

Research Monograph
On
***“Indigenous Rights in Bangladesh: Constitutional Promises
and Social Realities”***

This Thesis submitted in partial fulfillment of the requirements for the degree of
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In

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Letter of Transmittal

To

Muhammad Ali

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Dhaka, Bangladesh

Subject: Submission of Research Monograph

Dear Sir,

With due respect, I am pleased to submit my research monograph entitled “Indigenous Rights in Bangladesh: Constitutional Promises and Social Realities” as part of the requirements for the completion of my LL.M program at Sonargaon University.

This research monograph has been prepared with sincere effort, critical analysis, and scholarly engagement to explore the constitutional promises and social realities surrounding Indigenous rights in Bangladesh. I have endeavored to present both doctrinal and analytical perspectives, linking comparative insights with the Bangladeshi legal context.

I am deeply grateful for your guidance, encouragement, and valuable feedback throughout the preparation of this work. I trust that the thesis will meet your expectations and contribute meaningfully to academic discourse on constitutional law and human rights.

Thank you for your kind consideration.

Respectfully submitted,

Hla Hla ee Mogh

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Supervisor's Certificate

This is to certify that this research monograph entitled “**Indigenous Rights in Bangladesh: Constitutional Promises and Social Realities**” submitted by **Hla Hla ee Mogh**, LL.M Student, Department of Law, Sonargaon University (SU), Dhaka, has been carried out under my supervision.

I hereby affirm that this research work is original, and to the best of my knowledge, it has not been submitted, either in whole or in part, for the award of any degree or diploma at any other institution.

I further certify that this research monograph embodies the candidate's own work and has been completed in accordance with the academic requirements of Sonargaon University.

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Declaration

I hereby declare that this research monograph entitled “**Indigenous Rights in Bangladesh: Constitutional Promises** and Social Realities” is the result of my original research work carried out under the supervision of Muhammad Ali, Lecturer & Coordinator, Department of Law, Sonargaon University (SU), Dhaka.

This work has not been submitted, in whole or in part, for the award of any degree, diploma, or other academic qualification at any other institution. All sources of information and references used in the preparation of this research monograph have been duly acknowledged.

I affirm that the findings, interpretations, and conclusions presented herein are entirely my own, except where otherwise stated.

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With profound gratitude and humility, I extend my sincere appreciation to all who have guided and supported me in completing this research monograph entitled **“Indigenous Rights in Bangladesh: Constitutional Promises and Social Realities.”**

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Finally, I dedicate this work to all those striving for justice and equality in Bangladesh and beyond. May this research contribute, in a modest way, to the ongoing struggle for the realization of fundamental rights and human dignity.

Thank you,

Hla Hla ee Mogh

ABSRTACT

This paper examines the discrepancy between constitutional frameworks and the lived realities of marginalized ethnic communities in Bangladesh. It argues that the state's "terminological avoidance" specifically the refusal to recognize "Indigenous" status fosters systemic exclusion from development and participatory democracy while delegitimizing ancestral land claims. By prioritizing state-defined classifications over substantive rights, the current governance framework sidelines these populations from essential socio-economic entitlements. Marginalization is especially acute in the Chittagong Hill Tracts, where the failure to integrate customary law into the national legal landscape exacerbates social tensions and overlooks traditional knowledge systems. Ultimately, the study necessitates a re-evaluation of development paradigms to better align with the relational and spiritual land-based realities of these communities.

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Chapter 1

Introduction

1.1 Background:

(Indigenous peoples in Bangladesh (population, distribution, socio-cultural identity)).

Indigenous peoples in Bangladesh, often referred to as Adivasi or small ethnic groups, represent a diverse population estimated at 2–3 million individuals across the country. They are distributed in distinct geographic regions: the Chittagong Hill Tracts (CHT), home to communities such as the Chakma, Marma, Tripura, Mro, and Bawm; the northern plains (Dinajpur, Rajshahi, Rangpur), where groups like the Santal, Oraon, and Munda reside; and the Sylhet and Mymensingh regions, inhabited by the Khasi, Garo, and Hajong peoples.

Culturally, Indigenous communities maintain rich traditions in festivals, weaving, oral storytelling, and agricultural practices, which form integral parts of Bangladesh's pluralistic heritage. Linguistically, they speak more than 35 distinct languages, many of which are endangered due to the dominance of Bengali in education and administration. This linguistic marginalization contributes to the erosion of Indigenous identity and cultural continuity.

Socio-economically, Indigenous peoples face systemic challenges including land dispossession, forced displacement, and limited access to education and healthcare. Their cultural practices, such as the celebration of Indigenous New Year festivals (e.g., Biju, Baisabi), often lack state recognition, reflecting broader patterns of exclusion. Indigenous women, in particular, experience double marginalization, bearing the burden of agricultural labor while being disproportionately exposed to gender-based violence.

Despite their historical presence and contributions to national diversity, Indigenous peoples remain constitutionally under-recognized. The Bangladesh Constitution acknowledges cultural identity under Article 23A but avoids explicit recognition of Indigenous peoples, instead categorizing them as “tribal” or “minor ethnic groups.”

This terminological reluctance underscores the tension between constitutional promises of equality and the social realities of discrimination and marginalization. This terminological inconsistency effectively functions as a legal barrier to the full realization of rights, as the state frequently labels these populations as "tribal" or "Upojati" to minimize their claims to indigenous status and ancestral sovereignty¹ (S. Akter, 2020) (Chowdhury, 2024).²

1.2 Statement of the problem: Constitutional silence vs. lived realities:

While the state frames these communities as small ethnic minorities, the failure to adopt international standards such as UNDRIP-2007 or ILO Convention No. 169 perpetuates a legal void that hinders the protection of their fundamental rights (Roy, 2024)³. This legislative vacuum exacerbates the systemic dispossession of ancestral lands and the lack of recognition for customary tenure, effectively obstructing access to justice for communities residing in both the Chittagong Hill Tracts and the plains (Shaha, 2025).⁴ Furthermore, these communities encounter severe health disparities arising from entrenched institutional barriers and historical exclusion, which fundamentally compromise their socioeconomic well-being. In addition, the pervasive absence of indigenous languages within the formal education system creates significant barriers to comprehension, frequently resulting in lower academic achievement and elevated dropout rates among students ("Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice," 2024). Moreover, the imposition of land administration policies often clashes with traditional customary laws, creating a complex legal dichotomy that systematically undermines the security of Indigenous inheritance rights (Shaha B. &, 2025)⁵. Although the Constitution of

¹ Akter, S., Davies, K., Rich, J., & Inder, K. (2020). Barriers to accessing maternal health care services in the Chittagong Hill Tracts, Bangladesh: A qualitative descriptive study of Indigenous women's experiences. *PLoS ONE*, 15(8).

² Chowdhury, N. I., & Dave, R. (2024). Indigenous or Tribal People? Intersecting the Legal Regime of Tribes' Recognition in Bangladesh under the Focus of Historical Approach.

³ Roy, P. K., Das, P. K., & Das, C. (2024). A Critical Review on the Current Status of Human Rights in the Shed of International Law. *Advances in Media, Entertainment and the Arts (AMEA) Book Series*, 15–31.

⁴ Shaha, B. (2025). Land Rights of Aboriginal People in Bangladesh: A Legal Study. *International Journal of Research and Innovation in Social Science*, 9(10), 10159–10169.

⁵ Shaha, B., & Rahman, A. (2025). Inheritance for Aboriginal People: Bangladesh Perspective. *International Journal of Research and Innovation in Social Science*, 1486–1495.

Bangladesh guarantees equality before law and non-discrimination under Articles 27–29, it remains silent on the explicit recognition of Indigenous peoples. Instead of acknowledging them as Indigenous, the Constitution employs terms such as “tribal” or “minor ethnic groups,” thereby reducing their identity to cultural markers under Article 23A. This terminological avoidance reflects a deeper reluctance to recognize Indigenous peoples as rights-bearing communities entitled to collective land ownership, political autonomy, and self-determination.

In reality, this constitutional silence has translated into systemic marginalization and discrimination. Indigenous communities continue to experience land dispossession, often through state-backed settlement programs and development projects that disregard customary land tenure. The 1997 Chittagong Hill Tracts Peace Accord, which promised autonomy and land rights, remains only partially implemented, leaving unresolved disputes and perpetuating militarization in Indigenous territories. Furthermore, gender-based violence against Indigenous women, lack of mother-tongue education, and exclusion from political representation highlight the stark gap between constitutional promises and lived experiences.

This contradiction is further sharpened by Bangladesh’s international obligations. Despite being a party to treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), Bangladesh has not ratified ILO Convention 169 nor adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This selective engagement underscores a persistent reluctance to recognize Indigenous identity and rights, even as violence, discrimination, and cultural erosion continue.

Thus, the central problem lies in the disjuncture between constitutional guarantees of equality and the everyday realities of Indigenous peoples, where promises remain symbolic and unenforced. Bridging this gap requires constitutional recognition, genuine political will, institutional reform, and alignment with international human rights standards. Recent judicial shifts, however, hint at a gradual evolution, as seen when courts have moved beyond outdated classifications to acknowledge the distinct status of ethnic minorities (Sayeed, 2023)⁶. Specifically, the 2014 Wagachara Tea

⁶ Sayeed, M. A., & Aktar, L. (2023). Between a republican and a Bengalee state: Confronting exclusionary constitutionalism in Bangladesh. *Global Constitutionalism*, 12(3), 562–589.

Estate Ltd. case marked a notable departure from the state's traditional denial, as the Appellate Division explicitly recognized the existence of "indigenous peoples" within the Chittagong Hill Tracts. Such judicial recognition serves as a critical, albeit preliminary, step toward dismantling the state's longstanding exclusionary framework, which has historically relied on a majoritarian definition of national identity that refutes indigenous claims (Hoque, 2018)⁷.

1.3 Objectives & Research Questions:

The primary objective of this study is to critically examine the constitutional promises made to Indigenous peoples in Bangladesh and to juxtapose these legal guarantees with the prevailing social realities of discrimination, marginalization, and violence. While the Constitution theoretically guarantees major international rights and good governance, the actual state performance often creates a paradoxical legal landscape where these protections fail to prevent systemic human rights violations.

To achieve this primary aim, the study seeks to address the following specific objectives:

Analyze constitutional provisions relating to equality, non-discrimination, and cultural identity, with a particular focus on Articles 27–29 and 23A. This includes investigating the tension between the state's majoritarian notion of national identity and the ethnocentric interpretation of rights, as well as the impact of judicial shifts such as the Wagachara Tea Estate Ltd. case on the recognition of "Indigenous" status.

Evaluate the implementation and impact of the 1997 Chittagong Hill Tracts Peace Accord. This evaluation focuses on the extent to which promised autonomy and land rights have been realized, versus the persistent approach of non-recognition and the removal of the term "indigenous" from official discourse (Shah, 2023)⁸.

Investigate prevailing social realities, specifically focusing on land dispossession, gender-based violence, and political underrepresentation. This involves examining the

⁷ Hoque, R. (2018). Inclusive Constitutionalism and the Indigenous People of the Chittagong Hill Tracts in Bangladesh. In Oxford University Press eBooks (pp. 217–248). Oxford University Press.

⁸ Shah, A. R. (2023). The Un-peopling of Peoples: A Critical Study on the Justifiability of the Non-recognition of the Indigenous Peoples of the Chittagong Hill Tracts (pp. 372–404).

lack of recognition for customary land tenure, the institutional barriers leading to health and economic disparities, and the systemic challenges Indigenous women face in asserting inheritance rights.

Assess Bangladesh's compliance with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The study explores the gaps created by the non-ratification of UNDRIP and ILO 169 and the disconnection between treaty obligations and domestic state practices. (Oni, 2026a)⁹

Examine the nexus between linguistic marginalization and access to justice, specifically how the dominance of the Bengali language in the formal education and legal systems creates structural bottlenecks that prevent Indigenous communities from navigating legal processes with autonomy (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024; Karim, 2025) (Karim, 2026a)¹⁰. Propose evidence-based recommendations for constitutional reform, policy development, and institutional measures. These recommendations aim to bridge the gap between symbolic constitutional acknowledgment and substantive, enforceable protections, ensuring social justice and sustainable development for Indigenous communities (Kadir, 2024)¹¹. Addressing these objectives is imperative to mitigate the risk of socio-cultural ethnocide, as persistent state-led marginalization threatens the linguistic and traditional survival of the most vulnerable ethnic groups (Chaney, 2025)¹². Central to this analysis is the recognition that the current "habitus" of the state, deeply ingrained with political cultures that normalize exclusion, actively inhibits the pursuit of restorative justice. Consequently, policy reform must transcend mere rhetoric to address the structural barriers, such as the lack of interpretation services and the

⁹ Oni, A. B. (2026a). Human Rights in Bangladesh: An Evaluation of ICCPR and ICESCR Obligations and State Practices. Zenodo (CERN European Organization for Nuclear Research).

¹⁰ Karim, C. (2025). Justice Beyond Language: Ensuring Legal Access for Linguistic Minorities in the Chattogram Hill Tracts.

¹¹ Kadir, T., Sumartono, E., Dhahri, I., Lawra, R. D., & Budhiati, I. (2024). The Effectiveness of International Human Rights Law, National Legislation, and Judicial Systems in Protecting Minority Rights.

¹² Chaney, P., Sahoo, S., Punnoose, R., & Haneefa, M. (2025). Civil Society Organisations' Perspectives on the Contemporary Human Rights Situation of Indigenous Peoples in Bangladesh: A Critical Analysis. *International Journal on Minority and Group Rights*, 1–23.

absence of defined legal statuses for minorities, that perpetuate their exclusion from the judiciary (Karim C. , 2025).¹³

Based on the socio-legal tensions and objectives identified in the project "Indigenous Rights in Bangladesh: Constitutional Promises and Social Realities," the following Research Questions are:

- I. How does the "Equality Paradox" within Articles 27, 28, and 29 of the Bangladesh Constitution facilitate the systemic domestic exclusion of Indigenous populations while maintaining a theoretical framework of formal equality?
- II. To what extent does "terminological avoidance" in Article 23A function as a legal barrier to circumvent international obligations and delegitimize Indigenous claims to political autonomy and land sovereignty?
- III. What structural and political factors have contributed to the "institutional paralysis" and partial implementation of the 1997 Chittagong Hill Tracts Peace Accord?
- IV. How do colonial-era precedents of state land ownership and forest nationalization continue to inform contemporary "demographic engineering" and the systematic dispossession of Indigenous ancestral territories?
- V. In what ways do "masculinist militarism" and demographic engineering intersect to create situational motivators for gender-based violence against Indigenous women as a mechanism for territorial control?
- VI. How does linguistic marginalization within the formal education and judicial systems create structural bottlenecks that prevent Indigenous populations from exercising their right to access justice?

1.4 Scope & limitations:

The scope of this research is centered on the critical tension between constitutional promises and the social realities of Indigenous rights in Bangladesh, focusing specifically on the Chittagong Hill Tracts and selected plains Indigenous communities. This inquiry examines constitutional provisions related to equality, non-discrimination,

¹³Karim, C. (2025). Justice Beyond Language: Ensuring Legal Access for Linguistic Minorities in the Chattogram Hill Tracts.

and cultural identity—specifically Articles 27–29 and 23A—while analyzing judicial interpretations and the partial implementation of the 1997 CHT Peace Accord regarding autonomy, land rights, and regional governance. The investigation incorporates an analysis of pervasive social challenges, including land dispossession, gender-based violence, cultural erosion, and political exclusion, and evaluates domestic compliance with international frameworks such as the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Spanning from the adoption of the 1972 Constitution to developments occurring through 2025–26, the study utilizes colonial policies solely for historical context. Despite its breadth, the research is subject to several limitations; it is primarily doctrinal and analytical, utilizing constitutional texts, case law, and secondary socio-economic data from academic journals and human rights watchdogs rather than conducting empirical fieldwork or surveys (Oni, 2026a)¹⁴ (Kadir, 2024).¹⁵ Furthermore, the study relies on the selective use of landmark judicial decisions and focuses on major UN treaties significant to Bangladesh, without providing an exhaustive analysis of minor litigation, regional instruments, or the intricacies of internal policy negotiations. Furthermore, the research acknowledges the constraints inherent in its qualitative approach, which may not fully capture the granular, lived experiences of minority groups subject to institutional discrimination in employment and education. By contextualizing these systemic barriers within a socio-legal framework, the study critically evaluates how historical power dynamics and the lack of industrial infrastructure continue to exacerbate the marginalization of these communities. Moreover, the persistent ambiguity surrounding land tenure remains the most contentious obstacle to regional stability, as successive state policies have systematically alienated Indigenous populations from their ancestral territories (Hossain, 2015).¹⁶

¹⁴ Oni, A. B. (2026a). Human Rights in Bangladesh: An Evaluation of ICCPR and ICESCR Obligations and State Practices. Zenodo (CERN European Organization for Nuclear Research)

¹⁵ Kadir, T., Sumartono, E., Dhahri, I., Lawra, R. D., & Budhiati, I. (2024). The Effectiveness of International Human Rights Law, National Legislation, and Judicial Systems in Protecting Minority Rights.

¹⁶ Hossain, B. G. M. S., ndc, hdmc, & psc. (2015). CHITTAGONG HILL TRACTS (CHT) LAND ISSUE: CHALLENGES AND WAY AHEAD.

1.5 Methodology:

This study adopts a qualitative, doctrinal legal research design to critically evaluate the discrepancies between the constitutional protections afforded to Indigenous peoples in Bangladesh and their lived experiences. The research is primarily analytical and interpretive, utilizing a dual-pronged approach that combines a rigorous examination of legal texts with a thematic case study method.

1.5.1 Doctrinal Legal Analysis

The primary method involves a doctrinal analysis of the Constitution of the People's Republic of Bangladesh, with a specific focus on the implications of the 1972 founding text and the Fifteenth Amendment of 2011. This analysis prioritizes:

- Articles 27–29: Investigating the application of fundamental rights—equality before the law, non-discrimination, and equality of opportunity—and how these provisions interact with the state's “same yardstick” interpretive approach, which often fails to account for unique customary practices.
- Article 23A: Analyzing the legal status of the provision introduced in 2011, which designates ethnic groups as “tribes, minor races, ethnic sects, and communities.” The study examines the consequences of placing this provision within the non-justiciable Directive Principles of State Policy rather than as an enforceable fundamental right.

1.5.2 Case Study and Judicial Approach

The research employs a case study method to contextualize constitutional provisions within specific geographic and ethnic domains, contrasting the Chittagong Hill Tracts with plains-dwelling communities such as the Santals. This allows for a granular assessment of:

- CHT Dynamics and the 1997 Accord: Evaluating the implementation—and subsequent structural failures—of the 1997 Chittagong Hill Tracts Peace Accord regarding the promised devolution of land administration.
- Purposive Judicial Analysis: Conducting a purposive analysis of landmark judicial decisions, most notably *Wagachara Tea Estate Ltd. v. Muhammad Abu Taher*. This case is analyzed as a pivotal shift where the Appellate Division explicitly recognized the existence of "indigenous peoples" and the "special status" of the CHT, diverging from the state's traditional denial.

1.5.3 International Frameworks and Data Collection

The study evaluates Bangladesh's adherence to major international human rights frameworks, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Racial Discrimination. The methodology specifically assesses structural barriers to enforcement, such as Bangladesh's "dualist approach," which restricts the domestic enforceability of these commitments.

Secondary data is synthesized from academic journals and reports by human rights organizations such as the Kapaeeng Foundation (Indigenous Peoples' Human Rights Report, 2025) and the International Work Group for Indigenous Affairs. These sources provide essential empirical evidence on gender-based violence, land dispossession, and civil rights violations used to cross-reference national policy.

1.6 Literature Review:

The existing scholarship on Indigenous rights in Bangladesh synthesizes a profound "equality paradox," where formal legal guarantees are effectively neutralized by systemic domestic exclusion and a majoritarian nationalist narrative.

1.6.1 Exclusionary Constitutionalism and the "Genetic Defect"

Academic discourse identifies the founding moment of the 1972 Constitution as the origin of the state's exclusionary posture. Ridwanul Haque, Oni argues that the

refutation of Indigenous identity claims during the founding of the Republic created a "genetic defect" in the Constitution, rooted in a majoritarian "Bengalee" nationalism. This "positional dominance" has resulted in a national identity that delegitimizes alternative claims to place-based Indigenous identity. Subsequent amendments, specifically the 2011 Fifteenth Amendment, are viewed by scholars as a formalization of this exclusion. By classifying Indigenous communities as "tribes" or "ethnic sects" within Article 23A, the state maintains what is termed "inclusive exclusion," where cultural recognition is symbolic but lacks substantive, enforceable rights for land or autonomy.

1.6.2 The Equality Paradox and Lived Realities

A core theme in contemporary literature is the "Equality Paradox," defined as the disjuncture between abstract constitutional theory and lived social realities. Scholars like Sojol Ahmed and Bappi critique the judicial application of Article 27, noting that a "same yardstick" approach to equality fails to account for the fundamental differences in Indigenous cultural beliefs and customary land structures. By treating Indigenous groups and the Bengali majority as identical legal subjects, the formal legal system inadvertently facilitates the dispossession of ancestral lands under the guise of uniform legal application. Furthermore, the literature highlights the "double marginalization" of Indigenous women, whose experiences are shaped by intersectional oppression arising from both state-led militarization and patriarchal community structures.

1.6.3 The 1997 Peace Accord and Securitized Peace

The implementation of the 1997 Chittagong Hill Tracts Peace Accord is frequently characterized in scholarly critiques as an "unfinished journey". Research indicates that the Accord has failed to achieve stability due to its "top-down" nature and a lack of firm political commitment from the central government. This has led to a "securitized positioning" of the region, where militarization—through operations such as "Operation Uttaran"—is maintained and justified via counter-terrorism discourses that frame Indigenous activists as security threats. Consequently, institutions like the Land Dispute Resolution Commission remain "largely dysfunctional". The emergence of

"peace spoilers" and the ongoing demographic engineering through state-supported settler programs further fuel inter-communal friction and regional instability.

1.6.4 The Terminological Debate: "Indigenous" vs. "Tribal"

Scholars identify a deliberate strategy of "terminological avoidance" within official state discourse (Montaz, 2015). Shahed Montaz (Montaz, 2015) and Kawser Ahmed (Ahmed, 2010) argue that the state's rejection of the term "Indigenous" in favor of pejorative or restrictive labels like "tribes" or "minor races" is a calculated maneuver to circumvent the collective rights and legal obligations mandated by international frameworks such as UNDRIP and ILO Convention No. 169. This semantic distinction serves as a structural barrier to self-determination, allowing the state to maintain a "Bengali-centric" national character that marginalizes those seeking sovereignty over ancestral lands. Ultimately, this leaves Indigenous communities in a state of "unregulated minority rights," where international standards remain mere symbolic references rather than actionable domestic protections.

Chapter 2

Historical Background

2.1 Colonial Legacy and Dispossession

The contemporary landscape of Indigenous dispossession in Bangladesh is inextricably linked to the structural framework established during the British colonial era. The roots of Indigenous land issues are found in policies that prioritized revenue collection and settler interests over Indigenous customary rights (Ali, 2017)¹⁷ (Kibria, 2025)¹⁸. While

¹⁷ Ali, M. E., & Tsuchiya, T. (2002). Land Rights of the Indigenous People of the Chittagong Hill Tracts in Bangladesh.

¹⁸ Kibria, A., Rashid, M. A., & Hasan, Z. (2025). Land Dispossession, Climate Change, and its Impact on the Indigenous Peoples of the Chittagong Hill Tracts (CHT) in Bangladesh: A Decolonizing Perspective.

Indigenous communities historically maintained a symbiotic relationship with their territories through collective ownership and traditional management, colonial interventions systematically replaced these communal systems with state-centric legal and economic structures.

2.1.1 The Permanent Settlement and Revenue-Driven Dispossession

In the plains of Bengal, the Permanent Settlement Act of 1793 served as the primary mechanism for land alienation by granting zamindars (landlords) absolute ownership of land in exchange for fixed revenue. This act effectively delegitimized Indigenous customary tenure, transforming ancestral territories into taxable commodities. A significant historical manifestation of resistance to this encroachment was the Santal Rebellion of 1855–56 (the Hul), led by brothers Sido and Kanhu Murmu (Andersen, 2022)¹⁹. This uprising was a direct response to the oppressive forces of the zamindars and the colonial administration's disruption of ancestral land systems, as the Santal sought to reclaim their personal and community freedom from an aggressive economic order.

In the Chittagong Hill Tracts, colonial policy followed a distinct trajectory. Unlike the plains, where ownership was vested in landlords, the British administration in the CHT took the view that Indigenous peoples had "no actual concept of land ownership" and subsequently vested all land ownership in the state. This legal maneuver allowed the colonial state to manage the region as a "mediated administration" focused on revenue extraction from forest produce and trade. Furthermore, while the British monarchy ordered cadastral surveys across the subcontinent, the extremely uneven terrain of the Hill Tracts made such surveys impossible, leaving Indigenous land rights out of formal legal documentation and facilitating future claims of state ownership over "unoccupied" lands.

¹⁹ Andersen, P. B. (2022). The Santal Rebellion 1855–1856

2.1.2 Administrative Erosion and the Forest Act of 1927

While the Government of India Act of 1935 initially declared the CHT a "Totally Excluded Area," providing relative autonomy under traditional tribal chiefs, later colonial and post-colonial interventions systematically eroded these protections (Panday, 2015)²⁰. The shift from collective land ownership to individual land titles and taxation undermined traditional administrative structures like the mauza headman system (Maria Nursey-Bray, 2022)²¹. Traditionally, each mauza (revenue unit) was governed by a headman who controlled land distribution and supported villagers' access to resources, with the Village Common Forests serving as vital communal assets.

This traditional oversight was severely curtailed by the Forest Act of 1927, which provided the legislative support for the nationalization of forest (Ahammad, 2022).²² Under this act and subsequent policies, the British colonial government declared approximately one-fourth (350,000 ha) of the CHT land as Reserve Forests, denying the customary rights of Indigenous populations (Jashimuddin, 2012)²³. This centralization effectively abolished community claims to common property and bypassed traditional institutions, leaving VCFs without adequate legal safeguards against private alienation or detrimental resource exploitation.

2.1.3 Framework for Demographic Engineering

The strategies of colonial territorialization established a framework for what scholars identify as post-independence "demographic engineering" (Chakma, 2025)²⁴. This process involves the state seeking territorial control through "right-peopling" (the settlement of preferred populations to alter demographic balance) and "unpeopling" (the marginalization of existing inhabitants). This legacy was explicitly utilized in 1979 when the Government of Bangladesh amended Rule 34 of the CHT Manual, an act that

²⁰ Panday, P. K., & Jamil, I. (2015). Conflict in the Chittagong Hill Tracts of Bangladesh

²¹ Nursey-Bray, M., Palmer, R. B., Chischilly, A. M., Rist, P., & Yin, L. (2022). Old Ways for New Days.

²² Ahammad, R., Hossain, M. K., Sobhan, I., Hasan, R., Biswas, S. R., & Mukul, S. A. (2022). Social-ecological and institutional factors affecting forest and landscape restoration in the Chittagong Hill Tracts of Bangladesh

²³ Jashimuddin, M., & Inoue, M. (2012). Management of Village Common Forests in the Chittagong Hill Tracts of Bangladesh: Historical Background and Current Issues in Terms of Sustainability. *Open Journal of Forestry*, 2(3), 121–137.

²⁴ Chakma, B. (2025). Demographic engineering: Population resettlement in the ethnoterritory of the Chittagong Hill Tracts, Bangladesh

mirrored colonial-era bureaucratic interventions to facilitate the state-sponsored resettlement of hundreds of thousands of landless Bengali people into the CHT (Ali H. M., 2017)²⁵ (Koli, 2018)²⁶.

By utilizing colonial precedents of state land ownership and forest nationalization, the post-independence state has continued to frame Indigenous territories as "khas" (fallow) land available for settlement and "development" projects (Rosy, 2021)²⁷. This historical continuity of environmental and territorial dispossession remains the primary driver of the "vicious conflict" and ethnic tensions observed in the CHT and the northern plains today (Sajib, 2018)²⁸. Thus, colonial governance did not merely dispossess Indigenous peoples through isolated policies; it institutionalized a legal framework of exclusion that persists in post-independence Bangladesh. By embedding dispossession into tenancy laws, forest nationalization, and demographic engineering, the state continues to reproduce colonial hierarchies under the guise of development and modernization. This continuity underscores the symbolic nature of constitutional promises of equality, as Indigenous communities remain structurally marginalized within both law and practice.

2.2 Post-independence Constitutional Framework

Following the independence of Bangladesh in 1971, the state-building process was anchored in a narrative of monolithic Bengali homogeneity. The 1972 Constitution initially omitted any specific recognition of Indigenous identities, defining the national identity under a singular "Bengali" ethnic umbrella (Ashrafuzzaman, 2014)²⁹. This exclusion has been characterized by legal scholars as a "genetic defect" in the founding moment of the Republic, as it treated the distinct cultural, linguistic, and social

²⁵ Ali, H. M. A. (2017). Place and contested identity: portraying the role of the place in shaping common sociopolitical identity in the Chittagong Hill Tracts, Bangladesh.

²⁶ Koli, A., & Khan, Md. R. H. (2018). Can REDD+ Bring Equitable Benefit to the Marginalized Communities? Insights from Bangladesh.

²⁷ Rosy, S. Y. (2021). Development and Culture in the Context of Chittagong Hill Tracts (Cht), Bangladesh.

²⁸ Sajib, S. M. S. al, & Sohad, M. K. N. (2018). Contested Peace: The Chittagong Hill Tracts Peace Accord.

²⁹ Ashrafuzzaman, Md. (2014). The Tragedy of the Chittagong Hill Tracts in Bangladesh: Land Rights of Indigenous People.

variations of Indigenous peoples as negative benchmarks that kept them detached from mainstream society. This early constitutional erasure was reinforced by a state-sponsored "Be Bengali" narrative, where the political leadership explicitly encouraged Indigenous delegations to renounce their "idea of separate identity" and assimilate into the dominant national character (Roy P. K., 2015)³⁰ (Ali H. M., 2017)³¹

The constitutional landscape shifted significantly with the introduction of the Fifteenth Amendment in 2011, which inserted Article 23A. While this provision mandates the state to protect and develop the unique local culture and tradition of "tribes, minor races, ethnic sects, and communities," it remains a form of "inclusive exclusion". The amendment's restrictive terminology is a strategic form of "terminological avoidance," designed to circumvent the legal obligations and collective rights associated with the term "Indigenous" under international frameworks such as the UN Declaration on the Rights of Indigenous Peoples. Critically, Article 23A was placed within the Directive Principles of State Policy rather than among the Fundamental Rights, rendering it non-justiciable and "contra-judicative" in nature. This positioning offers only a "weak" symbolic recognition that fails to grant substantive rights to land ownership, regional autonomy, or self-determination (Montaz, 2015)³².

This framework of constitutional silence and semantic labeling translates into formidable practical legal barriers for Indigenous communities. In judicial proceedings, the state frequently denies the very existence of Indigenous rights, forcing these groups to bear an "exorbitant burden of proof" to validate their ancestral presence and histories before a legal system that remains fundamentally foreign to their lived realities. Furthermore, the lack of constitutional protection for ancestral territories has facilitated widespread dispossession. This is particularly evident in the Chittagong Hill Tracts, where the nationalization of forests—including nearly 350,000 ha declared as Reserve Forests—denied customary rights and bypassed traditional oversight mechanisms like the mauza headman system.

³⁰ Roy, P. K. (2025). Forest Policy and Sustainable Development of Indigenous Community.

³¹ Ali, H. M. A. (2017). Place and contested identity: portraying the role of the place in shaping common sociopolitical identity in the Chittagong Hill Tracts, Bangladesh.

³² Montaz, S. (2015). Indigenous Peoples of Bangladesh and Their Constitutional Rights.

The resulting institutionalized exclusion is compounded by overlapping jurisdictions between district administrations, the forest department, and traditional institutions, leaving communal assets like Village Common Forests without adequate legal safeguards against private alienation or state-led "development" projects. Ultimately, by subordinating unique ethnic identities to a state-sponsored national character, the post-independence constitutional framework has created a persistent "equality paradox," where symbolic cultural acknowledgement masks the ongoing reality of territorial displacement and the systemic denial of Indigenous agency (Uddin, 2025)³³.

Thus, the post-independence constitutional framework does not merely fail to recognize Indigenous peoples; it actively institutionalizes their marginalization. By embedding exclusion into constitutional text, judicial practice, and administrative structures, the state legitimizes dispossession while evading international obligations. This continuity underscores how symbolic recognition operates as a legal façade, masking the entrenched reality of structural inequality and territorial displacement.

2.3 Chittagong Hill Tracts conflict and Peace Accord (1997)

The conflict in the Chittagong Hill Tracts and the subsequent 1997 Peace Accord represent a pivotal struggle for indigenous rights and autonomy against a backdrop of state-led demographic and constitutional exclusion.

2.3.1 Historical Drivers of the Conflict

The roots of the CHT conflict are deeply embedded in the state-building process of post-independence Bangladesh, which was anchored in a narrative of monolithic Bengali homogeneity. The 1972 Constitution omitted any specific recognition of indigenous identities, framing the national identity under a singular "Bengali" ethnic umbrella—a move characterized by legal scholars as a "genetic defect" that detached indigenous peoples from mainstream society.

This constitutional silence facilitated systemic "demographic engineering," a process of gaining territorial control through "right-peopling" (settling preferred populations)

³³Uddin, Md. A. (2025). The Role of Indigenous Communities in Environmental Conservation in Bangladesh: A Legal Analysis. *Journal of Creative Writing*., 9(3), 75–88.

and "unpeopling" (marginalizing existing inhabitants). In 1979, the government amended Rule 34 of the CHT Manual to facilitate the state-sponsored resettlement of hundreds of thousands of landless Bengali people into the region. These programs resulted in widespread land dispossession, as communal lands used by indigenous people for generations were reclassified as "khas" (fallow) land available for settlement and "development". This influx of settlers created profound ethnic antagonism and fueled a protracted armed resistance led by the Parbatya Chattagram Jana Samhati Samiti.

2.3.2 The 1997 Peace Accord: Objectives and Provisions

Signed on December 2, 1997, the Peace Accord was intended to end decades of insurgency by establishing a legal framework for self-governance and land security (Partha, 2013)³⁴ (Chittagong Hill Tracts Accord, 1997; Partha, 2013). Key provisions of the Accord included:

- Special Regional Status: Recognition of the CHT as a "tribal-inhabited region" with a need to protect its distinct characteristics (Chittagong Hill Tracts Accord, 1997) (Government of Bangladesh & Parbatya Chattagram Jana Sanghati Samity. (1997, December 2). Agreement between the National Committee on Chittagong Hill Tracts constituted by the Government and the Parbatya Chattagram Jana Sanghati Samity (The Chittagong Hill, 1997).
- Governance Structure: The establishment of the CHT Regional Council and Hill District Councils to grant regional autonomy. Land administration was ostensibly devolved to these councils, stipulating that no land could be settled or transferred without their consent.
- Land Dispute Resolution Commission: The mandate to form a commission headed by a retired justice to resolve competing land claims between indigenous inhabitants and settlers.
- Security and Repatriation: Provisions for the withdrawal of military camps, the repatriation of tribal refugees from India, and the rehabilitation of internally

³⁴ Partha, R. S. (2013). Practice and Discourse of "Chittagong Hill Tracts Peace Accord 1997" in Bangladesh. Hiroshima University Academic Information Repository (Hiroshima University), 20(1), 1–11.

displaced people (Chittagong Hill Tracts Accord, 1997; Partha, 2020). (Partha, Life beyond the paradox, 2020)³⁵.

2.3.3 Evaluation of Implementation and Institutional Failure

Despite its promises, the Accord is widely regarded as an "unfinished journey" due to significant implementation gaps (Kakon, 2024)³⁶. Evaluative data indicates that after more than two decades, only 26 out of the 72 clauses have been enacted, as the government has failed to pass the necessary laws for the remainder (Rahman, 2018)³⁷.

This lack of political will has resulted in institutional paralysis:

- **Dysfunctional Land Reform:** The Land Dispute Resolution Commission remains "largely dysfunctional" due to jurisdictional ambiguity, a lack of clearly defined authority, and persistent mistrust between commission members and regional leaders.
- **Governance Failure:** The HDCs have been "appropriated for party politics," often run by ruling party loyalists rather than representative indigenous leaders, rendering them unable to function as intended.
- **Continued Militarization:** The commitment to withdraw military camps has been only partially implemented, with the region maintaining the highest density of security personnel in the country.

Ultimately, this "top-down" failure has created a vacuum that has fueled the re-emergence of militancy and fragmentation among ethnic groups. Without substantive land protection and genuine political autonomy, the Accord remains a symbolic document that masks the ongoing reality of territorial displacement and systemic exclusion (Baten, 2026)³⁸.

³⁵ Partha, R. S. (2020). Life beyond the paradox (pp. 143–162).

³⁶ Kakon, K. (2024). Cultural Survival and Rights: The Unfinished Journey of the Chittagong Hill Tracts Peace Accord.

³⁷ Rahman, A. U., Ali, M., & Kahn, S. (2018). The British Art of Colonialism in India: Subjugation and Division. Peace and Conflict Studies.

³⁸ Baten, M. A. (2026). From "Excluded Area" to securitized peace: positioning and repositioning of indigeneity in the Chittagong Hill Tracts, Bangladesh.

Thus, the 1997 Peace Accord, while symbolically significant, has functioned more as a containment strategy than a genuine framework for self-determination. By failing to embed constitutional authority, resolve land disputes, or demilitarize the region, the Accord reproduces colonial hierarchies under the guise of peace. This institutional paralysis underscores how state-led agreements can operate as legal façades, masking the entrenched reality of dispossession and structural inequality in the Chittagong Hill Tracts.

2.4 Evolution of Indigenous Rights Discourse

The discourse on Indigenous rights in Bangladesh has transitioned from colonial-era land-centric resistance toward a modern framework defined by constitutional debates and international human rights standards. This evolution is characterized by a persistent struggle to reconcile the state's majoritarian identity with the diverse ethnic and territorial claims of Indigenous populations (Jesmin, 2019)³⁹. While the early discourse was dominated by survivalist resistance against revenue-driven dispossession, contemporary advocacy is increasingly framed within a "paradoxical legal landscape" where formal accession to international treaties coexists with systemic domestic exclusion.

2.4.1 Colonial Legacy and the Roots of Resistance

Indigenous rights discourse in the region is historically rooted in resistance against colonial land policies that prioritized revenue extraction over customary tenure. The Santal Rebellion of 1855–56 (the Hul), led by brothers Sido and Kanhu Murmu, remains the foundational moment for land-centric resistance against colonial revenue-driven encroachment. The uprising was a direct response to the oppressive forces of the zamindars (landlords) and the colonial administration's disruption of ancestral land systems, as the Santal sought to reclaim community freedom from an aggressive economic order). Scholars frame this rebellion not merely as a peasant uprising but as an early demand for just, universal laws based on the principle of equality. This colonial-era focus on land and autonomy established a precedent for subsequent

³⁹ jesmin, aklima, Islam, E., Rahman, Md. A., & Haque, A. (2019a). Indigenous Rights Discourse in Bangladesh.

Indigenous movements, emphasizing that cultural survival is inextricably linked to territorial security.

2.4.2 Post-Independence Homogeneity and Constitutional Erasure

Following the independence of Bangladesh in 1971, the discourse was fundamentally altered by a new state-building narrative that emphasized Bengali homogeneity. The 1972 Constitution omitted any specific recognition of Indigenous identities, defining the national identity under a singular "Bengali" ethnic umbrella. This exclusion has been characterized as a "genetic defect" in the founding moment of the Republic, as it treated the distinct cultural and linguistic variations of Indigenous peoples as negative benchmarks that kept them detached from mainstream society. This early constitutional erasure was reinforced by a state-sponsored "Be Bengali" narrative, where political leadership explicitly encouraged Indigenous delegations to renounce their "idea of separate identity" and assimilate into the dominant national character.

2.4.3 Organized Movements and the 1997 Peace Accord

The failure of the state to recognize ethnic plurality catalyzed organized political movements, particularly in the Chittagong Hill Tracts. The emergence of the Parbatya Chattagram Jana Samhati Samiti, under the leadership of Manabendra Narayan Larma, shifted the discourse from passive resistance to an organized demand for regional autonomy (Almamun, 2019)⁴⁰. Larma's four-point demand included the recognition of Indigenous groups in the Constitution, the retention of the CHT Regulation 1900, and restrictions on Bengali settlement. This struggle culminated in the 1997 Chittagong Hill Tracts Peace Accord, a landmark document that recognized the CHT as a "tribal-inhabited region" and promised a legal framework for self-governance and land dispute resolution (Chittagong Hill Tracts Accord, 1997). While the Accord symbolized a move toward dialogue, its partial implementation has highlighted the persistent gap between legal promises and lived realities.

⁴⁰ Almamun, Z. (2019). DOES (DIS)TRUST PLAY ANY ROLE IN ETHNIC TENSION IN CHITTAGONG HILL TRACTS. ISU Red - Research and eData (Illinois State University).

2.4.4 International Human Rights Framework Compliance Gap and the

In the 21st century, the discourse has shifted toward human rights monitoring by civil society. Organizations such as the Kapaeeng Foundation play a critical role in documenting systemic discrimination, land dispossession, and a "culture of impunity" regarding violations against Indigenous peoples (Indigenous Peoples' Human Rights Report, 2025). Bangladesh's commitment to international human rights is formally anchored in its accession to core instruments: the International Convention on the Elimination of All Forms of Racial Discrimination (11 June 1979), the International Covenant on Economic, Social and Cultural Rights (5 October 1998), and the International Covenant on Civil and Political Rights (6 September 2000). However, a profound "compliance gap" exists due to the state's "dualist approach," where ratified treaties are not directly applicable in domestic courts without enabling legislation (Islam, 2022)⁴¹. Consequently, the state often employs "interpretive declarations" to limit the scope of minority rights and self-determination (B, 2024)⁴².

2.4.5 Article 23A and the Limits of Symbolic Recognition

The Fifteenth Amendment in 2011 introduced Article 23A, which acknowledges the state's responsibility to protect the culture of "tribes, minor races, ethnic sects, and communities". However, this provision is criticized for its strategic "terminological avoidance" of the term "Indigenous," a semantic shift designed to circumvent the legal obligations associated with Indigenous status under international law. Critics argue that because Article 23A is placed within the Directive Principles of State Policy rather than Fundamental Rights, it is non-justiciable and "contra-judicative" in nature. This provides only a "weak" symbolic recognition that fails to grant substantive rights to land, political autonomy, or self-determination.

⁴¹ Islam, M., Islam, M. T., Mia, Md. T., & Islam, Md. Z. (2022). The Application of International Laws in Bangladesh: A Critical Evaluation.

⁴² Gregg, B. (2024). Vitoria's cosmopolitan potential realized: Human nature and human rights via social construction, not natural law. *Deusto Journal of Human Rights*, 13, 149–182.

2.4.6 Contemporary Tensions and International Obligations

Contemporary discourse is defined by a contradiction between judicial recognition and executive denial. While the Appellate Division of the Supreme Court acknowledged the existence of "Indigenous peoples" in the 2014 Wagachara Tea Estate case, the government outwardly denied their existence during the 2016 Universal Periodic Review (Sayeed & Aktar, 2023; Shah, 2023). This tension is exacerbated by the state's refusal to ratify ILO Convention No. 169 or adopt the UN Declaration on the Rights of Indigenous Peoples, leaving communities in a state of "unregulated minority rights". Current indigeneity is increasingly reshaped through a "securitized peace" regime, where Indigenous claims to land and justice are reframed as threats to national unity and security.

Chapter 3

Constitutional Promises

3.1 Fundamental Rights (Articles 27, 28, and 29)

The constitutional framework of Bangladesh, specifically through Articles 27, 28, and 29, establishes a theoretical bedrock for equality and social justice. However, for Indigenous populations, these provisions create a "paradoxical legal landscape" where formal inclusion masks systemic domestic exclusion. This "Equality Paradox" arises from a fundamental disjuncture between abstract constitutional theory and the lived realities of marginalized ethnic groups.

Article 27 guarantees that all citizens are equal before the law, yet its application is hindered by the "same yardstick" problem. Judicial interpretations often employ a uniform standard that fails to account for the unique cultural beliefs and customary land structures of Indigenous peoples (Bappi, 2024)⁴³. By treating Indigenous groups and

⁴³ Bappi, S. A. (2024). The Imperative and Reality of Constitutional Recognition for Indigenous Land Rights in Bangladesh. DOAJ (DOAJ: Directory of Open Access Journals).

the Bengali majority as identical legal subjects, the state inadvertently facilitates inequality, often overlooking ancient laws of land ownership and justifying the dispossession of Indigenous territories under the guise of formal equality.

This exclusion is further nuanced in Article 28, which prohibits discrimination while allowing "special provisions" for the advancement of "backward sections." The state's strategic reliance on the terminology of "backwardness" rather than "indigenouness" is a calculated choice to avoid international legal obligations associated with "Indigenous peoples. This reflects a "genetic defect" in the constitution—a majoritarian "Bengalee" nationalism that creates a hierarchy of "inclusive exclusion". Consequently, affirmative action is often viewed as discretionary charity rather than the fulfillment of inherent collective rights.

Similarly, the protections offered under Article 29 regarding equality in public employment remain largely "cosmetic" (Raka, 2024)⁴⁴. Despite theoretical guarantees, Indigenous individuals face systemic barriers and discrimination in education and employment, exacerbated by the centralization of state power that sidelines marginalized citizenry. Ultimately, the silence of the constitution regarding explicit Indigenous identity and land rights allows for the persistence of internal colonialism. These fundamental rights fail to manifest for Indigenous groups because they remain detached from the substantive land and political autonomy necessary for their survival as distinct communities.

3.2 Directive Principles of State Policy and Article 23A

The Directive Principles of State Policy, enshrined in Articles 8–25 of the Constitution, constitute the ideological framework of the Republic, defining the fundamental objectives of governance centered on social justice, equality, and welfare. Grounded in the four pillars of nationalism, democracy, socialism, and secularism, these provisions mandate the state to ensure the provision of basic necessities—including food, clothing, shelter, education, and medical care—while actively promoting the participation of women and the protection of disadvantaged groups.

⁴⁴ Raka, I. A., & Rahman, M. A. (2024). ABUSES OF HUMAN RIGHTS AND VIOLENCE COMMITTED AGAINST ETHNIC AND RELIGIOUS MINORITIES IN BANGLADESH: AN ANALYSIS OF CONSTITUTIONAL PROVISIONS AND THEIR IMPLEMENTATION.

A critical legal distinction, however, exists: unlike fundamental rights, these principles are non-justiciable under Article 8, meaning they serve as moral and political commitments rather than court-enforced rights. While they are intended to guide the making of laws and the interpretation of the Constitution, their status as "principles" rather than "rights" creates a weak form of protection that is subject to political will and resource availability (Naznin, 2018)⁴⁵.

This weakness is most evident in the Fifteenth Amendment of 2011, which introduced Article 23A. The provision mandates the state to preserve the cultural heritage of "tribes, minor races, ethnic sects, and communities". While Article 23A provides symbolic recognition of cultural identity, its placement within the Directive Principles rather than the enforceable fundamental rights framework renders it aspirational rather than actionable. Moreover, the use of pejorative terminology—"tribes" and "minor races"—instead of the internationally recognized term "Indigenous peoples" reflects a deliberate avoidance of collective rights and international legal obligations.

Consequently, Article 23A offers cultural acknowledgment without addressing substantive rights such as land ownership, political autonomy, and self-determination. This terminological misalignment underscores a broader strategy of depoliticization, obscuring the inextricable connection between Indigenous communities and their ancestral habitats. State-led development projects frequently prioritize resource extraction over the spiritual and environmental stewardship practiced by these groups, while the intersection of customary law and national land policies leaves them vulnerable to dispossession. In practice, this exclusionary legal environment facilitates systematic land grabbing, functioning as an instrument of state-sanctioned coercion that disrupts traditional economic institutions and erodes cultural survival (Debnath, 2025)⁴⁶.

Thus, the Directive Principles and Article 23A together illustrate the paradox of constitutional promises: while they symbolically affirm diversity, their non-justiciable

⁴⁵ Naznin, S. M. A., & Alam, S. (2018). Judicial Remedies for Forced Slum Evictions in Bangladesh: An Analysis of the Structural Injunction. *Asian Journal of Law and Society*, 6(1), 99–129.

⁴⁶ Debnath, M. K. (2025). Land Grabbing: A Colonial Tool to Marginalize an Indigenous Rural Santal Community in Bangladesh. *Fourth World Journal*, 24(2), 53–76.

nature and terminological avoidance perpetuate constitutional silence, enabling patterns of internal colonialism that prioritize majoritarian homogeneity over substantive Indigenous rights (Ahmed, 2010)⁴⁷ (Shewly, 2026)⁴⁸.

3.3 Judicial Interpretation and Case Law

Judicial interpretation has played a pivotal role in expanding the scope of fundamental rights in Bangladesh, often bridging the gap between formal constitutional text and complex social realities. The Supreme Court of Bangladesh has transitioned from a traditional, minimalist approach toward a "purposive interpretation," reading fundamental rights broadly to ensure justice, equity, and the promotion of a welfare state (Zaman, 2025)⁴⁹. This judicial activism has transformed abstract constitutional guarantees into enforceable mechanisms for public interest, yet this progress remains uneven, characterized by a "selective application" when addressing the specific grievances of Indigenous populations.

3.3.1 The Expansion of Rights through Purposive Interpretation

The foundational shift in Bangladeshi jurisprudence is most evident in the liberalization of locus standi. In the landmark case of *Dr. Mohiuddin Farooque v. Bangladesh*, the Appellate Division expanded the right to sue, allowing individuals or organizations to bring "Public Interest Litigation" even if they are not personally aggrieved. This decision broke from colonial procedural constraints, enabling the judiciary to address collective rights and the grievances of "downtrodden" sections of society who are otherwise unable to access the court.

Following this procedural opening, the judiciary utilized Article 32—which protects the "right to life"—to encompass substantive social rights. In *BELA v. Bangladesh*, the

⁴⁷ Ahmed, K. (2010). Defining "Indigenous" in Bangladesh: International Law in Domestic Context. *International Journal on Minority and Group Rights*, 17(1), 47-73

⁴⁸Shewly, H. J. (2026). Internal Colonial Nationalism and Indigenous Resistance.

⁴⁹ Zaman, M. A. (2025). Liberalizing 'Locus standi' in the Mohiuddin Farooque Case: Whether a De-novo Constitutional Transplantation or a Doctrinal Evolution. *Legal Research & Analysis*., 3(2).

Supreme Court recognized that the right to a healthy environment is implicit within the right to life. The court reasoned that Articles 31 and 32 encompass the protection of the ecological balance, sanitation, and freedom from pollution, as life "can hardly be enjoyed" without these environmental safeguards (Abdulkadir, 2023)⁵⁰. Similarly, in *BLAST v. Bangladesh*, the High Court Division declared corporal punishment in educational institutions unconstitutional. Interpreting the prohibition of "cruel, inhuman or degrading punishment or treatment" under Article 35, the Court reinforced the principle of human dignity, ruling that children must not be subjected to physical violence under the guise of school discipline. These cases demonstrate a judiciary willing to engage in "jurisprudential creativity" to protect vulnerable groups from state and non-state abuses.

3.3.2 Selective Reluctance: Indigenous Land and Autonomy

Despite the activism seen in environmental and civil rights, the judiciary has displayed significant reluctance when confronted with the collective rights of Indigenous peoples, particularly regarding land dispossession and political autonomy. While the 2014 *Wagachara Tea Estate Ltd. v. Muhammad Abu Taher* case marked a rare exception, the Appellate Division explicitly recognized the existence of "Indigenous peoples" and affirmed their "special status" within the Chittagong Hill Tracts. The Court reasoned that constitutional equality must be interpreted in light of historical marginalization, rejecting a rigid "same yardstick" approach and acknowledging that Indigenous identity and land tenure are integral to justice and welfare. This purposive reasoning demonstrated that judicial creativity could extend beyond environmental and civil rights to encompass collective autonomy. However, despite its promise, *Wagachara* remains an isolated instance, with little subsequent jurisprudential development to institutionalize its principles. The absence of follow-up cases or enforcement mechanisms underscores the judiciary's selective reluctance: while capable of recognizing Indigenous rights in theory, it has failed to translate this recognition into a consistent protective framework.

⁵⁰ Abdulkadir, A. B. (2023). Upholding the Right to Healthy Environment through Judicial Interpretation of the Right to Life. *Pancasila and Law Review*, 4(1), 67–84.

In most instances, the judiciary has maintained a formalistic adherence to majoritarian interpretations that prioritize state sovereignty over ancestral claims (Arora, 2025)⁵¹. Historically, the courts have even characterized specialized regional regulations, such as the CHT Regulation 1900, as "dead law" or "unconstitutional" when they conflicted with state-centric legislative priorities. This judicial hesitation is compounded by the "exorbitant burden" of proof placed on Indigenous communities; they are often required to produce exhaustive evidentiary proof of their ancestral presence and customary tenure before a legal system that is fundamentally "foreign to them".

3.3.3 The Gap between Text and Lived Reality

This selective application underscores the limitations of judicial interpretation in a landscape of "constitutional silence." The failure of the state to ratify international standards like UNDRIP-2007 or ILO Convention 169 creates a legal vacuum that the courts have been hesitant to fill through decolonial praxis. Consequently, while PIL has been a "viable avenue towards social and constitutional justice" for environmental and civil issues, it has largely failed to resolve the "apparent stalemate" of the CHT Land Commission or the systemic alienation of Indigenous groups from their territories (Hoque, Taking justice seriously: judicial public interest and constitutional activism in Bangladesh. , 2006)⁵² (Hussain, 2015)⁵³. Ultimately, the judicial role in Bangladesh remains a paradox: it is an engine for rights expansion that simultaneously reinforces the "ontological subjugation" of Indigenous peoples by failing to dismantle the exclusionary "habitus" of the postcolonial legal framework.

3.4 Comparative Insights: India and Nepal

The evolution of Indigenous rights in South Asia reveals a stark divergence in constitutional strategies, contrasting Bangladesh's symbolic cultural recognition with the substantive governance models of India and Nepal. While Bangladesh relies on

⁵¹ Arora, N., & Kalra, D. (2025). Bridging the Gap: The Indian Constitution and the Unfinished Promise of Adivasi Rights.

⁵² Hoque, R. (2006). Taking justice seriously: judicial public interest and constitutional activism in Bangladesh. *Contemporary South Asia*, 15(4), 399–422.

⁵³ Hussain, S., Ruano, A. L., Rahman, A., Rashid, S. F., & Hill, P. (2015). From knowing our needs to enacting change: findings from community consultations with indigenous communities in Bangladesh. *International Journal for Equity in Health*, 14(1), 126–126.

Article 23A’s limited cultural protection, its neighbors have codified mechanisms for self-rule and land justice that challenge postcolonial homogenization.

3.4.1 India’s Fifth and Sixth Schedules

India’s Constitution provides a bifurcated model of autonomy under Article 244. The Fifth Schedule governs “Scheduled Areas” through Tribes Advisory Councils and gubernatorial powers to safeguard tribal land (Xaxa, 2025)⁵⁴. More significantly, the Sixth Schedule establishes Autonomous District Councils in Northeast India with legislative, executive, and judicial authority over forests, inheritance, marriage, and social customs. This framework moves beyond cultural symbolism toward substantive recognition of Indigenous political agency, even as implementation gaps persist.

3.4.2 Nepal’s Recognition and International Alignment

Nepal’s 2015 Constitution explicitly recognizes Adivasi Janajati, guaranteeing dignity, identity, and protection of traditional knowledge (Shakya, 140–150)⁵⁵. Crucially, Nepal ratified ILO Convention No. 169, the only Asian state to do so, providing Indigenous communities with a legal basis to demand free, prior, and informed consent for development projects (Malcolm Langford, 2011)⁵⁶. Though enforcement remains contested, this alignment with international standards offers a substantive tool absent in Bangladesh.

3.4.3 Symbolic vs. Substantive Frameworks

Compared to India’s autonomous councils and Nepal’s international commitments, Bangladesh’s Article 23A remains confined to symbolic recognition within the non-justiciable Directive Principles. Terminological avoidance—using “tribes” or “minor races” instead of “Indigenous peoples”—further entrenches exclusion, denying collective rights to land and autonomy. This constitutional silence sustains dispossession and marginalization, leaving Indigenous groups vulnerable to systemic exclusion while regional neighbors move toward substantive decolonial governance.

⁵⁴ Xaxa, A. (2025). Public Law and Social Exclusion of Indigenous People in the Fifth Schedule Areas of India. *Economic and Political Weekly/Economic & Political Weekly*, 60(39).

⁵⁵ Shakya, P. (2024). Indigenous Struggles for Development Justice in Nepal (pp. 140–150).

⁵⁶ Langford, M., & Jones, P. S. (2011). Between Demos and Ethnos: The Nepal Constitution and Indigenous Rights. *International Journal on Minority and Group Rights*, 18(3), 369–386.

Chapter 4

Social Realities

4.1 Land Dispossession and Resource Conflicts

Land remains the central axis of Indigenous struggles in Bangladesh, serving as the foundation for economic security, cultural identity, and political autonomy. However, the lived reality in the Chittagong Hill Tracts reveals a profound disconnect between constitutional guarantees of equality and the systematic marginalization of Indigenous communities. The genesis of contemporary dispossession is rooted in state-led settlement programs initiated in the late 1970s, which incentivized the migration of Bengali settlers into the CHT to alter its demographic composition. These programs employed "deadly means" to displace Indigenous peoples from their ancestral territories, often utilizing the military to facilitate land confiscation for migrant use.

This process has led to the systemic erosion of customary tenure systems. Historically, CHT inhabitants utilized traditional collective ownership principles, but state interventions have replaced these communal practices with individual land titles and taxation, undermining traditional administrative structures and the spiritual relationship Indigenous peoples maintain with their land. The expansion of commercial ventures, including rubber and fruit plantations, logging, and large-scale tourism projects, has further intensified this dispossession (Rasul, 2007)⁵⁷. Such projects frequently commercialize Indigenous culture while simultaneously exploiting Indigenous lands, leaving communities vulnerable to forced migration and livelihood loss.

⁵⁷ Rasul, G. (2007). Political ecology of the degradation of forest commons in the Chittagong Hill Tracts of Bangladesh.

Furthermore, resource conflicts over forests, water, and minerals have escalated as the state prioritizes resource extraction over Indigenous survival (Datta, 2019)⁵⁸. Jurisdictional overlaps between the Forest Department and traditional institutions over reserved forests often abolish community claims to common property, such as Village Common Forests. Although the 1997 Peace Accord established a framework for stability, the resulting Land Commission has remained "largely dysfunctional". Bureaucratic failures, a lack of clearly defined authority, and persistent mistrust between the commission's chairmanship and regional leaders have left land disputes in an apparent stalemate. This institutional inertia ensures that ancestral land rights remain unrecognized, perpetuating a cycle of insecurity that threatens the very survival of Indigenous identities within a majoritarian national framework.

4.2 Education, Language, and Cultural Rights

Education and linguistic autonomy represent a critical frontier in the struggle for Indigenous rights in Bangladesh, where the disconnection between constitutional theory and social reality is particularly stark. Despite the theoretical guarantees of equality and non-discrimination under Articles 27–29, the state-sponsored curriculum remains deeply assimilationist, frequently omitting Indigenous histories and mother-tongue instruction from mainstream education. This systemic exclusion creates a profound linguistic divide; while the majority of Indigenous students in regions like the Chittagong Hill Tracts speak vernacular languages, the absolute dominance of Bangla as the primary medium of instruction creates substantial barriers to comprehension and engagement (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024). As a result, Indigenous students often experience lower academic performance and significantly higher dropout rates, which facilitates a cycle of marginalization and educational alienation (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024; Karmaker, 2025).

The state's failure to provide culturally relevant education is often framed as a violation of "Linguistic Human Rights", which are essential for the preservation of Indigenous

⁵⁸ Datta, R. (2019). Implementation of Indigenous environmental heritage rights: an experience with Laitu Khyeng Indigenous community, Chittagong Hill Tracts, Bangladesh. *AlterNative An International Journal of Indigenous Peoples*, 15(4), 309–320.

identity and heritage (Hannan, 2025)⁵⁹. This institutional neglect is exacerbated by a lack of trained teachers and indigenous-language textbooks, which effectively prevents these languages from being utilized in public life or academic endeavors (Karmaker, 2025)⁶⁰. Furthermore, this language barrier creates structural bottlenecks that extend beyond the classroom into the judiciary; the pervasive absence of Indigenous languages and interpreters within the legal system prevents these communities from navigating legal processes with autonomy, thereby frustrating the rule of law and the right to a fair trial.

Critically, the introduction of Article 23A via the Fifteenth Amendment in 2011 serves as a prime example of "symbolic recognition" without substantive empowerment. While the article obliges the state to protect the cultural heritage of "tribes, minor races, ethnic sects, and communities," it classifies these entitlements as directive principles rather than fundamental rights. In the context of the Bangladesh Constitution, this makes Article 23A "contra-judicative" or non-justiciable, offering only a "weak" form of constitutional protection that lacks the enforceable weight of a fundamental right. By avoiding the internationally recognized term "Indigenous peoples," the state further seeks to circumvent the collective rights and legal obligations mandated by international law, reducing Indigenous identity to mere cultural markers such as traditional festivals while remaining silent on the substantive rights necessary for survival.

Evidence from civil society and international bodies underscores the severe consequences of this educational and cultural exclusion. The Kapaeeng Foundation has documented how these systemic barriers perpetuate poverty and social inequality, noting that the "culture of impunity" regarding rights violations makes Indigenous lives and cultures appear less valuable in the eyes of the state (Indigenous Peoples' Human Rights Report, 2025). Concurrently, international bodies such as the IWGIA and the UN Permanent Forum on Indigenous Issues have pressured the state to align its domestic practices with global standards like the International Covenant on Economic,

⁵⁹ Hannan, M. A. (2025). Right to Learn in Mother Tongue: A Special Concern for Indigenous People of Bangladesh. *Mother Language*, 101–122.

⁶⁰ Karmaker, R. (2025). Educational and Institutional Barriers to Indigenous Language Preservation in Bangladesh: Challenges and Policy Implications. *Indonesian Journal of Multidisciplinary Research*, 5(1), 29–40.

Social and Cultural Rights and the United Nations Declaration on the Rights of Indigenous Peoples.

The continued non-ratification of UNDRIP and ILO Convention No. 169 leaves communities in a state of "unregulated minority rights," where international standards remain symbolic references rather than enforceable domestic protections. Without urgent institutional measures to promote bilingual education and linguistic justice, the current trajectory threatens the very cultural survival of these groups, potentially leading to the "socio-cultural and linguistic loss" of the most vulnerable Indigenous populations in Bangladesh. Ultimately, the failure to move beyond the "cosmetic" progress of the 1997 Peace Accord and Article 23A prevents the restoration of lost dignity and substantive political security for Indigenous peoples.

4.3 Gender Dimensions: Indigenous Women's Rights and Violence

Indigenous women in Bangladesh occupy a site of "double marginalization," where their experiences are shaped by the intersectional convergence of ethnic identity, gender, and socio-economic status (Chaney, 2017). This "double burden" of discrimination arises from their position as members of marginalized Indigenous communities struggling against state-led exclusion, compounded by their location within pervasive patriarchal structures that persist both in mainstream society and within traditional community frameworks (Mondol, 2024)⁶¹. Consequently, the struggle for Indigenous rights in Bangladesh is fundamentally gendered, as women bear the brunt of systemic violence and economic displacement while navigating a legal landscape that frequently fails to recognize their specific vulnerabilities.

The erosion of customary land rights through systematic land dispossession in the Chittagong Hill Tracts and plain regions has disproportionately affected Indigenous women by undermining their economic security and traditional cultural roles. Historically, land has served as the foundation for women's agricultural labor and their role in preserving communal heritage; however, state-sponsored development projects—such as the Kaptai Dam and profit-driven forestation—have triggered forced migrations that destabilize these traditional livelihoods. Furthermore, the lack of legal

⁶¹ Mondol, B., & Paul, B. (2024). A study on the social status of indigenous women in Rangpur, Bangladesh. *International Multidisciplinary Research Journal*, 1–10.

recognition for women's inheritance rights within both customary practices and the national legal framework—such as the Civil Code and personal religious laws—leaves them particularly vulnerable during land disputes. This dispossession is not merely an economic loss but a "socio-cultural loss" that fragments the communal identity women are tasked with maintaining.

Beyond economic marginalization, Indigenous women are frequently subjected to severe gender-based violence, including sexual assault, harassment, and trafficking (Indigenous Peoples' Human Rights Report, 2025, p. 1). This violence is often linked to the "masculinist militarism" of the state, where the high concentration of security forces and the influx of Bengali settlers under demographic engineering schemes create "situational motivators" for sexual violence (Hill, 2022)⁶². The Kapaeeng Foundation has documented the severity of this crisis, identifying a total of 24 incidents of violence against Indigenous women between January 1 and July 31, 2025 alone (Indigenous Peoples' Human Rights Report, 2025, p. 1). Of these, 21 incidents occurred in the CHT and 3 in the plains, with victims identified across Rangamati, Khagrachari, Bandarban, and various upazilas in the plains (Indigenous Peoples' Human Rights Report, 2025, p. 1). Such violence is frequently used as a tool of coercion to facilitate land grabbing, effectively utilizing women's bodies as a "terrain of governmental power" (Nasreen, 2017)⁶³.

Despite these documented abuses, a "deep-seated culture of impunity" continues to shield perpetrators, particularly when they are members of the security forces or dominant settler groups (Indigenous Peoples' Human Rights Report, 2025, p. 2). International bodies like the IWGIA and the UN Permanent Forum on Indigenous Issues have highlighted that the pace of justice for Indigenous victims is "agonizingly slow," reflecting a systemic failure in judicial accountability that sends a message that Indigenous lives are "less valuable" (Arjjumend, 2018; Indigenous Peoples' Human Rights Report, 2025). This impunity is reinforced by the patriarchal structure of the formal political bodies in the CHT; for instance, the Hill District Councils and the CHT Regional Council offer only meagre representation for Indigenous women, with the

⁶² Hill, G., & Chakma, K. (2022). Muscular nationalism, masculinist militarism: the creation of situational motivators and opportunities for violence against the Indigenous peoples of the Chittagong Hill Tracts, Bangladesh.

⁶³ Nasreen, Z. (2017). The Indigeneity question: State Violence, Forced Displacement and Women's Narratives in the Chittagong Hill Tracts of Bangladesh.

HDCs often functioning as instruments of the ruling party rather than protective mechanisms.

Critically, the existing constitutional framework is insufficient to address these gendered realities. While Articles 27–29 guarantee formal equality and non-discrimination, and Article 28 empowers the state to make special provisions for the advancement of women and "backward sections," these protections remain "cosmetic" in practice. The failure of the state to provide "culturally sensitive legal frameworks" means that Indigenous women face "exorbitant burdens of proof" in a legal system that is fundamentally "foreign to them". Without the recognition of collective Indigenous identity, the specific intersectional needs of women are subsumed under generic "women's rights" or "minority rights" discourses that ignore the inextricable connection between gender justice and the broader struggles for land, identity, and autonomy. Ultimately, the restoration of dignity for Indigenous women requires a transition from symbolic constitutional promises to substantive decolonial praxis that integrates gender justice as a core component of Indigenous self-determination. Such a transformation necessitates legal reforms that explicitly recognize gender-equal property rights and address the colonial-era administrative structures that have historically concentrated power among men. Furthermore, addressing these disparities requires moving beyond formal political quotas toward substantive empowerment by facilitating Indigenous women's direct control over financial and institutional resources (Chakma K. &, 2021)⁶⁴.

4.4 Political Representation and Participation

Political representation and participation remain the primary contested arenas in the discourse on Indigenous rights in Bangladesh, characterized by a profound tension between structural exclusion and the quest for regional autonomy. While the 1997 Chittagong Hill Tracts Peace Accord ostensibly established a framework for self-governance through the creation of Hill District Councils and the CHT Regional

⁶⁴Chakma, K., & Ruba, U. B. (2021). GENDER MAINSTREAMING AND PARTICIPATION IN CROP PRODUCTION AMONG CHAKMA FARM FAMILIES. *Russian Journal of Agricultural and Socio-Economic Sciences*, 113(5), 65–69.

Council, these institutions have largely failed to exercise substantive authority (Chittagong Hill Tracts Accord, 1997; Jamil & Panday, 2008). A critical limitation lies in the fact that the Accord possesses no constitutional weight and is heavily weighted in favor of the central state, providing only a "barely sketched roadmap" toward autonomy without a binding timeframe for implementation (O'Brien, 2021)⁶⁵.

Consequently, the institutions of the CHT are frequently bypassed by the central government in decision-making processes regarding land administration, regional security, and large-scale development projects (O'Brien, 2021; Siddiqui et al., 2018). Scholars observe that the HDCs are often unable to function as intended because they are run by ruling party members and loyalists, effectively transforming these bodies into instruments of party politics rather than protective mechanisms for Indigenous interests. This "top-down" administrative structure ensures that power remains concentrated in Dhaka, leaving regional leaders in a state of "procedural obfuscation" and "bureaucratic red-tape". This institutional paralysis is further exacerbated by deep-seated mistrust between the central government and Indigenous leadership, which has stalled the devolution of powers promised in the 1997 agreement (Siddiqui, 2018)⁶⁶.

Beyond the CHT, the political marginalization of Indigenous peoples is evidenced by their stark underrepresentation in the national parliament. The Bangladesh Constitution contains no provisions for reserved seats or affirmative measures to ensure Indigenous voices are represented in the highest legislative body. This absence of safeguards is viewed by the Kapaeeng Foundation as a catalyst for a "culture of impunity," where civil and political rights violations—including arbitrary arrests, harassment by security forces, and targeted violence—continue with little fear of legal consequence (Indigenous Peoples' Human Rights Report, 2025). The Foundation's data identifies at least 170 victims of civil and political rights violations in recent reporting periods, illustrating the precariousness of Indigenous agency under a majoritarian regime (Indigenous Peoples' Human Rights Report, 2025).

⁶⁵ O'Brien, M. (2021). Legal pluralism and stigma: a case-study of customary resurgence in the Chakma communities of Bangladesh and India. *International Journal of Law in Context*, 17(3), 356–370.

⁶⁶ Siddiqui, L. C. M. A. H., afwc, & psc. (2018). FULL IMPLEMENTATION OF CHT PEACE ACCORD – CHALLENGES AND IMPEDIMENTS IN THE PROCESS. *NDC E-JOURNAL*, 17(1), 174–193.

International bodies such as the IWGIA and the UN Permanent Forum on Indigenous Issues emphasize that the realization of self-determination is inextricably linked to meaningful political participation and the state's recognition of Indigenous status. However, the state's persistent "terminological avoidance"—refusing to recognize these groups as "Indigenous" in favor of labels like "tribes" or "ethnic sects"—serves as a mechanism to circumvent the collective rights mandated by international law. Ultimately, the existing political structures remain "cosmetic," as the state prioritizes "securitized positioning" and national homogeneity over the substantive inclusion of Indigenous peoples in the country's democratic fabric.

4.5 Case Studies: Khagrachari Violence and Kalpana Chakma Disappearance

The persistent violence against Indigenous peoples in Bangladesh is starkly illustrated by two emblematic cases that delineate a continuum of state-sanctioned exclusion: the Khagrachari violence of 2025 and the disappearance of Kalpana Chakma in 1996. These incidents are not isolated occurrences but are symptomatic of a "deep-seated culture of impunity" that shields perpetrators and marginalizes victims (Indigenous Peoples' Human Rights Report, 2025).

In September 2025, coordinated attacks across Khagrachari and Guimara resulted in the deaths of several Indigenous villagers, left dozens injured, and saw the systematic arson and looting of Indigenous homes. This violence was triggered by protests against the gang rape of a Marma schoolgirl, an act that reflects the "masculinist militarism" characterizing the state's presence in the Chittagong Hill Tracts (Hill & Chakma, 2022). Scholars argue that the high concentration of security forces and the strategic settlement of Bengali migrants under demographic engineering schemes create "situational motivators" for such gender-based violence (Chakma, 2025; Hill & Chakma, 2022). In these contexts, violence is often instrumentalized to facilitate land dispossession, effectively utilizing women's bodies as a "terrain of governmental power" to weaken communal resistance.

The 1996 abduction of Kalpana Chakma, a prominent leader of the Hill Women's Federation, serves as a historical anchor for this systemic failure. Abducted from her home in Rangamati by security personnel in June 1996, her fate remains unknown nearly three decades later. Despite intense national and international scrutiny, the state's investigation has been characterized by an "agonizingly slow" pace and a lack of transparency, reinforcing the perception that Indigenous lives are "less valuable" within the judicial hierarchy (Arjjumend, 2018; Indigenous Peoples' Human Rights Report, 2025). This case epitomizes the "ontological subjugation" of Indigenous identity, where the state utilizes its monopoly on force to silence advocates for Indigenous autonomy.

Together, these cases expose a profound "equality paradox" within the Bangladeshi state. While Articles 27–29 of the Constitution theoretically guarantee formal equality and non-discrimination, and Article 28 allows for special provisions for "backward sections," these protections remain "cosmetic" in the face of militarized governance. The lived reality of Indigenous peoples is defined by a "securitized positioning" where demands for justice and land rights are frequently recast as subversive threats to national integrity.

Furthermore, these incidents underscore Bangladesh's failure to align its domestic practices with international human rights obligations. The state's actions—or lack thereof—in the Khagrachari and Chakma cases run contrary to the principles of the Convention on the Elimination of All Forms of Discrimination Against Women and the UN Declaration on the Rights of Indigenous Peoples. The persistent refusal to ratify UNDRIP leaves Indigenous communities in a state of "unregulated minority rights," where international standards remain symbolic references rather than enforceable protections. Ultimately, the transition from symbolic constitutional promises to substantive justice requires a dismantling of the "culture of impunity" and a legal framework that recognizes the collective rights and inherent dignity of Indigenous peoples.

Chapter 5

International Frameworks and Bangladesh's Commitments

5.1 UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

Although the government formally acknowledges international treaties through Article 25 of the Constitution, it has systematically avoided adopting the Indigenous and Tribal Peoples Convention, 1957, or the more contemporary ILO Convention No. 169. This reluctance to ratify these frameworks reveals a deliberate policy to circumvent the legal obligations that would necessitate the official recognition of tribal communities as Indigenous. This strategic abstention functions as a structural barrier to self-determination, as the state perceives the normative influence of international indigenous rights as a direct challenge to its unitary, majoritarian national identity. By persistently denying the state of non-dominance inherent in the criteria for Indigenous identity, the government effectively excludes these populations from the legal protections afforded by international human rights frameworks (Ahmed, 2010). Furthermore, the absence of these ratified standards exacerbates resource competition between Indigenous populations and the majority Bengali community, particularly regarding access to vital ecological assets like forests and riverine territories. This policy of non-ratification allows the state to maintain a "Bengali-centric" national character, effectively marginalizing communities that seek to exercise sovereignty over their ancestral lands (Roy, 2025). Consequently, while international instruments like ILO Convention 169 seek to codify the protection of indigenous customary law and land management, Bangladesh's recalcitrance prevents these global norms from influencing local administrative practice. This systemic exclusion is further compounded by the disregard for the principle of free, prior, and informed consent, which remains entirely absent from the state's development and land-use policies. While Bangladesh ratified the earlier ILO Convention No. 107 in 1972, which emphasizes the recognition of traditional land ownership, the lack of robust enforcement mechanisms renders its provisions largely ineffective in protecting the ancestral territories of Jumma and plains communities (Bappi, 2024, p. 8). Moreover, the semantic shift from "Indigenous" to "tribal" within state discourse serves to minimize the socio-political claims of these groups, distancing them from the collective

rights paradigms established in contemporary international law, 2020, p. 153). This linguistic obfuscation, exemplified by the state's 2016 Universal Periodic Review stance, functions as a mechanism to deny the existence of indigenous peoples on its territory, thereby nullifying the legal grounds for their pursuit of autonomy. By intentionally delegitimizing these claims to identity, the state reinforces a majoritarian hegemony that subsumes distinctive, place-based cultures under a singular nationalist narrative (Yasmin)⁶⁷. This maneuver is particularly evident in the Chittagong Hill Tracts, where the intersection of colonial-era land policies and post-independence administrative consolidation has facilitated the widespread dispossession of traditional territories. This dispossession is further exacerbated by the failure of the Land Dispute Resolution Commission, which remains trapped between state-led nationalist imperatives and the necessity of acknowledging legal pluralism in land governance. This legislative inertia effectively perpetuates the socio-economic marginalization of these communities, as existing land administration remains heavily reliant on mechanisms that systematically prioritize the interests of non-local settlers over indigenous ancestral claims. The dysfunctional nature of this commission, which has failed to resolve longstanding grievances since the 1997 Peace Treaty, highlights a critical void in institutional accountability.

5.2 ILO Convention 107 and 169

While the 1972 ratification of Convention No. 107 initially signaled a baseline commitment to protecting indigenous land ownership, the subsequent failure to transition toward the more robust standards of Convention No. 169 reflects a broader policy of institutional avoidance (Shah, 2023). This refusal to evolve alongside global human rights standards indicates that state actors prioritize the preservation of a singular, monolithic national identity over the protection of minority land tenure and cultural autonomy. Such resistance is deeply embedded in the societal habitus, where political cultures have effectively naturalized the subordination of ethnic minorities through historically entrenched narratives of dominance. This persistent marginalization functions as a mechanism to delegitimize indigenous claims, thereby transforming the state's legal framework into an instrument that perpetuates structural

⁶⁷ Yasmin, L. (2014). *The Tyranny of the Majority in Bangladesh: The Case of the Chittagong Hill Tracts*.

injustice. The resulting tension is further fueled by development planning that prioritizes commercial interests over indigenous land management, leading to the deliberate dispossession of traditional territories. By framing these extractive activities as essential for national development, the state invokes a developmentalist ideology that frequently overrides customary rights, echoing global patterns where institutionalized land policies facilitate the interests of dominant actors at the expense of indigenous sovereignty. This pattern of exclusionary governance creates a multilayered regulatory environment where formal statutory regimes frequently override, rather than integrate, existing customary tenure systems (Maswatu, 2025)⁶⁸.

5.3 ICESCR, ICCPR, CERD obligations

Bangladesh's engagement with Indigenous rights is defined by its ratification of core international treaties, which theoretically establish a robust framework for protection but face significant hurdles in domestic application.

5.3.1 International Treaty Obligations

International Covenant on Economic, Social and Cultural Rights: Acceded to on 5 October 1998, the ICESCR obliges Bangladesh to the progressive realization of rights to health, education, and an adequate standard of living. For Indigenous communities, these obligations are inextricably linked to land tenure and livelihoods. However, "constitutional silence" regarding collective land rights often renders these socio-economic protections aspirational rather than enforceable (Bappi, 2024; Roy, 2024).

- **International Covenant on Civil and Political Rights:** Acceded to on 6 September 2000, this covenant guarantees civil and political rights, including equality before the law, political participation, and self-determination. Despite these guarantees, the state maintains significant "interpretive declarations" and reservations regarding minority rights, which allow the government to interpret self-determination in ways that may not align with Indigenous expectations of autonomy.

⁶⁸ Maswatu, I., Santosa, T. A., Ghoni, A., Dewi, M. N. K., Kadir, T., & Hartawati, A. (2025). Legal Protection of Indigenous Land Rights: A Study of Customary Law Integration in National Legal. *RIGGS Journal of Artificial Intelligence and Digital Business*, 4(3), 1789–1794.

- **International Convention on the Elimination of All Forms of Racial Discrimination:** Ratified on 11 June 1979, the CERD prohibits racial discrimination and mandates affirmative action (special measures) to ensure the advancement of marginalized groups. While the convention provides a legal basis for protection against systemic exclusion, its effectiveness is limited by the state's refusal to recognize the specific status of "Indigenous peoples".

5.3.2 The Domestic Compliance Gap

- **The implementation of these international standards is hindered by two primary structural barriers:**
 - **The Dualist Approach:** Bangladesh follows a dualist approach to international law. Under this system, ratified treaties—including the ICCPR and ICESCR—are not directly enforceable in domestic courts without specific enabling legislation. In the absence of such laws, international obligations function as "external symbolic references" rather than actionable legal mandates for Indigenous populations.
 - **Terminological Avoidance (Article 23A):** Domestic enforcement is further complicated by "terminological avoidance" within the Constitution. Following the Fifteenth Amendment in 2011, Article 23A identifies these groups as "tribes, minor races, ethnic sects, and communities" instead of "Indigenous peoples" (Montaz, 2015). This strategic semantic choice is used by the state to circumvent international obligations related to collective land ownership and political autonomy, which are specifically associated with the legal status of "Indigenous peoples" under international frameworks.

Consequently, while Bangladesh formally acknowledges international law through Article 25 of its Constitution, a persistent gap remains between these global commitments and the lived reality of Indigenous communities (Bappi, 2024; Oni, 2026).

5.4 Bangladesh Ratification Status and Domestic Compliance Gaps

Bangladesh's engagement with international human rights standards is characterized by a "paradoxical legal landscape," where the formal ratification of core United Nations treaties is often decoupled from domestic enforcement. While Article 25 of the Constitution mandates respect for international law and the principles of the UN Charter, the state's actual performance reveals systemic "compliance gaps" that particularly affect marginalized Indigenous populations.

5.4.1 Ratification of International Human Rights Instruments

The state has formally acceded to several fundamental international instruments, establishing a normative framework for human rights that theoretically includes the protection of ethnic and racial minorities. Key ratifications and accessions include:

- **International Convention on the Elimination of All Forms of Racial Discrimination:** Ratified on **11 June 1979**, the CERD prohibits racial discrimination and mandates affirmative "special measures" to ensure the advancement of vulnerable groups. However, the state's failure to explicitly recognize "Indigenous peoples" within its constitutional framework facilitates what has been termed "ontological subjugation," significantly weakening the convention's enforcement.
- **International Covenant on Economic, Social and Cultural Rights:** Acceded to on **5 October 1998**, this covenant obliges Bangladesh to the progressive realization of rights to health, education, housing, and an adequate standard of living. For Indigenous communities, these entitlements are inextricably linked to land tenure; however, "constitutional silence" regarding collective land rights often renders these protections aspirational rather than legally enforceable.
- **International Covenant on Civil and Political Rights:** Acceded to on **6 September 2000**, the ICCPR guarantees equality before the law and the right to participate in public affairs. Despite these guarantees, the state maintains significant "interpretive declarations" and reservations regarding minority rights and freedom of religion, which allow the government to interpret "self-determination" in ways that circumvent Indigenous expectations of autonomy.

5.4.2 ILO Conventions and the UN Declaration on the Rights of Indigenous Peoples

The state's approach to specialized Indigenous rights frameworks is marked by a transition from early acceptance to modern-day resistance. While Bangladesh ratified ILO Convention No. 107 in 1972—an instrument that recognizes the right of collective and individual ownership over traditional lands—the implementation of these standards remains critically deficient.

In contrast, the state has explicitly refused to ratify ILO Convention No. 169, the more robust and contemporary successor to Convention 107. This refusal to evolve alongside global standards indicates a policy of institutional avoidance, as state actors prioritize a monolithic national identity over the protection of minority land tenure and cultural autonomy. Furthermore, Bangladesh was one of only 11 states that abstained from the UN Declaration on the Rights of Indigenous Peoples in 2007, justifying its stance by claiming the term "indigenous peoples" was not clearly defined. This strategic abstention serves as a structural barrier to self-determination, as the state perceives international indigenous rights norms as a challenge to its unitary national character (Ahmed, 2010; Hoque, 2018).

5.4.3 Structural Compliance Gaps: The Dualist Approach

A primary hurdle to the domestic implementation of international standards is Bangladesh's adherence to a "dualist approach" to international law. Within this framework, ratified treaties—including the ICCPR and ICESCR—are not directly enforceable in domestic courts unless the state enacts specific enabling legislation. In the absence of such statutory incorporation, international obligations remain "external symbolic references" rather than actionable legal rights for Indigenous populations. This legislative inertia effectively perpetuates a "culture of impunity" and ensures that the state's global commitments do not influence local administrative or judicial practice.

5.4.4 Terminological Avoidance and Article 23A

Domestic compliance is further undermined by a strategy of "terminological avoidance" within the constitutional text (Montaz, 2015; Shah, 2023). Following the Fifteenth Amendment in 2011, Article 23A identifies ethnic groups using the pejorative or limiting labels of "tribes, minor races, ethnic sects, and communities" rather than Indigenous peoples. This semantic choice is a deliberate maneuver to circumvent the specific legal obligations associated with "Indigenous" status under international law, such as the right to free, prior, and informed consent and collective land sovereignty.

By framing these groups through the lens of "backwardness" rather than "indigenouness," the state reinforces a "Bengali-centric" majoritarian hegemony (Roy, 2025; Yasmin, 2014). This linguistic obfuscation—as seen in the state's 2016 Universal Periodic Review stance—allows the government to deny the existence of Indigenous peoples on its territory, thereby nullifying the legal grounds for their pursuit of autonomy and the protection of ancestral lands. Consequently, while international instruments seek to protect cultural distinctiveness, the Bangladeshi state's legal framework remains an instrument of "inclusive exclusion," marginalizing those who seek to exercise rights outside the singular nationalist narrative (Sayeed & Aktar, 2023; Shah, 2023).

Chapter 6

Violence, Discrimination, and Case Studies

6.1 Documented Violence

Recent empirical analyses confirm that Indigenous communities, particularly those in the Chittagong Hill Tracts, face systemic suppression characterized by land dispossession, denial of political decision-making, and the active erosion of traditional

linguistic and cultural identity (Chaney, 2025).⁶⁹ These processes of marginalization are further compounded by a governance framework that excludes Indigenous communities from mainstream development interventions, thereby restricting their access to fundamental social services. Furthermore, the 1997 Chittagong Hill Tracts Peace Accord remains largely unimplemented, leaving indigenous communities without the promised self-government mechanisms necessary to protect their land and cultural autonomy (Roy P. K., 2024)⁷⁰. The persistent lack of enforcement regarding these peace-building measures has fostered an environment of impunity, where acts of gender-based violence against Indigenous women often remain uninvestigated and unpunished (Eichler, 2019)⁷¹. The persistence of violence against Indigenous peoples in Bangladesh is evidenced by well-documented incidents such as the Khagrachari attacks of September 2025 and the UN statements of October 2024. In Khagrachari and Guimara, coordinated assaults left at least five Indigenous villagers dead, dozens injured, and homes destroyed following protests against the gang rape of a Marma schoolgirl. Reports from the Human Rights Congress for Bangladesh Minorities (HRCBM) and local media documented arson, looting, and indiscriminate firing by settlers and security forces, underscoring the militarization of the Chittagong Hill Tracts and the impunity enjoyed by perpetrators. Earlier, in October 2024, the UN Permanent Forum on Indigenous Issues (UNPFII) expressed grave concern over escalating violence against the Jumma peoples, highlighting forced evictions, sexual violence, and indiscriminate attacks. The UN called for an independent commission of inquiry and full implementation of the 1997 Peace Accord. These incidents demonstrate systemic discrimination, the failure of constitutional protections under Articles 27–29 and 23A, and Bangladesh’s non-compliance with international obligations under CERD and UNDRIP. Together, they provide critical case studies of how Indigenous rights are undermined by state inaction and entrenched impunity. Beyond these overt acts of hostility, the "top-down" structure of existing peace-building efforts continues to

⁶⁹ Chaney, P., Sahoo, S., Punnoose, R., & Haneefa, M. (2025). Civil Society Organisations’ Perspectives on the Contemporary Human Rights Situation of Indigenous Peoples in Bangladesh: A Critical Analysis. *International Journal on Minority and Group Rights*, 1–23.

⁷⁰ Roy, P. K. (2024). The Santals Ethnic Community of Bangladesh: A Critical Review on the Current status to the Unregulated Minority Right in light of UNDRIP-2007 and ILO-1989/169 to the Unregulated Minority Rights. *The Malaysian Journal of Social Administration*, 18(2024), 249–270.

⁷¹ Eichler, J. (2019). Reconciling Indigenous Peoples’ Individual and Collective Rights. <https://doi.org/10.4324/9780367220860>

prioritize state sovereignty over the substantive self-determination of the Chittagong Hill Tracts' inhabitants (Panday & Jamil, 2009).

6.2 Sexual violence against Indigenous women

The sustained presence of security forces in the region has been directly correlated with increased risks to the safety and fundamental rights of Pahari women, including documented instances of torture, harassment, and fatal violence (Wilkinson, 2015)⁷². This systemic environment of insecurity is further exacerbated by the resettlement of Bengali-speaking populations, which functions as a tool of structural violence to displace local communities and erode their demographic and cultural dominance. This demographic engineering, compounded by the presence of competing ethnic factions, has fostered a environment of resource scarcity and localized violence that continues to undermine the stability envisioned in the 1997 Peace Accord. Consequently, the incomplete implementation of key clauses—with fewer than half of the provisions realized after nearly three decades—has effectively rendered the treaty a cosmetic framework rather than a functional tool for conflict resolution. This failure is further exacerbated by the deliberate renaming of traditional Indigenous sites and the persistent obstruction of cultural and religious rituals, which function as instruments of ongoing colonial-style subjugation. These tensions are further aggravated by the emergence of diverse "peace spoilers," including various political factions and settler groups, whose conflicting motivations prevent the transition from a state of post-conflict volatility to long-term stability (Orthy, 2025)⁷³. Moreover, the state's nation-building strategy, which emphasizes uniform cultural homogeneity, inherently conflicts with the aspirations for regional autonomy that historically fueled the insurgency movement. Consequently, the resultant vacuum in authority has allowed armed group rivalries to intensify, as competing factions vie for political influence and control over scarce natural resources, further obstructing the pursuit of inclusive regional development. Additionally, beyond the Chittagong Hill Tracts, other Indigenous groups such as the Garo Adivasi face similar patterns of institutionalized neglect and targeted physical

⁷² Wilkinson, M. (2015). Negotiating with the Other: Centre-Periphery Perceptions, Peacemaking Policies and Pervasive Conflict in the Chittagong Hill Tracts, Bangladesh. *International Review of Social Research*, 5(3), 179–190.

⁷³ Orth, S. R. K. (2025). Peace spoilers in different stages of the peacebuilding process in the Chattogram Hill Tracts (CHT) in Bangladesh.

assaults by local influential actors and state agencies (Khan, 2012)⁷⁴. In these peripheral regions, the systematic expansion of cash-crop industries and state-backed development projects often prioritizes market integration over the ancestral land rights of these communities, frequently forcing them into precarious economic dependency. This economic marginalization is further intensified by the state's nation-building policies, which rely on assimilationist frameworks and exclusionary rhetoric to justify the political erasure of Indigenous identities.

6.3 Impunity and lack of justice

The culture of impunity remains the most significant systemic barrier to the realization of Indigenous rights in Bangladesh, creating a profound "equality paradox" within the state's legal architecture (Oni, 2026). While Articles 27–29 of the Constitution theoretically guarantee formal equality, non-discrimination, and equal protection under the law, Indigenous communities are frequently subjected to violence, land dispossession, and marginalization without effective judicial redress. This disconnect between constitutional text and lived reality is exemplified by the pervasive "judicial inertia" and weak investigations that characterize human rights violations against ethnic minorities.

The entrenchment of this culture of impunity is starkly illustrated by emblematic case studies, such as the 1996 disappearance of Kalpana Chakma and the 2025 Khagrachari violence. The abduction of Kalpana Chakma, a leader of the Hill Women's Federation, from her home in Rangamati by security personnel remains unresolved nearly three decades later, with investigations described as "agonizingly slow" (Chowdhury, 2002, p. 143; Indigenous Peoples' Human Rights Report, 2025). Similarly, the coordinated attacks in Khagrachari and Guimara in September 2025—which resulted in deaths, injuries, and systematic arson following the gang rape of a Marma schoolgirl—highlight how "situational motivators" created by militarization and demographic engineering facilitate violence while shielding perpetrators from accountability (Hill & Chakma, 2022; Indigenous Peoples' Human Rights Report, 2025).

⁷⁴ Khan, A., & Samadder, M. (2012). Weeping of the Forest: Unheard Voices of Garo Adivasi in Bangladesh. *International Journal on Minority and Group Rights*, 19(3), 317–326.

Documentation by the Kapaeeng Foundation, IWGIA, and Amnesty International reinforces these findings, identifying consistent patterns of delayed trials, non-prosecution, and the intimidation of victims (Indigenous Peoples' Human Rights Report, 2025; Oni, 2026). The Kapaeeng Foundation notes that such inaction sends a "chilling message" that Indigenous lives are "less valuable," emboldening perpetrators and entrenching a "deep-seated culture of impunity" (Indigenous Peoples' Human Rights Report, 2025). This climate is further exacerbated by the failure to implement the 1997 Chittagong Hill Tracts Peace Accord, where crucial institutions like the Land Dispute Resolution Commission remain dysfunctional due to jurisdictional ambiguity and a lack of political commitment. Consequently, less than half of the Accord's provisions have been realized, leaving land disputes in a state of "apparent stalemate".

Internationally, the UN Permanent Forum on Indigenous Issues and other bodies have emphasized that Bangladesh's failure to provide accountability violates its obligations under the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. These instruments mandate that the state provide effective remedies and robust protection against discrimination—commitments that remain largely "symbolic" in the absence of enabling domestic legislation. Ultimately, the transition from cosmetic constitutional promises to substantive justice requires dismantling the structural barriers that normalize exclusion and protect perpetrators within the judiciary (Indigenous Peoples' Human Rights Report, 2025; Kakon, 2024).

6.4 Media and NGO documentation (Daily Star, IWGIA, UNPFII)

Civil society organizations and independent media outlets play a critical role in bridging the information gap, often providing the primary evidence base for human rights abuses that are otherwise suppressed or ignored by state-controlled narratives. However, the lack of well-managed judicial data frequently hampers these organizations' efforts to substantiate litigation, as the resulting information vacuum

limits the possibility of holding local actors accountable for land dispossession (Ferdousi, 2024)⁷⁵.

Independent media and non-governmental organizations serve as critical observers in Bangladesh, bridging information gaps by documenting human rights abuses that are often marginalized or suppressed in state-controlled narratives. National outlets, most notably The Daily Star, provide essential visibility to systemic issues of land dispossession, structural violence, and gender-based abuse in the Chittagong Hill Tracts, challenging the mainstream political discourse (Rahman et al., 2018). This national documentation is complemented by international bodies such as the International Work Group for Indigenous Affairs, whose annual publication, *The Indigenous World*, situates these local struggles within a global framework while highlighting the enduring impacts of militarization and constitutional exclusion. Furthermore, the United Nations Permanent Forum on Indigenous Issues plays a decisive role in pressuring the state toward compliance with international human rights obligations, specifically advocating for the full implementation of the 1997 Peace Accord in alignment with the United Nations Declaration on the Rights of Indigenous Peoples and the International Convention on the Elimination of All Forms of Racial Discrimination. By amplifying Indigenous voices and providing an empirical evidence base for human rights monitoring, these entities actively challenge state narratives and urge the Bangladeshi government to meet its constitutional and international commitments.

Chapter 7

Findings, Recommendations, and Conclusion

⁷⁵ Ferdousi, R., Islam, K. M. B., & Raihan, S. (2024). Political Economy Analysis of the Role of the Judiciary in Land Dispossession Litigation in Bangladesh. In Cambridge University Press eBooks (pp. 300–327). Cambridge University Press.

7.1 Summary: Constitutional Promises vs. Social Realities

The struggle for Indigenous rights in Bangladesh is defined by a profound "equality paradox," where formal legal guarantees are consistently undermined by "constitutional silence" and systemic exclusion. While the 1972 Constitution enshrines the principles of equality before the law and non-discrimination under Articles 27, 28, and 29, these provisions remain largely "cosmetic" in practice as they fail to recognize the collective identity and inherent rights of Indigenous people. This marginalization was further codified by the Fifteenth Amendment, which introduced Article 23A. Although Article 23A mandates the state to protect the cultural heritage of "tribes, minor races, ethnic sects, and communities," it functions as a non-justiciable directive principle that offers only "weak" symbolic recognition without granting substantive rights to land, autonomy, or self-determination. The state's persistent "terminological avoidance"—refusing to use the term "Indigenous" in favor of pejorative labels—serves as a primary mechanism to circumvent international legal obligations mandated by UNDRIP and ILO Convention 169.

This disconnect between promise and reality is most acute regarding land and governance. The 1997 Chittagong Hill Tracts Peace Accord was designed to resolve land disputes and restore security, yet its centerpiece, the Land Commission, remains "largely dysfunctional" due to jurisdictional ambiguity and bureaucratic stalemate. Consequently, ancestral territories continue to be lost to "demographic engineering" and state-led settlement programs initiated in the late 1970s, which have systematically altered the region's composition and fueled ethnic antagonism (Ali, 2017; Chakma, 2025). Lived realities are further characterized by linguistic marginalization, as the dominance of the Bangla-only education system threatens the survival of more than 35 distinct Indigenous languages and creates structural barriers to accessing justice (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024).

Furthermore, the Indigenous experience is marked by a pervasive "culture of impunity" that normalizes violence and suppresses agency (Indigenous Peoples' Human Rights Report, 2025). This is particularly evident in the "masculinist militarism" that

disproportionately targets Indigenous women; for instance, documentation identified 24 incidents of violence against Indigenous women between January 1 and July 31, 2025, alone (Hill & Chakma, 2022; Indigenous Peoples' Human Rights Report, 2025). Emblematic cases such as the 1996 disappearance of Kalpana Chakma and the 2025 Khagrachari violence—where at least 170 victims of civil and political rights violations were recently documented—illustrate a continuum of state-sanctioned exclusion (Chowdhury, 2002; Indigenous Peoples' Human Rights Report, 2025). Ultimately, the transition from symbolic constitutional acknowledgment to substantive justice remains stalled by a governance framework that prioritizes national homogeneity over the collective dignity and self-determination of its Indigenous populations.

7.2 Key Findings from Case Studies and Legal Analysis

Culture of Impunity: The 1996 disappearance of Kalpana Chakma and the 2025 Khagrachari violence—the latter involving at least 170 documented victims of civil and political rights violations—illustrate a "deep-seated culture of impunity" (Indigenous Peoples' Human Rights Report, 2025). Investigations remain "agonizingly slow," as "masculinist militarism" and state-led demographic engineering create situational motivators for violence while shielding perpetrators from accountability (Hill & Chakma, 2022; Indigenous Peoples' Human Rights Report, 2025).

The Equality Paradox: Legal analysis reveals a profound gap between the formal equality and non-discrimination guaranteed under Articles 27–29 and the "weak," non-justiciable symbolic recognition of Article 23A. While Articles 27–29 offer universal promises, the lack of justiciable force for Article 23A ensures it remains "contradictive," providing no substantive protection for land or autonomy.

Systemic Failure: This disconnect is reinforced by "constitutional silence" and judicial reluctance to recognize Indigenous identity, which the state uses to circumvent international obligation. Consequently, constitutional protections remain "cosmetic," facilitating ongoing marginalization and preventing the restoration of dignity for Indigenous communities.

7.3 Policy recommendations

- Constitutional Recognition of Identity: Reform is required to move beyond the "weak" symbolic recognition provided by Article 23A, which currently functions as a non-justiciable directive principle. Formal recognition of "Indigenous" status is necessary to end the state's "terminological avoidance" and fulfill international legal obligations under UNDRIP and ILO Convention 169.
- Strengthening Land Rights Protections: Legislative and administrative action must address the "largely dysfunctional" Land Commission established by the 1997 Peace Accord. Reforms should clarify the commission's jurisdictional authority and resolve the "bureaucratic stalemate" that facilitates ongoing "demographic engineering" and the loss of ancestral territories.
- Substantive Political Representation and Autonomy: The state should formally recognize self-rule and establish democratic institutions for the Chittagong Hill Tracts, including a dedicated parliamentary committee to oversee Indigenous rights. This addresses the failure of the 1997 Peace Accord to provide genuine self-governance and security.
- Promoting Mother-Tongue Education: To overcome "linguistic marginalization," the education system must transition from a Bangla-only model to one that incorporates mother-tongue instruction (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024). This reform is essential to reduce high dropout rates and ensure that education serves as a "gateway to preserving identity and cultural heritage" rather than a barrier to academic development (Educational Disparities Among CHT Indigenous People: Addressing Vernacular Challenges And Prejudice, 2024).

These reforms are framed as essential measures to dismantle the "culture of impunity" and bridge the gap between formal constitutional promises and the lived experiences of Indigenous communities (Indigenous Peoples' Human Rights Report, 2025; Oni, 2026).

7.4 Conclusion:

Bridging the gap between law and lived experience:

Ultimately, the disconnection between Bangladesh's legal framework and the daily reality of its Indigenous peoples is sustained by a profound "equality paradox," where the universal promises of Articles 27–29 are undermined by the non-justiciable, "weak" symbolic recognition of Article 23A. This "constitutional silence" perpetuates a "culture of impunity" that normalizes systemic violence—evidenced by the 1996 disappearance of Kalpana Chakma and the 2025 Khagrachari violence—while the "systemic failure" of the 1997 Peace Accord and its "dysfunctional" Land Commission leaves ancestral territories vulnerable to ongoing demographic engineering. Substantive justice requires moving beyond "cosmetic" constitutional acknowledgment toward the implementation of the reforms outlined in this chapter—specifically formal identity recognition, robust land protection, and genuine political autonomy. Only by addressing these structural inequities can the state align its legal architecture with the lived realities and collective dignity of its Indigenous populations.

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