

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

REFERENCE:  
UA BGD 2/2018

16 February 2018

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the rights of indigenous peoples; Special Rapporteur on minority issues; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 33/9, 33/12, 34/6, 34/19 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received with regards to **the rape and sexual assault of two indigenous sisters by members of the armed forces in Orachari village, in the Chittagong Hill Tracts, and their subsequent treatment by the armed forces.**

According to the information received:

On 22 January 2018, at about 2.30 a.m., two sisters, Ms. [REDACTED], aged 19, and Ms. [REDACTED], aged 14, from the Marma indigenous ethnic minority, were raped and sexually assaulted respectively in Orasori village, in the Chittagong Hill Tracts, allegedly by soldiers from the Farua Army Camp of Digholchari Zone of 13 Bengal.

On that night, a patrol from the Farua Army Camp allegedly began a random search operation in Orachari village. The patrol stormed every house of the village indiscriminately. They arbitrarily interrogated people and asked for their identity cards. Additionally, the soldiers harassed the villagers casting flash lights straight into their eyes. The military intervention took place in the context of ongoing security operations in Chittagong Hill Tracts.

On 21 January in the late evening, two army men entered the house of the victims and forced their parents to get out of the house. One of these men proceeded to rape Ms. [REDACTED], while an armed man in uniform was guarding the house. As a result, the parents of Ms. [REDACTED] could not intervene

while she was being raped, but could hear their daughter screaming out loud for help. Shortly after, Ms. [REDACTED] survived a rape attempt but was sexually harassed by the same men.

Following the sexual assaults, villagers reported the incident to the patrol leader, who assured them that the perpetrators would be held accountable, provided that they did not disclose it to anyone. It is reported that the victims' father was offered money in exchange for his silence, who refused. Later on, in the morning of 22 January, some members of the military unit went to the victims' house and used death threats, warning their parents that no rape should be reported.

On 23 January 2018 at around noon, the victims requested to be admitted at Rangamati General Hospital. At about 8.00 p.m., two police men took the victims to an office room of the hospital and interrogated them without the presence of any family member, female nurse or doctor, or female police officer.

On 24 January 2018, a press conference took place in Rangamati organised by a local ruling party official, at which the parents and the younger brother of the victims were present. It is reported that the parents were ordered to participate in the press conference and to state that no rape had occurred, and that journalists were intimidated and told not to report the rape.

On 28 January 2018, the police requested the Court to administer certain tests to the victims, including a DNA test and a vaginal sperm test, but this was denied.

On 29 January 2018, the army went to the victims' house and picked up some of the victims' clothes. The sources maintain that this might be motivated by an intention to destroy evidence of the sexual assaults.

According to sources, the sisters stayed in the hospital against their will, on orders of the Directorate General of Forces Intelligence (DGFI), until 15 February 2018. During their time at the hospital, the building was surrounded by police officers, while members of the DGFI in plain clothes were posted in the corridor outside the ward, which might have exacerbated the trauma the victims had experienced. The older sister had requested that they both be released from hospital, given that their treatment has been concluded. The surgeon in charge of their case reported that they no longer required medical treatment or further examinations. Yet, the two sisters were confined in hospital for several days.

Furthermore, security officials prevented civil society organizations from bringing food to the two sisters who do not eat Bengali food. Reportedly, the victims' parents, journalists, local leaders and members of the National Human Rights Commission were also prevented from getting in touch with them. Similarly, the

DGFI restricted access of community leaders and civil society to the sisters at the hospital, including access for them to arrange for counselling and support, despite the wish of the sisters to receive these visits. It is also reported that civil society and community leaders were required to register their names and contact details when entering the hospital. This scrutiny was perceived as a form of intimidation and affected the ability of various stakeholders to ensure that the victims were safe and fairly treated. When the two sisters were eventually allowed to leave the hospital, one woman volunteer, who had come to assist them, was reportedly assaulted by plain clothes men and women.

The family has reportedly not filed a complaint with the police because they are afraid of reprisals. The army reported that an Ansar (member of a paramilitary force) has been arrested in relation to the crime described above.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned over the alleged sexual assaults against Ms. [REDACTED] and Ms. [REDACTED] in Orachhari village. Further concern is expressed at their subsequent treatment by the Directorate General of Forces Intelligence, as well as the acts of intimidation against their family, civil society and journalists. We are additionally concerned at the victims' confinement in hospital without their consent and against the medical advice indicating no need for medical treatment or further examinations.

We would like to draw the attention of your Excellency's Government to its obligations under international human rights norms that are applicable to the issues brought forth by the situation described above.

Article 12 of the International Covenant on Economic, Social and Cultural Rights, acceded by Bangladesh on 5 October 1998, establishes the right to health which includes freedoms such as the right to be free from interference, from torture, non-consensual medical treatment and experimentation (General Comment 14 of the Committee on Economic, Social and Cultural Rights, para 8) and the right to informed consent. Informed consent is a fundamental feature of respecting an individual's autonomy, self-determination and human dignity in an appropriate continuum of voluntary health-care services, including (but not limited to) clinical practice, public health and medical research (A/64/272). States have the obligation to respect, protect and fulfill individuals' informed consent as a matter of immediate application (E/CN.4/2005/51, Para 34).

Articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded by Bangladesh in 1998, codify the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In this context, rape and other serious acts of sexual violence by state officials in contexts of detention or control can amount to torture or ill-treatment.

Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

The Convention on the Elimination of All Forms of Discrimination against Women, acceded to by Bangladesh on 6 November 1984, and the recently adopted general recommendation No. 35 of the Committee on the Elimination of Discrimination against Women (CEDAW) on gender-based violence against women, also provide adequate guidance to States concerning their due diligence obligations to investigate all crimes, including that of sexual violence perpetrated against women and girls, and to punish perpetrators.

The issue of violence against women, and more precisely indigenous women, was also raised by the former Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, following her May 2013 visit to Bangladesh. In her report, the Special Rapporteur mentioned that rape is the second most acknowledged form of violence against women in Bangladesh (A/HRC/26/38/Add.2, para. 12). She reported an important account of “ongoing violence and rape of indigenous women by Bengali settlers in the Chittagong Hill Tracts” (A/HRC/26/38/Add.2, para. 13). In the press release issued after her visit, the former Special Rapporteur encouraged the Government of Bangladesh to ensure effective implementation of the Chittagong Hill Tracts Accord and, relevant to the concerns of indigenous women, also pointed out the need for holistic solutions to address the multiple and intersecting inequalities and discrimination that women face.

Additionally, in its Concluding Observations of its 2017 review of Bangladesh, the Human Rights Committee mentioned that sexual violence against indigenous women related to land grabbing in the Chittagong Hills Tract is of particular concern.<sup>1</sup> The Committee on the Elimination of Discrimination against Women has expressed the same concern.<sup>2</sup>

Additionally, while we are aware that Bangladesh abstained from voting on the United Nations Declaration on the Rights of Indigenous Peoples upon its adoption by the

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<sup>1</sup> CCPR/C/BGD/CO/1, para. 17.

<sup>2</sup> CEDAW/C/BGD/CO/8, paras. 18 and 40.

General Assembly, the Special Rapporteur on the rights of indigenous peoples would like to emphasize that this instrument sets international human rights standards relating to indigenous peoples' rights. These fundamental human rights include equality and non-discrimination, life and personal integrity which are recognized in the binding human rights treaties to which Bangladesh is party.

The situation of indigenous peoples in the Chittagong Hill Tracts has also been the subject of previous communications by the Special Rapporteur on the rights of indigenous peoples.<sup>3</sup>

Finally, we would like to draw your Excellency's Government attention to the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, in particular article 1, which calls on States to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, to encourage conditions for the promotion of that identity and to adopt appropriate legislative and other measures to achieve those ends.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide any information on measures taken to ensure the safety of the two sisters.
3. Please provide any information about the measures taken to guarantee the sisters' right to informed consent, and in accordance to the medical advice thus far provided.
4. Please provide any information as to whether any investigation is being carried out and whether the perpetrators of the crimes have been charged

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<sup>3</sup> A/HRC/15/37/Add. 1, paras. 37-45.



and prosecuted in full compliance with international due process standards. If no such inquiry has taken place, or if it is inconclusive, please explain the reasons why.

5. Please provide any information on the guarantees in place to ensure the safety of the family of the victims, and of journalists and civil society members.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence, including with regard to the family's protection against any act of intimidation and harassment. In the event that the investigations support or suggest the allegations to be correct, we urge your Excellency's Government to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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