



Bir Bahadur Ushwe Sing MP, Minister
Ministry of the Chittagong Hill Tracts Affairs, Bangladesh
Secretariat Building, Dhaka 1000, Bangladesh

SUBJECT: PROTECT THE INDIGENOUS MRO PEOPLE FROM FORCED EVICTION

December 1st, 2020

Honorable Minister Sing,

With this letter we, the undersigned organisations, wish to express our concern and show our solidarity with the Indigenous Mro communities, who right now are facing eviction from their ancestral lands as well as other human rights violations.

Villagers of the Mro community face eviction threats from eight of their ancestral villages on the Chimbuk Range in Bandarban district in the Chittagong Hill District, Bangladesh due to the construction of a five-star hotel on their ancestral lands.

Officials of the Army Welfare Trust and a giant business entity (the Sikder Group-owned R&R Holdings Ltd.) have jointly encroached on their indigenous swidden farm-land, village forest, cremation grounds and other sacred sites, and different fruit orchards to construct the hotel and to use the adjacent lands for trekking, swimming, cable car rides and so forth.

It has come to our attention that on 12 September 2020 Bangladesh army and Sikdar group announced that the five-star Hotel will be built on the Chimbuk Range in a joint venture between the 24th Infantry Division of the Bangladesh Army, headquartered in Chittagong, the 69th Infantry Brigade, headquartered in Bandarban, the Army Welfare Trust and Sikder Group (R&R Holdings). The hotel building is to be accompanied by 12 separate luxury villas, a modern cable ride and a swimming pool.

Some of the villagers have already been evicted, while others are facing threats due to the construction of the hotel and associated structures and landscapes. 800-1000 Acres of their land will be adversely affected by this project. Members of the Mro and other Indigenous communities are afraid that the construction of the hotel will damage swidden lands, sacred sites, forests, water resources and biodiversity in the region.

Indigenous Mro People in Kapru Para, Dola Para, and Era Para will eventually be evicted while villagers in Markin Para, Long Baitong Para, Mensing Para, Riamanai Para and Menring Para are under threat of eviction if this hotel and related tourism project is put into operation.

The construction of the luxury hotel and related tourism facilities will effectively destroy the social, economic, traditional and cultural fabric of the Mro Indigenous people and its community. Mro villagers have no other way to survive without this land, moreover, this displacement and eviction will bring a destruction in the history of the Mro Indigenous Peoples civilization.



The construction of a five-star hotel and setting up of related tourism facilities under these circumstances would violate the Bangladeshi authorities' responsibility and commitment as per national and international law, to protect and promote the rights of the Indigenous Peoples. Rather the Government should provide the Indigenous community with the necessary support to realize their own self-determined development.

The project violates the Constitution of the Republic of Bangladesh, provisions of the CHT Regulations 1900 (reiterated to be valid and constitutional by the Appellate Division of the Supreme Court on November 22, 2016), CHT Regional Council Act 1998, Bandarban Hill Council Act 1989 (amended in 1998), Chittagong Hill Tracts Land Commission Act 2001 (amended 2016), and many established protocols and traditions, customs, practices, usages and conventions recognized under the aforesaid laws.

Article 18A of the Constitution of Bangladesh commits the state "to protect and improve the environment and to preserve and safeguard the natural resources, bio-diversity, wetlands, forests and wild-life for the present and future citizens." Article 23 obliges the state "to adopt measures to conserve the cultural traditions and heritage of the people," while Article 23A obligates the state "to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities."

Section 64 of the Bandarban Hill District Council Act 1989 precludes the BHDC authorities from allowing the transfer of lands without its prior consent. This prerogative of providing or withholding consent is a fiduciary duty vested upon the council by law. If in the process of exercise such prerogative and power the Council acts in its own interest and to the detriment of the interest of the districts' inhabitants – in this case the Mro communities on the Chimbuk-Thanchi Road –it amounts to a breach of trust and a violation of the Principle of Natural Justice as recognised under Bangladeshi law.

In addition, transferring ownership of land to other parties, particularly non-resident plains people without following due procedures (due process), including the expressed consent of the people and recommendation of the concerned *mauza* headmen is also a violation of Rule 34(13) of the Chittagong Hill Tracts Regulation 1900 and customs, practices, conventions and usages recognized under the Regulation and other laws, orders and directives applicable to Bandarban district and the other two districts in the Chittagong Hill Tracts region.

Therefore, any arrangement drawn by parties in breach of the aforesaid statutory and customary laws, practices and usages makes the instrument void under the law. This project has not been taken in consultation with the highest authority of the CHT region which is a violation of the CHT Regional Council Act 1998 and the CHT Accord.

Under the CHT Land Commission Act, the Commission is solely responsible for adjudicating on land disputes. Thus far, the failure of the government to frame Rules to supplement the Act, as advised by the CHT Regionaal Council, has precluded the Commission from functioning effectively. The project also violates the 1997 CHT agreement, the CHT Regional Council Act and the Bandarban Hill District Council Act which recognizes Bandarban Hill District as a Tribal Inhabited Area.



Honourable Minister,

We would like to remind you that the government of Bangladesh has committed to the United Nations General Assembly in 2014 and 2018¹, to uphold the fundamental principles enshrined in the Constitution, the Universal Declaration of Human Rights and international human rights instruments to which it is a party.

Further, Bangladesh Government has committed itself to good governance, democracy, rule of law, and promotion and protection of all human rights and fundamental freedoms for all citizens. Therefore, this project on the Mro Indigenous People's land is a gross human rights violation and a violation of the Bangladesh Government's commitment at international forums, including to the UN General Assembly and the Human Rights Council.

We reiterate that Article 11 of the Indigenous and Tribal Populations Convention, 1957 of the ILO (C-107) obliges the state to recognise the "right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy." Bangladesh ratified the convention in 1972.

Moreover, another gaping hole of the lease transfer mechanism is its failure to secure the Free, Prior and Informed Consent (FPIC) of the Mro people impacted by the project – as enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which Bangladesh has an obligation to respect as a Member State of the United Nations.

The UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) asserts that it is the duty of the state to obtain FPIC of indigenous peoples to effectively determine the outcome of decision-making that affects them. FPIC is a standard protected by international human rights law and the Government of Bangladesh is obliged to respect this legal principles as a member of the UN.

The indigenous communities of the area were not informed, and definitely no FPIC was given by the community for this "development" on their land. As members of an indigenous people, they are protected by a number of national and international laws, regulations, protocols, declarations and customs.

On October 8, they appealed for redress to the highest executive of the state through the Deputy Commissioner, so far without success. This has revealed gross human rights violations of the Mro Indigenous People, including their civil, political, economic, social and cultural rights under international law. Moreover, this act or omission of the Bangladesh Government is also a violation of the human rights and fundamental freedoms applicable to the Mro Indigenous Peoples as citizens of Bangladesh under the Constitution of Bangladesh.

Harassment and intimidation

The Mro community who organized protests against the project claim that they have been subjected to threats and intimidation. Peacefully contesting the construction has been relegated to a 'terrorist

¹A/69/393 and A/73/90.



activity' and the organizing of such activities subjects the actors to the risk of being killed, or tortured or to be put in jail or otherwise detained.

On November 8, 2020, the community however did organise a human chain and rally at the Chimbuk range. The unique protest was a cultural showdown. Community members of all ages from 16 villagers have participated in the event.

Following their unique demonstration, Mro villagers claim that they have been forced by army personnel to join a staged human chain protest against this Mro peoples movement on 16 November in Bandarban town. 2 community members were forced to read statements during this fake and staged protest, but after telling this to the press, they have been facing threats to their lives.

The presence of army personnel and security and intelligence agencies' spies has increased exponentially in the past two weeks in the villages of student leaders and human rights defenders. The community members are questioned by army personnel, who want information on the whereabouts of the youth, who are organizing the protests. They are now in hiding fearing for their lives. The villagers are harassed over phone or in person. They are ordered to show up in army camps, where they are made to wait for hours, whereafter they are physically and mentally humiliated and tortured for another few hours.

The army has publicly threatened community members of killing indiscriminately with brushfire if they plan or stage any protest or demonstration in the future.

We therefore urge your government to:

- Immediately abandon the construction of the luxury hotel on the Chimbuk-Thanchi route, and ensure that any further construction or establishment on the Mro and other Indigenous land respects the free prior and informed consent of the peoples and communities;
- Protect and develop the lives and livelihood of the Indigenous peoples in line with Bangladesh's commitment in its Constitution and international human rights law.
- Immediately stop the harassment and intimidation of the activists of the Mro indigenous people's movement for peacefully protesting against the project
- Conduct an investigation by an independent Commission of Inquiry (into the sham protest as well as the illegal detainment of the peaceful movement)
- Establish a constructive dialogue with the indigenous Mro communities and their representative organisations regarding their concerns
- Declare a timeframe or roadmap for the speedy, proper and full implementation of the CHT Accord of 1997.

Yours sincerely,



ORGANISATIONS:

1. International Work Group on Indigenous Affairs (IWGIA), Denmark
2. Asia Indigenous Peoples' Pact (AIPP), Thailand
3. Indigenous Peoples Partnership (IPP), Myanmar
4. Indigenous Peoples Rights International (IPRI), Philippines
5. International Human Rights Network (RIDH), Switzerland/Belgium
6. Autodeterminación de los Pueblos Indígenas (FAPI), Paraguay
7. Project HEARD, The Netherlands
8. Cordillera Peoples Alliance (CPA), Philippines
9. National Indigenous Disabled Women Association Nepal (NIDWAN), Nepal
10. Minority Rights Group, UK
11. Center for Indigenous Peoples' Research and Development (CIPRED), Nepal
12. Coordinador de Litigio Internacional, Colombia
13. Project on Organizing, Development, Education and Research (PODER) – Mexico
14. ALTSEAN-Burma (Alternative ASEAN Network on Burma), Myanmar
15. Asia Indigenous Women's Network
16. Center for Development Programs in the Cordillera, Philippines
17. Survival International, UK
18. Spaces for change, Nigeria
19. FIAN international, Germany
20. Bangladesh Indigenous Women's Network (BIWN)
21. Indigenous Students Association, Jatiya Kabi Kazi Nazrul Islam University, Bangladesh
22. Indigenous Lawyers Association of India (ILAI), India
23. International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific), Malaysia
24. Equitable Cambodia, Cambodia
25. Al-Haq, Palestine
26. Bulgarian Gender Research Foundation, Bulgaria
27. Citizen News Service, India
28. Socialist Party, India
29. Chittagong Hill Tracts Student Council, Bangladesh
30. International Indigenous Peoples Movement for Self-Determination and Liberation (IPMSDL), Philippines
31. Papora Indigenous Development Association, Taiwan
32. Shimin Gaikou Centre, Japan
33. Covalima Youth Center, Timor-Leste
34. CSDM - Centre for Sustainable Development in Mountainous Areas VTIK - Vietnam Indigenous Knowledge Network, Vietnam
35. LHAHRDEV, Labour Health and Human Rights Development Centre, Moldova
36. FOCO/INPADE Instituto Para la Participación y el Desarrollo, Argentina
37. Asia Pacific Forum on Women Law and Development (APWLD), Thailand
38. Lokshakti Abhiyan, India
39. Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), Philippines
40. Development Alternatives International, UK
41. Tunisian Association For Democratic Women, Tunisia
42. Amnesty International
43. Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Nepal
44. KATRIBU, National Alliance of Indigenous Peoples in the Philippines.
45. Naga Women's Union, India



46. The Asia Young Indigenous Peoples Network, Philippines
47. Community Service Forum, Nepal
48. International Indian Treaty Council (IITC), USA
49. Housing and Land Rights Network – Habitat International Coalition, Cairo, Egypt
50. Article 19, USA
51. Bangladesh Indigenous Peoples’ Network on Biodiversity and Climate Change (BIPNet), Bangladesh
52. National Indigenous Women Forum (NIWF), Nepal
53. Thakali Women Association, Nepal
54. Karen Environmental and Social Action Network (KESAN), Myanmar
55. Center for Human Rights and Environment (CEDHA), USA
56. The Women’s Council Denmark
57. Housing and Land Rights Network, India
58. Promotion Of Indigenous and Nature Together (POINT), Myanmar
59. International Service for Human Rights (ISHR), Switzerland
60. People's Forum for Justice and Health, India
61. The Legal Resources Centre, South Africa
62. Center for support of indigenous peoples of the North (CSIPN), Russia
63. TARA-Ping Pu, Taiwan
64. Community Empowerment and Social Justice Network (CEMSOJ), Nepal
65. Jus Semper Global Alliance, USA
66. The Institute for Human Rights and Development in Africa, The Gambia
67. Centre for Human Rights and Development (CHRD), Mongolia
68. The Centre for Research and Advocacy, Manipur, India
69. the Latin America Office of Habitat International Coalition, Mexico
70. People's Health Movement - Gujarat
71. Forest Peoples’ Programme (FPP), UK
72. Narasha Community Development Group, Kenya
73. Indian Confederation of Indigenous and Tribal Peoples (ICITP), India
74. Chittagong Hill Tracts Indigenous Jumma Association (CHTIJAA), Australia
75. Naga Peoples Movement for Human Rights (NPMHR), India
76. National Indigenous Women’s Federation (NIWF), Nepal
77. Prafulla Samantara Lokshakti Abhiyan, India
78. Chin Human Rights Organisation (CHRO), Myanmar
79. National Federation of Indigenous Nationalities (NAFIN), Nepal
80. Community Service Forum (Cosef), Nepal
81. Association for Taiwan Indigenous Indigenous Peoples Policies (ATIPP), Taiwan
82. India Indigenous Peoples, India

INDIVIDUALS:

1. Michel Forst, former UN special rapporteur on human rights defenders (2014-2020)
2. Belkacem Lounes, Vice-President of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
3. Kirsten Carpenter, Member of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
4. Binota Moy Dhamai, Member of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)



IWGIA



5. Phoolman Chaudhary, Member of the UN Permanent Forum on Indigenous Issues (UNPFII)
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