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The Permanent Mission of the People's Republic of Bangladesh to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights in Geneva, and with reference to the Joint Urgent Appeal from Special Procedures (SP) no. UA BGD 2/2018 dated 16 February 2018 regarding the alleged incident of rape and sexual assault of two sisters of Marma Ethnic minority in the Chittagong Hill Tracts, and the former's Note verbale no. BMG/HR-306/123 dated 21 March 2018 acknowledging the receipt of the SP's communication, has the honour to inform that the Government of Bangladesh, in line with its strong commitment to protect and promote the human rights of all, particularly of vulnerable groups including amongst others, women and ethnic minorities, considered the allegation very seriously raised in the Joint Urgent Appeal.

2. In relation to the 5 queries mentioned in the communications of the Special Procedure, the Government of Bangladesh informs the following:

i. **Any Additional Information on the allegations:** The incident took place in the night of 21 January (and early morning 22 January) near the Pharuia camp when a joint patrol team cordoned an isolated hill with 3 huts as a part of their regular patrolling for maintaining regular law and order situation. During the search, the patrol commander came to know from one of the two girls (aged 17 and 14) staying in one of the huts that somebody entered their hut and pulled her hand inappropriately. The Patrol Commander held an immediate enquiry on the spot and found a member from the security force (a member of Ansar, a para-military security organization of the government) guilty of entering the hut without orders and touching the minor girls while removing the quilt from their face and body. The Patrol Commander counseled the two sisters and assured the family (a distant maternal uncle was present there) that appropriate departmental action would be taken against the guilty person. The Patrol Commander himself informed the matter to the 'Karbari' (village head) and the "Headman" (area head) and assured them of taking appropriate action. It may be mentioned here that the hut where the girls were sleeping neither has walls in two sides and nor has a door. Parents of the girls were not present in the house during the incident.

The next day (23 January 2018), the sisters were taken to the hospital by some unknown people and there they made allegations of rape. After the allegation of rape was made, the local

administration and police made an immediate enquiry on the spot and found the claim of rape baseless. However a General Diary was recorded in the police station. Sufficient police personnel, both male and female, were assigned to ensure security of the girls. In the meantime, by the order of the Magistrate, a medical board was formed on 24 January 2018 to conduct medical tests. No sign of rape was found in the medical report.

Later, following a petition to the High Court Division of the Supreme Court by the parents, the High Court ordered the hospital to hand over the girls to their parents. However at the time of the handing over of the girls to the parents on 15 February 2018, a group of local activists led by Ms. [REDACTED] tried to take custody of the girls by force obstructing the court-ordered hand-over process. The activists filed an appeal against the Order of the High Court Division (HCD) on 22 February 2018; however the Supreme Court retained the previous order and instructed the hospital authority to hand over the girls to their parents. The sisters were handed over to their parents according to the HCD order and necessary security measures have also been taken.

ii. **Safety of the two sisters:** To ensure the safety of the two sisters, Police deployed sufficient male and female personnel in the hospital. As per Order of the Supreme Court the girls were handed over to their parents on 15 February 2018. They are currently staying at the residence of a relative named Mr. [REDACTED] an ex member of Rangamati District Council. As per direction of the Supreme Court, sufficient male and female police have been deployed around the house on a 24/7 basis to ensure their security.

iii. **Information on measures taken to guarantee the sisters' right to inform consent:** The girls being minor (14 and 17), are responsibility of their parents as legal guardians. They were brought to the hospital by unknown people, not by the parents or the maternal uncle who was the closest family member present in the place of occurrence during the incident. The medical authorities ensured the treatment and the medical tests were conducted by the Board constituted under the order of the Magistrate. Regarding custody of the girls, the Supreme Court ordered twice that they have to be handed over to the parents, which was complied.

iv. **Investigation:**

- a) A Joint Enquiry was held by Bangladesh Army and Ansar immediately after the incident which was duly reported to the *Karbari* (village head). The Ansar member was found guilty of entering the house without order and touching the girls. Necessary punitive action against him is under process.
- b) The Additional District Magistrate and the Superintendent of Police paid a visit to the spot the next day and found the allegations of rape baseless. A General Diary (GD) no. 650 dated 23 January 2018 has been lodged by the Officer-in-Charge of Bilaichari Police

Station. In accordance with states' due diligence obligations, investigation will be carried out.

- c) In addition, the National Human Rights Commission of Bangladesh (NHRCB) formed a 3-member Fact Finding Committee led by Ms [REDACTED] a member of the NHRCB. The committee has completed investigation, and informed through a press release that the committee did not find any evidence on the alleged rape and sexual violence.

v. **Safety of the Victims/ their families, CSOs and Journalists:** The two sisters and their family are under police protection on 24/7 basis. There has been no threat to any family member or CSOs and journalists. Contrary to the claims made in the communications of the Special Procedures, the girls had complete freedom to interact with the journalists and CSOs. The Fact Finding Committee constituted by the National Human Rights Commission paid visit to the hospital and spoke with the girls without any obstacle whatsoever.

3. In addition to the information presented above, the Government of Bangladesh would like to address some general issues mentioned in the communications of the-Special Procedures –

- Although the communications addresses the Marma sisters as 'indigenous girls', as such, there is no 'indigenous people' in Bangladesh. Bangladesh designates its numerically lesser ethnic citizens as 'ethnic minorities'. The context of Bangladesh does not match with the international instruments concerning the definition and rights of indigenous people. However, there are ethnic minority communities, both in Chittagong Hill Tracts and other parts of Bangladesh, who are recognized and protected by the constitutional provisions.

- The claims of 'military intervention' and 'ongoing security operations' are factually untrue, as no such 'military intervention' or 'security operations' are going on in CHT area other than what is necessary for maintenance of law and order situation. After the conclusion of CHT Peace Accord in 1997, the presence of military has been reduced to a minimum level (from 552 to 218 camps/posts). The security forces employed in CHT areas include members from military, police and other para-military forces.

- The presence of security forces in CHT area has been maintained primarily to maintain law and order as well as to thwart efforts by the armed groups engaged in activities that are detrimental to the implementation of Peace Accord. It may be mentioned here that a good number of members of the erstwhile separatist groups retained their weapons against the terms of the Peace Accord and those arms are used in criminal activities including extortion.

4. The Permanent Mission of Bangladesh would also like to assure the Special Procedures that the present government under the leadership of Prime Minister Sheikh Hasina maintains 'zero tolerance' policy against any allegations of sexual exploitation and abuse', particularly by Security

Forces and takes utmost care in dealing with such allegations. The security forces of Bangladesh have been protecting human rights in various conflict prone parts of the world as peacekeeping forces and earned due respect and admiration for their professionalism. Therefore the allegations of such incidents are taken very seriously and any member, if found guilty, is dealt with strict disciplinary measures.

5. The Permanent Mission of Bangladesh would also like to highlight the Government's endeavours and sincerity in relation to the protection of the human rights of minorities, the ethnic minorities, in particular. All ethnic minorities, including those resident in the Chittagong Hill Tracts, are recognized and guaranteed equality before the law under the Constitution. At the statutory level, the Government of Bangladesh has taken robust legislative and policy actions for protection of minorities. The 15th amendment to the Constitution has inserted Article 23A that stipulates that "the State shall undertake responsibility to protect and develop the unique local culture and tradition of tribal and ethnic communities". In addition to protect the rights of ethnic communities, Bangladesh has ratified the ILO Convention no. 107 which recognizes the rights of ethnic people to participate in decision – making affecting their lives & livelihoods.

6. Regarding the implementation of the CHT accord, the Permanent Mission would like to reiterate the firm commitment of the government towards full implementation of the accord. Till date, 48 out of the 72 clauses of the Accord have been implemented; while 15 have been partially implemented and 9 remain under process of implementation. The Government has recently reconstituted the CHT Peace Accord Implementation Committee (on 18 January 2018) to speed up the implementation of the unfulfilled clauses. Other information concerning the implementation of the CHT Peace Accord is as below -

a. After the Peace Accord, a dedicated Ministry for CHT Affairs, the Ministry of Chittagong Hill Tracts Affairs (MoCHTA) was established on 15 July 1998. In addition to the reconstitution of three Hill District Councils, the CHT Regional Council was constituted. The MoCHTA has the responsibility of overseeing the overall policy formulation, planning and implementation of administrative and development activities for the welfare of the CHT region.

b. There is a Parliamentary Standing Committee on Ministry of Chittagong Hill Tracts Affairs, which is providing necessary support for the implementation process of the Peace Accord.

c. To implement the remaining sections of the Peace Accord, 30 subject /departments have been transferred to Rangamati Hill District council, 30 subjects/ departments have been transferred to Khagrachari Hill District Council and 28 subjects/ departments have been transferred to Bandarban Hill District Council.

d. The Government, in its present tenure, has transferred *Jhum* cultivation, local tourism, and secondary education department to the jurisdiction of the CHT District Councils.

Consultations with the concerned Ministry for transferring of the remaining subjects/departments are under process.

e. The Government has already issued Gazette Notification of Listed Staff (Special Facilities) Rules, 2015 to provide pension, gratuity and other facilities for returned members of *Jana Sanghati Samity*, who were previously in service of the Government. The necessary processing to finalize the facilities as per Rules is underway.

7. Regarding the reference made to the 'UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, the Permanent Mission of Bangladesh wishes to inform that the Govt. enacted 'The Small Ethnic Groups Cultural Institutions Act, 2010' which primarily acknowledges twenty seven (27) ethnic minorities in the country. A National Committee chaired by the Minister for Cultural affairs recommended inclusion of additional groups of ethnic minorities into the list. In addition to the above, other initiatives of the Government to ensure welfare of the ethnic minorities include the following:

i. Special measures have been taken to provide pre-primary education in mother tongues of various ethnic communities including Chakma, Marma, Kokborok, Chadri and Mandi. Free textbooks written in their mother tongue were distributed to children belonging to these 5 ethnic communities first time in 2017.

ii. The government took steps to recruit 'tribal' persons of the CHT on a priority basis to positions in government, semi-government and autonomous bodies. Ethnic minorities are enjoying a 5% quota in public service and in public educational institutions. The foundation stone of "Parbatya Chattagram Complex" (Chittagong Hill Tracts Complex) in Dhaka was laid on 08 May 2016. The complex aims to promote culture, heritage, language and tradition of the ethnic communities of CHT.

iii. In line with the SDGs and 7th Five Year Plan of Bangladesh, the government has initiated steps to implement projects/programs on road construction, infrastructure development, poverty alleviation, livelihood improvement, rural development, etc in CHT region.

iv. For the overall development of ethnic minorities living in plain land, the Prime Minister's Office set up a fund termed 'Development Assistance for Special Areas (except Chittagong Hill Tracts)' worth of USD 2.5 million for the current financial year.

8. Regarding the reference made to the remarks of the Human Rights Committee (ICCPR) in the concluding observation of the ICCPR review of Bangladesh in 2017, as well as to the reference made to Bangladesh's abstention in voting on the United Nations Declaration on the Rights of Indigenous Peoples upon its adoption by the General Assembly, the Govt. of Bangladesh wishes to inform that Bangladesh clarified in its comment (posted on the official website of the Treaty Body) on the Concluding Observations of the Human Rights Committee that 'there is no

'indigenous' communities in Bangladesh, but some ethnic minorities'. This position is in consonance with the ILO Convention no. 169 which is the only international instrument that provides a functional definition of "tribal and indigenous peoples". The communications of the Government of Bangladesh to the Committee also mentioned that 'we would like the committee to specify the legal and factual bases on which it advises the state party to recognize legal status of indigenous peoples'.

9. In view of the above, the Permanent Mission of Bangladesh would like to assure the Special Procedures that the allegations brought to the notice of the Government have been noted with utmost seriousness and necessary actions have been taken to ensure credibility of the information provided to the Special Procedures. The Government of Bangladesh would like to reiterate its commitment to ensure equal rights of all without any discrimination based on race, religion, sex or ethnic identity.

The Permanent Mission of Bangladesh avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights in Geneva, the assurances of its highest consideration.

Geneva, 16 April 2018

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Copy to :

1. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
2. Special Rapporteur on the rights of indigenous peoples
3. Special Rapporteur on minority issues
4. Special Rapporteur on torture, and other cruel, inhuman, or degrading treatment or punishment
5. Special Rapporteur on violence against women, its causes and consequences