains deployed in the CHT.

96% of perpetrators of sexual violence in the CHT are Bengali settlers. Of those, 10% are military personnel. There is provision for traditional courts to operate in the CHT, but they lack jurisdiction over criminal cases. All cases of sexual violence in formal courts have met significant barriers, and women lack access to justice.

Non-Implementation of the CHT Accord

On 2 December 1997, the PCJSS and the Awami League-led government of Bangladesh signed the CHT Accord. The Accord provides for preservation of status of CHT as tribal-dominated region, introduction of a governance system with a CHT Regional Council and three Hill District Councils, demilitarization, formation of a Land Commission, rehabilitation of India-returnee tribal refugees and internally displaced persons.

17 years later, all of these provisions are partially or unimplemented. The Bangladesh army remains deployed, and while a Land Commission was formed, land disputes remain unresolved. Some sexual violence cases directly relate to land disputes and military presence.

In 2008 the Awami League-led alliance pledged to implement the Accord fully. The government appointed chairpersons for various bodies as per the Accord, including an indigenous state minister for the CHT Affairs Ministry. 35 military camps were dismantled. A plan for further implementation has not been made.



Chittagong Hill Tracts Market

About the Research Programme

Kapaeeng Foundation led the feminist participatory action research for this brief, with Khagrapur Mahila Kalyan Samity, Ananya Kallayan Sangathon, Bangladesh Indigenous Women's Network, and Bangladesh Legal Aid and Services Trust. The study looks at cases from Jan 2007-July 2013 in Chittagong Hill Tracts.

This research is part of APWLD's FPAR Programme in 8 countries.

Case: Justice for Sujata Chakma

On 9 May 2012, Ms. Sujata Chakma, an 11-year-old Jumma girl, was killed with a machete allegedly after rape by a 32-year old Bengali settler named Ibrahim, who had raped Ms. Chakma's 13-year old cousin previously and was out on bail.

Ms. Chakma and her 5-year old nephew had been grazing cattle. Her nephew reported that a Bengali man forcibly took Ms. Chakma towards Sadachara. Upon arrival, the police recovered Ms. Chakma's body. They arrested Ibrahim within 24 hours. Ms. Chakma's cousin believes Ibrahim mistook Ms. Chakma for her sister, a witness of the previous rape incident.

Ms. Chakma's brother filed a First Information Report at the Longadu police station. He has had difficulty following the case to a final outcome because each time he has travelled from his remote area of Longadu to the court in Rangamati, he has arrived to find that the hearing has been cancelled or postponed. The family cannot afford further travel costs.

The police inspector believes Ms. Chakma was murdered but not raped.

Kapaeeng & APWLD Rural and Indigenous Women Claiming Rights: Bangladesh

Female, Indigenous Officials Needed

Victim of sexual violence: 'I did not feel comfortable at the court, because I was surrounded by Bengali men. Also, I did not understand the court language.'

A sexist police officer in Chittagong Hill Tracts: 'Indigenous men believe in a concept that only they have right to enjoy indigenous girls! Bengali people do not have any right on their girls!'

There are female constables at CHT district level police stations to assist with VAW cases but not at Upazila levels. The OC of Dighinala Thana believes that male policemen are capable of dealing with VAW cases and there is no need for female police officers.

Barriers to Indigenous Women Accessing Justice

Medical Certification: Doctors have refused to give indigenous women physical examinations or have delayed examination so that evidence disappears. Under national legislation, disciplinary action and action for negligence may be taken if medical officers do not 'very quickly' perform medical examinations, furnish a medical report and inform the local police station. Ministry of Health circular 16 Nov 2002 states that a copy of the certificate must be given to the victim. This does not happen. Victims cannot check accuracy, and their lawyers do not see documents before they are sent to the court.

Police Reporting: Lawyers in CHT regularly report seeing deliberately falsified reports First Information Reports (FIR) prepared by Investigation Offices (IO) at police stations.

Language: Many indigenous victims cannot speak Bengali, which is used in courts.

Legal Aid, Follow Up, Protection: Poor people are not able to pay bribes during legal proceedings. NGOs struggle to offer legal aid. There is no formal body that follows up on cases. Sanctuary protection is not given to victims' family members or persons who file cases.

Weakened Definition of Rape: Section 375 of *The Penal Code 1860* defines rape as: *...sexual intercourse with a woman under circumstances...:*

- against her will;
- without her consent;
- with her consent, when [she] fears death/ injury;
- with her consent, when... she believes that he is

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A chart at Khagrachari Sadar Police Station showing the number of cases filed under the Women and Children Repression Act

[her husband or other consensual partner];

- ...when she is under 14 years of age.
- Officials often disregard this definition and only associate rape with forceful penetration, leading to weak documentation in court.

Changes Required/Policy Recommendations

- **Implement the 1997 CHT Accord**, respecting traditional land rights of indigenous peoples, ensuring punishment VAW perpetrators, and providing constitutional recognition of the identity and integrity of indigenous peoples
- **Demilitarise CHT** as per the CHT Accord. While demilitarisation is in process, appoint indigenous officers to camps near indigenous villages
- **Increase presence of national-level legal aid** providers in the CHT
- **Form a robust monitoring group** to follow sexual violence cases
- **Increase indigenous and female representatives** in all levels of the justice system (public proctor, judge, court staff etc.) and CHT administration
- **Form a mixed police force in the CHT** (including different ethnic groups and women) at local and national levels
- **Provide translation** during judicial proceedings
- **Ensure punishment** of sexual violence perpetrators who are military personnel
- **Ensure correct medical procedures** for victims of violence