

**Mandates of the Special Rapporteur on the rights of indigenous peoples; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL BGD 3/2022  
(Please use this reference in your reply)

10 August 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of indigenous peoples; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 42/20, 42/22, 44/5 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged torture and ill treatment and subsequent death of Mr. **Nabayan Chakma Milon**, age 47, an indigenous political activist, in military custody in Dighinala, Khagrachari, Chittagang Hill Tracts (CHT), Bangladesh.

According to the information received:

On 15 March 2022, at around 2.30 a.m. military personnel from Dighinala Zone conducted a raid at Monibhodro Karbari Para, Baganpara area, Ward No. 1, Dighinala sub-district. During this raid, army reportedly surrounded the house of Mr. [REDACTED], a resident of the village. The indigenous political activist Mr. Nabayan Chakma Milon was staying at Mr. [REDACTED] house after a medical treatment. During the raid, the military beat up Mr. [REDACTED], harassed his family members, ransacked the house, destroying the essential materials, crops and other belongings, including school books, and took money belonging to the family.

Mr. Milon was detained by the military during the raid. He was reportedly tortured after he refused to provide his laptop's password to the military personnel. Mr Milon's hands and legs were tied and he was thrown to the ground. He was repeatedly beaten with sticks and guns and dragged on the ground. The military also took photos with him.

Mr. Milon lost consciousness and was taken to Dighinala cantonment at around 3.30 a.m. on the day of his arrest, about 16 kilometers from the place of arrest. According to Mr. Milon's death certificate, he was admitted to Dighinala Sadar Hospital at 8.35 a.m., about 2 kilometers from the cantonment, and he was pronounced dead at 8.55 a.m.

Additionally, it has been brought to our attention that the indigenous peoples and indigenous rights activists, as well as indigenous political activists have repeatedly been subjected to alleged arbitrary arrest, torture, arbitrary deprivation of life and enforced disappearance in CHT. Moreover, almost every time a raid takes place in CHT area by the military personnel, the legal requirements such as obtaining warrants for search and/or arrest, are not being

followed. In 2019, the UN Committee Against Torture, in its concluding observations of the review of Bangladesh, expressed its concern at information it had received alleging the widespread and routine commission of torture and ill-treatment in the State party by law enforcement officials for the purpose of obtaining confessions or to solicit the payment of bribes responsibility (CAT/C/BGD/CO/1 para 7).

Although the Peace Accord signed in 1997 by the Government specifically called for the demilitarization of the Chittagong Hills area, the region still remains under military control and the human rights violations of indigenous peoples are systematic and ongoing.

Indigenous peoples in Bangladesh are facing repeated and systemic discrimination. In July 2022, the Ministry of Information issued a Directive ahead of the International Day of the World's Indigenous Peoples on 9 August, asking all television stations to refrain from using the term “indigenous” to describe the ethnic communities in the country. Citing the 15<sup>th</sup> Amendment of the Constitution of Bangladesh it is stated that members of the civil society including university faculty members, experts, and newspaper editors participating in talk-shows commemorating the International Day are requested to refrain from using the term “indigenous”, and to be aware of relevant constitutional obligations.

While we do not wish to prejudge the accuracy of these allegations, we are expressing our serious concern, should they be confirmed, at the arbitrary arrest, torture and death of Mr. Nabayan Chakma Milon. We also express our concern about the ransacking and looting of the house that allegedly took place during the raid by the military. In order to address these serious allegations, we are calling for an immediate investigation into Mr. Milon’s death to be conducted in conformity with relevant international standards, particularly the Minnesota Protocol on the investigation of potentially unlawful death; and into all allegations of other human rights violations that may have occurred in the present case.

In addition, we are deeply concerned about the ongoing and systemic discrimination against indigenous peoples in Bangladesh, as well as the detrimental impact the recent order for television stations from the Ministry of Information to not use the term “indigenous” can have on indigenous peoples of Bangladesh, and its impact on the rights to freedom of opinion and expression.

In connection with the above alleged facts and concerns, please refer to the **Annex with reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comments you may have on the above-mentioned allegations.

2. Please provide detailed information about the factual and legal grounds for the arrest of Mr. Milon, as well as, where available, the results, of any investigation, medical examination, and judicial or other official inquiries carried out in relation to the torture and subsequent death of Mr. Milon. If there was any such investigation, please explain whether it has complied with relevant international standards, particularly the Minnesota Protocol on the Investigation of Potentially Unlawful Death. If no investigation has been initiated, please explain why.
3. Please provide information on what has Bangladesh done to combat widespread and routine commission of torture and ill-treatment by law enforcement officials, including against indigenous peoples, in order to comply with its international human rights obligations.
4. Please, provide information on how the recent Directive issued in July this year by the Ministry of Information asking all television stations to refrain from using the term “indigenous” to describe the ethnicities in the country, is in line with Bangladesh’s international human rights obligations, and, in particular, its obligations under the ICCPR.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

We would like to inform your Excellency’s Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

José Francisco Cali Tzay  
Special Rapporteur on the rights of indigenous peoples

Mumba Malila  
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the following obligations under international human rights law.

UN Declaration on the Rights of Indigenous Peoples in its article 1 states that indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. This includes the rights to life, physical and mental integrity, liberty and security of person (article 7). It further provides in article 2 that indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular based on their indigenous origin or identity.

Article 6 of the ICCPR provides that every individual has the inherent right to life, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life.

We wish to stress that the right to life is the supreme right from which no derogation is permitted. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights.

Accordingly, States parties have a duty to refrain from engaging in conduct resulting in arbitrary deprivation of life, and must also exercise due diligence to protect the lives of individuals even against deprivations caused by persons or entities whose conduct is not attributable to the State.

In particular, States parties are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials. This includes putting in place appropriate legislation controlling the use of lethal force by law enforcement officials. All operations of law enforcement officials should comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and law enforcement officials should undergo appropriate training designed to inculcate these standards so as to ensure, in all circumstances, the fullest respect for the right to life.

An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences. Furthermore, loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation that establishes the State's compliance with its obligations under article 6.

Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates. They must always be independent, impartial, prompt, thorough, effective, credible and transparent. In the event that a violation is found, full reparation must be provided, including adequate measures of compensation, rehabilitation and satisfaction. States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future.

Additionally, the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in article 5 of UDHR and article 7 of the ICCPR. The latter provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” In addition, article 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) further states that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction, and that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

Article 12 of the CAT requires that “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”

In its concluding observations of the review of Bangladesh in 2019, the Committee against Torture stated that Bangladesh should ensure that officials who commit acts of torture and ill-treatment are prosecuted and punished with penalties commensurate to the crime of torture, including those with superior or command responsibility (CAT/C/BGD/CO/1 para 8(c)).

We would also like to refer your Excellency’s Government to article 3 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), which state that everyone has the right to liberty and security of person. Article 9 of the ICCPR further states that no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

According to Deliberation No. 10 on reparations for arbitrary deprivation of liberty of the Working Group on Arbitrary Detention, all victims of arbitrary deprivation of liberty are entitled to an enforceable right before the competent national authority to prompt and adequate reparations, which should be proportional to the gravity of the violations and the harm suffered.<sup>1</sup>

Moreover, we would like to refer your Excellency’s Government to article 19 of the UDHR and ICCPR, which guarantee the rights to freedom of opinion and

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<sup>1</sup> A/HRC/45/16, Annex I, para. 7.

expression. Freedom of expression is the cornerstone of democracy, which allows individuals and groups to enjoy several other human rights and freedoms