



THE ROLE OF INDIGENOUS COMMUNITIES IN ENVIRONMENTAL CONSERVATION IN BANGLADESH: A LEGAL ANALYSIS

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ABSTRACT

Indigenous communities drive efforts to address climate change and safeguard natural resources. Around the world, Indigenous people depend on their land and forests for food, water, medicine, and to preserve their own culture. The well-being of indigenous peoples is inextricably tied to a healthy habitat. Indigenous peoples often have a special relationship with their land and territory. For Indigenous Peoples, it is not merely about material ownership of the land, nor is it a matter of being productive as the dominant society would like to see them, but rather a holistic approach that includes spiritual aspects regulating one's relationship to place, which they must fully reflect on. This link is also crucial for ensuring the protection of their cultural heritage and its transmission to future generations. Indigenous peoples are vulnerable to environmental damage and displacement since their livelihood and culture depend on their territory. The Constitution of Bangladesh expressly states that it shall be a fundamental responsibility of the State to protect and improve the environment and to preserve and safeguard natural resources, wetlands, forests, and wildlife for the present and future generations (Article 18A). This paper aims to review the existing environmental legislations and assess the effectiveness of their provisions in ensuring environmental justice for indigenous communities. This paper will also highlight the legal barriers preventing indigenous people from exercising their ecological rights. Simultaneously, it will offer recommendations that could open up pathways for indigenous peoples in Bangladesh to access environmental justice.

KEYWORDS

Indigenous Peoples, Environmental Justice, Climate Change, Traditional Knowledge, Environmental Rights.

INTRODUCTION

Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) states that “Indigenous peoples are entitled to safeguard the environment and maintain the productivity of their lands, including their resources. State must create and execute assistance programs for indigenous groups to aid in these conservation and protection efforts, ensuring fairness and equality without discrimination” (United Nations, 2007, Article 27). The article emphasizes the significance of acknowledging the environmental rights of indigenous peoples. The global ecological crisis has an undeniably disproportionate impact on individuals and communities, with indigenous communities

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bearing a significant brunt of its effects (Datta, 2019, p.1). In recent times, the rights of indigenous peoples have gained considerable prominence within international human rights law. These matters have garnered attention both at national and global levels, and they have progressed to become recognized as customary international law, thereby obligating all nations to adhere to them (Ahmed, 2016). The Bangladesh Constitution enshrines special provisions for indigenous communities and prohibits discrimination based on factors such as religion, ethnicity, or birthplace (The Constitution of the People's Republic of Bangladesh, 1972, Article 28(1). Article 23A emphasize the obligation of the State to safeguard and promote the unique cultural heritage and traditions of tribal populations, minority ethnicities, and various community groups (The Constitution of the People's Republic of Bangladesh, 1972, Article 23A). Additionally, Article 28(4) clarifies that the State retains the authority to enact special measures in support of children, women, or to augment of any marginalized segment of society (The Constitution of the People's Republic of Bangladesh, 1972, Article 28(4). In various regions globally, indigenous populations face marginalization and the erosion of their rights (Watkins, 2016). These communities continue to grapple with the challenge of securing recognition, respect, and preservation of their cultural heritage, traditions, language, and overall existence from governmental authorities and societal counterparts (Watkins, 2016). Historically, indigenous communities have played a pivotal role in safeguarding the environment, often relying on traditional agricultural practices and animal husbandry for their livelihoods (Quader, 2008). Consequently, environmental degradation has a significant impact on their economic stability (Quader, 2008). Land is a fundamental aspect of human existence, as we cultivate, develop, and adapt it to suit our requirements, utilizing its diverse geographic features to shape our identities while also exploiting its economic potential for profit maximization (Morshed, 2021). In Bandarban, on November 8, 2020, the Mru community arranged a cultural event to protest against the construction of a hotel by Sikder Group, calling upon the authorities to halt the project (Morshed, 2021). The gradual gentrification of indigenous territories will inevitably disrupt the region's ecological balance over time. Such actions can be viewed as discriminatory and representative of colonization through developmental processes (Morshed, 2021). In northern Bangladesh, indigenous communities express concern about what they perceive as encroachment on their ancestral lands by Bengali settlers (Quader, 2008). Due to insufficient legal safeguards, indigenous peoples often face considerable challenges in reclaiming the lands they historically inhabited (Quader, 2008). Occasionally, government entities, under the guise of development initiatives, appropriate lands belonging to indigenous communities (Quader, 2008). The discussion outlined above highlights the crucial importance of acknowledging and respecting the environmental rights of indigenous peoples, as enshrined in Article 29 of the UNDRIP. Indigenous communities play a crucial role in ecological conservation and sustainability, often relying on their traditional practices to safeguard the lands they inhabit. It calls for effective implementation of legal safeguards, support for indigenous conservation efforts, and meaningful engagement with indigenous communities to address the underlying causes of environmental injustice and inequality. The protection of indigenous rights and the conservation of the environment are deeply interconnected. We can protect our planet's ecological integrity for future generations by making sure the rights of indigenous peoples are respected and preserved.

Who are the Indigenous Peoples?

It's commonly recognized by State that indigenous peoples are the descendants of the original inhabitants of a specific geographic area, existing before the arrival of people from various ethnic backgrounds (Ahmed, 2016). In the Asian context, the term 'indigenous peoples' typically encompasses various cultural groups such as 'Adivasis,' 'tribal peoples,' 'hill tribes,' or 'scheduled tribes' (Ahmed, 2016). Despite legal acknowledgments like Act 12

of 1995 and Regulations 6, 34, 45, and 50 of the Chittagong Hill Tracts (CHT) Regulation (1900) in Bangladesh, official documentation often refers to them as 'tribals,' while section 97 of the SAT Act (1950) recognizes them as 'indigenous peoples' or 'aboriginal' (Ahmed, 2016). In Bangladesh, approximately 50 distinct indigenous communities reside across both plains and hilly regions (Ahmed, 2016). The International Labour Organization (ILO) has developed two global agreements about indigenous peoples: the Indigenous and Tribal Populations Convention, 1957 (No. 107), ratified by Bangladesh in 1972, and the Indigenous and Tribal Peoples Convention, 1989 (No. 169). These instruments underscore the importance of self-identification as 'indigenous' in determining the groups covered by the provisions of these Conventions (Ahmed, 2016). Although Bangladesh has become a party to various global human rights treaties, the practical enforcement of these treaties through the enactment of effective legislative, administrative, and judicial measures is notably lacking (Ahmed, 2016). Based on the preceding discussion, ensuring consistency in terminology and legal recognition help reinforce the rights and identity of indigenous peoples within the country. Additionally, fostering dialogue and collaboration between government authorities, indigenous representatives, civil society organizations, and international stakeholders can facilitate a more inclusive and practical approach to advancing indigenous rights and well-being in Bangladesh.

METHODOLOGY

This paper employs a doctrinal legal research methodology with a qualitative and analytical approach. It examines primary sources such as constitutional provisions, legislation, and international instruments, supplemented by secondary sources including scholarly works, reports, and online content. Through statutory interpretation, textual analysis, and critical evaluation, the study identifies gaps in Bangladeshi laws concerning the environmental rights of Indigenous peoples and assesses their contributions to environmental conservation.

Environmental Protection Rights of Indigenous Peoples in the Legal Framework of Bangladesh

The Forest Act, 1927

The Forest Act of 1927, originally established during British rule, remains the fundamental legislation governing forest management in Bangladesh. Forests play a crucial role in both the economy and ecological balance. Despite their invaluable contributions, forests in Bangladesh have suffered from depletion and degradation in terms of both volume and area over time (Akil, 2021). The Forest Department operates as a vital component within the Ministry of Environment and Forests, entrusted with managing of forest resources and government forest lands. According to the Forest Department, Bangladesh's forest cover is approximately 46,52,250 acres, accounting for roughly 12.76% of the nation's total land area, which falls short of the recommended 25% forest coverage for countries (Akil, 2021).

Indigenous communities share a unique bond with forests, as they often rely on these ecosystems for their sustenance, engaging in activities such as hunting, fishing, gathering forest resources, and traditional agricultural practices (Charlton, 2023). Indigenous communities possess traditional wisdom and methods linked to forests, encompassing insights into medicinal flora, sustainable resource management strategies, and conservation approaches (Charlton, 2023). Indigenous communities often serve as primary guardians of forests, playing a crucial role in their conservation efforts (Charlton, 2023). Nevertheless, conflicts between forests and indigenous communities often occur when forests are exploited for logging, mining, and other resource extraction, causing displacement and undermining the subsistence of these groups (Charlton, 2023). The connection between indigenous peoples and forests is intricate and diverse. While forests frequently contribute to the welfare of indigenous groups, they can also lead to tensions and involuntary

displacement (Charlton, 2023). Hence, it is crucial to prioritize safeguarding and acknowledging the rights of indigenous communities, recognizing their pivotal contribution to forest conservation.

Although a connection exists between forests and indigenous peoples, the Forest Act of 1927 fails to acknowledge the rights of indigenous peoples (The Forest Act, 1927). Furthermore, the Act does not define "Indigenous Peoples" (The Forest Act, 1927, Section 2). Similarly, the Act does not acknowledge the intellectual property rights of Indigenous peoples concerning their traditional knowledge and practices related to forests, forest resources and environmental conservation (The Forest Act, 1927, Section 2). As per section 66 of this Act, every forest officer and police officer is obligated to prevent, and if necessary, intervene to stop the commission of any forest-related offense (The Forest Act, 1927, Section 66). The Government has the authority to appoint one or multiple First Class Magistrates through an official Gazette notification, designating them as Forest Magistrates responsible for exclusively adjudicating offenses under this Act. Additionally, the Government can define the geographical jurisdiction of these Magistrates (The Forest Act, 1927, Section 67A). Regardless of any provisions in other existing laws, the Government has the authority to authorize any Forest officer, with a rank no lower than that of a Deputy Ranger, to represent, argue, and oversee the prosecution on behalf of the Government in any court proceedings involving forest-related offenses (The Forest Act, 1927, Section 69A). A Forest officer or Police officer is empowered to arrest any individual without a warrant or explicit instructions from a Magistrate if there is reasonable suspicion that the person has been involved in a forest offense punishable by imprisonment for at least one month (The Forest Act, 1927, Section 64).

From the preceding discourse, it's clear that individuals, including Indigenous peoples, cannot directly lodge complaints with the relevant court in the event of an infringement upon their environmental rights under this Act. Instead, it relies entirely on designated officers empowered by this Act. Indigenous forest knowledge takes a comprehensive approach, recognizing that all components of the environment, including humans, are interconnected and mutually influencing one another (Asselin, 2015, p. 589). One significant deficiency in the Forest Act is its lack of emphasis on forest protection, conservation, and enhancing quality. Instead, the law predominantly revolves around revenue generation, reflecting its origin from a British colonial standpoint (Akil, 2021). Hence, to render the Forest Act of 1927 more environmentally conscious, it is essential to introduce requisite amendments that enable it to effectively cater to the present and future environmental needs of the people of Bangladesh.

The Bangladesh Environment Conservation Act, 1995

Around the world, indigenous communities continue to struggle for their fundamental rights. Despite being recognized as stewards of natural resources, they frequently encounter oppression (Schauenberg, 2023). Indigenous wisdom has been successfully applied to promote environmental preservation through sustainable management of resources, safeguarding biodiversity, and addressing the challenges of climate change through both mitigation and adaptation strategies (Muigua, 2024). In the face of worsening environmental challenges such as climate change, deforestation, habitat loss, and declining biodiversity, there's a growing recognition of the essential role that Indigenous knowledge can play in conservation endeavors (Carbon, 2023). Indigenous peoples, with their traditional relationship to the land, hold unique knowledge about local ecosystems, sustainable resource use, and cultural perspectives that are crucial for developing effective conservation strategies (Carbon, 2023). Indigenous peoples hold centuries of wisdom in sustainable resource management, having learned to read environmental cues and cycles. From this

knowledge perspective, conservation can draw on ways of knowing that promote environmentally sustainable resource use. These approaches focus on combating land degradation while safeguarding the long-term health of ecosystems (Carbon, 2023). The forecast may be informed by experts in climate science and computer modelling, but indigenous peoples who have lived with the impacts of weather patterns and other components of the climate system provide invaluable insights for both mitigating and adapting to shifting climates. Traditional practices originating from indigenous cultures, like controlled burning and forest management, have the potential to significantly decrease the likelihood of wildfires and bolster the resilience of ecosystems (Carbon, 2023).

Although this Act aims to conserve the environment comprehensively, it overlooks critical elements relating to the environmental rights of indigenous peoples. As noted earlier, the Act does not address significant issues for indigenous communities, such as climate change, (The Bangladesh Environment Conservation Act, 1995) traditional ecological knowledge, (The Bangladesh Environment Conservation Act, 1995) climate induced displacement, (The Bangladesh Environment Conservation Act, 1995) climate change mitigation and adaptation (The Bangladesh Environment Conservation Act, 1995). Despite the clear link between indigenous peoples and environmental conservation, the Act, much like the Forest Act of 1927, also lacks a definition of "indigenous." Climate change presents a substantial danger to the human race, with global shifts in climate patterns leading to more frequent and severe extreme weather events (Ahmed and Haq, 2019, p. 680). Many developing nations, such as Bangladesh, lack the necessary resources and infrastructure to effectively address the challenges of climate change (Ahmed and Haq, 2019, p. 680). Indigenous communities, heavily reliant on their natural surroundings, particularly forests, are among the most affected by its impacts. These communities, comprising approximately 350 million people worldwide, rely on traditional knowledge passed down through generations to inform local decision-making on agriculture and resource management (Ahmed and Haq, 2019, p. 680). This indigenous wisdom holds value not only within their cultures but also for scientists, policymakers, and planners (Ahmed and Haq, 2019, p. 680). Indigenous peoples employ various strategies to adapt to climate change, drawing on their historical experiences of environmental changes to reduce vulnerability and thrive in an increasingly challenging environment (Ahmed and Haq, 2019, p. 680). Unfortunately, the Bangladesh Environment Conservation Act of 1995 lacks any provisions that address climate change or acknowledge the indigenous knowledge that could help tackle climate-related challenges.

Pursuant to the Act, the Director General is empowered to investigate and remedy any acts or omissions that damage the ecosystem or human health. They can access and assess damage and may order compensation as well as remedial activity if appropriate (The Bangladesh Environment Conservation Act, 1995, Section 7(1)). If the responsible party refuses to pay compensation, the Director General may initiate legal proceedings for compensation or criminal charges in a court of appropriate jurisdiction (The Bangladesh Environment Conservation Act, 1995, Section. 7(2)). Any person who is, or may be adversely affected by environmental pollution or degradation can make an application to the Director General requiring remedial action (The Bangladesh Environment Conservation Act, 1995, Section 8(1)). The Director General may then proceed to take any action he deems fit, including making such inquiry or request for further information and specifying a time within which it shall be furnished; holding a public hearing in connection with the application. (The Bangladesh Environment Conservation Act 1995, section 8(2)). If any person or group of persons or the public at large is aggrieved on account of contravention of this Act, the rules made thereunder or orders, directions, issued under Section 7, an aggrieved person, group of persons or the Director General may file a suit claiming

appropriate damages (The Bangladesh Environment Conservation Act, 1995, Section 15A). If any damage is caused by the violation of this Act, an aggrieved person, group of persons or the Director General on their behalf may institute a case in the Environment Court (The Bangladesh Environment Conservation Act, 1995, Section 17).

The Environment Court Act, 2010

This Act was created to establish environmental courts and related issues. Within the framework of this legislation, environmental law encompasses the Bangladesh Environment Conservation Act of 1995, additional statutes specified by the Government in the official Gazette for the Act's objectives, and any regulations established under these statutes (The Environment Court Act 2010, Section 2(c)). Here, "any other legislation designated by the Government in the official Gazette" should be interpreted broadly. Despite any other law, the Director-General or someone he authorizes may directly bring a case to the Special Magistrate's Court or submit a report to the police following the Code of Criminal Procedure for prosecuting any offenses under the Environment Court Act (The Environment Court Act, 2010, Section 6(1)). As a result, it's clear that individuals, including those from indigenous communities, lack the opportunity to start legal proceedings with the relevant court or police station. This legal barrier is a significant hurdle for them. A Special Magistrate's Court cannot hear a case without a written report from the Inspector. However, if the court determines that the Inspector hasn't acted within 60 days of the request to file a complaint, or there's good cause for obtaining complaint, it can proceed without an Inspector's report. Here, the court may take cognizance of complaint itself and proceed with prosecution, or the magistrate may direct the Inspector to investigate. Before doing so, the court may permit the Inspector or Director-General to be heard on that issue (The Environment Court Act, 2010, Section 6(3)). The restrictive requirement that a case may be initiated solely on the basis of a written report by the Inspector has caused significant delays, frustrating many legitimate claims and undermining Indigenous peoples' ability to secure prompt protection against environmental harms.

As per section 4 of the ECA, 2010, a Joint District Judge is mandated to carry out the duties of the Environmental Court alongside their usual obligations (The Environment Court Act 2010). With the existing backlog of cases in both civil and criminal courts, how can a Joint District Judge effectively manage the substantial workload spanning criminal, civil, and environmental domains concurrently? (Miah, 2015). Environmental offenses often involve scientific and technical issues related to environmental damage, which require specialized expertise to assess pollution levels. However, the Environment Court Act of 2010 does not mandate the inclusion of such experts in the formation of Environmental Courts (Miah, 2015). The Environment Court Act does not mention key norms from international environmental law, such as the principles of sustainable advancement, inter-generational equity, the polluter-pays principle, or the precautionary principle. These concepts are fundamental to environmental law worldwide. To address this gap, the government of Bangladesh could consider adopting a similar approach to Section 20 of India's National Green Tribunal Act, 2010, which explicitly references these principles and mandates their application in tribunal decisions (Habib, 2013). From the foregoing, it can be said that, from an individual, particularly an indigenous perspective, the current framework of the Environment Court Act, 2010, creates barriers to justice, lacks representation, and may delay or undermine timely responses to environmental threats. Reforms should focus on individuals as well as providing indigenous communities with direct access to legal recourse, integrating their perspectives in decision-making, and incorporating international environmental principles that align with their values and knowledge.

The Wildlife (Conservation and Security) Act, 2012

The cultures of indigenous peoples typically practice effective wildlife stewardship as part of their traditional ways of life (Utkina, 2017). Engaging indigenous peoples and local communities in wildlife conservation is crucial for preserving biodiversity and supporting sustainable rural livelihoods (Utkina, 2017). Indigenous peoples and local communities are inherently connected to wildlife through their cultural practices. They can't envision life without nature, and their commitment to sustainably using resources is profound. It is essential to invest in these communities and their long-term strategic planning for both people and wildlife across generations (Utkina, 2017). In the northern Mount Kenya region, local communities have effectively addressed human-wildlife conflicts relating to wild animals invading human space in search of water, prey, and pasture during drought. They fixed the problem, restricting bush-cutting and ensuring there was enough fodder for wildlife on their premises. This demonstrates how local populations can coexist peacefully with the wildlife that shares their homelands, thereby preserving a pastoral way of life and the culture surrounding it (Utkina, 2017).

Traditional beliefs often serve key functions in the conservation of wildlife and their habitats (Arevalo, 2023). The spiritual relationships of indigenous people with nature and their concept of humanity as part of the natural world, combined with profound knowledge on ecological processes in their territories, make these peoples essential protectors of the lands that animals inhabit (Arevalo 2023). When considering how to protect wild animals, it's essential to acknowledge the invaluable ecosystem expertise that has been passed down through generations within Indigenous communities. Ensuring the protection of wild animals involves not only endorsing but also safeguarding and amplifying the voices of Indigenous communities (Arevalo, 2023). This effort intersects with animal welfare, environmental issues, and human rights. Who could be better suited to protect the world's wildlife? (Arevalo, 2023). The information suggests that the bond between indigenous peoples and wildlife is complex, encompassing environmental concerns, ecosystem maintenance, and wildlife conservation.

The Wildlife (Conservation and Security) Act 2012 overlooks the traditional ecological knowledge held by indigenous communities when it comes to safeguarding biodiversity, forests, and wildlife, even though it does define "small ethnic community" (The Wildlife (Conservation and Security) Act, 2012, Section 2(45)). In many wildlife habitats, coexistence exists between people and wildlife, especially among small ethnic communities that have lived in and around national parks and protected areas in Bangladesh for centuries (Hossain, 2011). However, the law fails to address how to manage the presence of these communities within such areas, leaving them vulnerable to potential conflicts with wildlife management efforts and susceptible to exploitation by those with malicious intentions (Hossain, 2011). It's imperative that the law clearly outlines how to address the presence of small ethnic groups and other human settlers living in or near protected areas to avoid such issues.

Creating effective wildlife conservation laws is a daunting task in countries where human activity exerts significant pressure on natural habitats (Hossain, 2011). Just a decade ago, forests were primarily seen as revenue sources for the Government, with wildlife viewed merely as targets for hunting (Hossain, 2011). A century ago, forests and their inhabitants were considered threats to human settlements (Hossain, 2011). However, today we recognize them as national treasures, and safeguarding them is deemed a paramount duty. These swift shifts in perception can lead to misunderstandings that may disrupt the traditional livelihoods of communities residing near natural landscapes (Hossain, 2011). The major flaw in this Act is its pyramid-like structure, where the Chief Wildlife Warden has

complete control and makes all the decisions (Hossain, 2011). While the Chief Wildlife Warden may consult with the Scientific Committee and the Wildlife Advisory Board, these committees lack members with enough authority or decision-making power to ensure their role is impactful and respected, raising concerns about the Act's ability to protect wildlife effectively (Hossain, 2011).

The Bangladesh Biodiversity Act, 2017

This law recognizes the State's responsibility under both the national constitution and the Convention on Biological Diversity (CBD). It seeks to safeguard biodiversity, ensure its sustainable use, and ensure that benefits derived from it and from traditional knowledge are fairly shared. This law promotes the study of biodiversity and biological resources, develops biotechnological innovations, and promotes their commercial application by establishing a national register for biodiversity research and an inventory of Traditional Knowledge. There are economic benefits to this commercialization, which must be ethically shared. This law is significant because it serves as an entry point for the national economic development of Traditional Knowledge holders with respect to their biological resources (Sajal, 2019). Under the CBD provisions, countries are sovereign over their own biological resources and could determine access to genetic resources, as well as negotiate benefit sharing from that material on a Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) basis for access to it (Sajal, 2019). Consequently, issues of ownership and rights relating to genetic resources as well as Traditional Knowledge within indigenous local communities are important, as they influence the pragmatic mechanisms of access and benefit sharing (Sajal, 2019).

This law does not recognize any rights whether individual or collective of indigenous or local communities in their traditional knowledge and access to biological resources. Instead, complete control over these resources and knowledge is granted to the National Committee on Biodiversity, which lacks legal recognition (Sajal, 2019).

The Act does not stipulate the need to follow PIC and MAT protocols concerning indigenous or local communities. Furthermore, the Act replaces the term 'indigenous' with 'local community or people' (Sajal, 2019). Although they predominantly live in forests, indigenous communities in Bangladesh lack recognition of their rights to ancestral lands or access to forest resources (Sajal, 2019). In regions like the Chittagong Hill Tracts, issues concerning land titles and community ownership remain unresolved (Sajal, 2019). Essentially, this Act perpetuates historical injustices by denying proprietary rights over biological resources and Traditional Knowledge to indigenous communities (Sajal, 2019). By prioritizing State sovereignty, it overlooks the sovereignty of indigenous peoples over their resources.

Indigenous communities have a demonstrated track record of preserving biodiversity, and Indigenous Guardians are actively engaged in protecting the land and water that sustain us all (Powless, 2023). Indigenous languages and cultures are closely intertwined with an understanding of local biodiversity. In essence, this knowledge is essential for survival. In the northeastern Australian rainforest, the Dyirbal people lived among a vast array of fruits and vegetables, some of which were safe to eat while others were toxic (Powless, 2023). Their language adapted to reflect the local biodiversity, featuring a grammatical marker that indicated whether a plant was safe to eat (Powless, 2023). This knowledge was acquired through extensive effort, refined through trial and error, and passed down through countless generations spanning thousands of years (Powless, 2023).

The global environmental crisis necessitates immediate efforts to avert a collapse of biodiversity worldwide. Governments, organizations, and conservationists have proposed

plans to protect 30 percent of the Earth's land by 2030, with the aim of increasing this to 50 percent by 2050, in response to the biodiversity and climate crisis (Shimray, 2021). Yet, concern surrounds these expansive international goals, as they could potentially be used against indigenous peoples and local communities, sometimes serving as a pretext for depriving them of their lands, territories, and resources (Shimray, 2021). As outlined in Article 26(3) of the UN Declaration on the Rights of Indigenous Peoples, countries are required to formally recognize and protect the territories, lands, and resources of Indigenous Peoples. Such recognition must be carried out with respect for the customs, traditions, and land tenure systems of the Indigenous Peoples concerned (United Nations, 2007).

In this context, disputes over forest land in SAJEK can be taken into consideration, which appeared in the Amnesty International report (Amnesty International, 2013), which states that, in June 2011, Amnesty International researchers visited the Sajek area in the Baghaichari sub-district of Rangamati Hill, located in the Chittagong Hill Tracts near the India border. The area is a remote region where the Pahari community has lived for generations, typically without formal land ownership documents, however, some have relocated there after being displaced by the Kaptai dam or during armed conflict. According to the Government, all land in Sajek is part of a "Protected Forest Reserve," which means that no one has private ownership. Tensions between Pahari villagers and Bengali settlers have led to significant clashes, notably in April 2008 and February 2010. Conflict arose in early 2008 when Bengali settlers began building huts near Pahari homes. The settlers claimed the land was government-owned, while Pahari villagers said the army encouraged the settlers to stay. Army camps are located near the sites of these clashes, and Pahari villagers believe the army supports the settlers, which creates a sense of insecurity among the locals. On the night of April 20, 2008, Bengali settlers allegedly set fire to around 70 Pahari homes, destroying their belongings. In retaliation, some Pahari villagers burned a few Bengali settler homes. Following the violence, many Pahari villagers sought refuge in the forest. From the foregoing, it appears that, when government policies, such as designating all land in Sajek as a "Protected Forest Reserve", fail to acknowledge the traditional land use and rights of indigenous peoples, they can spark conflict and contribute to environmental damage.

No court shall consider any offense under this Act unless it's initiated by the Government or an authorized officer (The Bangladesh Biodiversity Act, 2017, Section 45(a), or if a benefit claimant files a suit after giving notice (The Bangladesh Biodiversity Act, 2017, Section 45(b). If a benefit claimant intends to file a case, shall notify the Government or the authorized officer within 30 days of the offense (The Bangladesh Biodiversity Act, 2017, Section 45(b).

FINDINGS AND RECOMMENDATIONS

Climate change has noticeably affected the social, economic, and political landscapes in developing and least developed countries, including Bangladesh (Rozario et al, 2022). In recent times, multiple studies suggest that Bangladesh has experienced a rise in both the intensity and occurrence of various swift and gradual environmental events such as erratic rainfall, sea level rise, floods, flash floods, salinity intrusion, storm surges, cyclones, and drought-like situations (Rozario et al., 2022). Bangladesh is highly susceptible to climate-driven extreme events, which endanger livelihoods, security, food, health, and the general welfare of its population (Rozario et al., 2022). To address these challenges, the Government of Bangladesh has been implementing various policies and action plans since 2005 (Rozario et al., 2022). Nevertheless, a number of these policies inadequately address the rights and acclimation requirements of the most vulnerable groups, including indigenous peoples (IP), in response to climate change (Rozario et al., 2022) .

As the world faces the growing effects of climate change, it's evident that we need sustainable approaches derived from the knowledge of those who have cared for and safeguarded the planet for generations (Ram and Shahzar, 2024). Centering Indigenous knowledge in climate policy isn't just about fairness; it's a strategic necessity (Ram and Shahzar, 2024). Indigenous peoples contribute a rich array of traditional practices, adaptive techniques, and deep insights into their ecosystems. This body of knowledge, developed over generations, can inform policies that are both effective and considerate of different cultures and lifestyles (Ram and Shahzar, 2024). Mainstream scientific and governmental institutions frequently overlook or disregard Indigenous knowledge (Carbon, 2023). To unlock its potential, it's crucial to acknowledge and honor Indigenous perspectives and rights. For indigenous people, their lands and ancestral domains are under perennial threat, jeopardizing the integrity of their resource management. Protecting Indigenous lands is not simply a matter of justice, but also keeps invaluable ecological knowledge from being lost (Carbon, 2023).

Despite their unique knowledge and methods for managing forests in a sustainable manner, the Forest Act does not address modern environmental concerns about forest management, nor the rights of indigenous peoples. Furthermore, the existing Forest Act does not recognize the intellectual property and traditional knowledge of indigenous peoples. Under the Forest Act, the powers of enforcement are disproportionately concentrated in forest officers and police. Therefore, the Forest Act needs to be amended, and there is a need to recognize the explicit rights of indigenous peoples, which include recognition for their traditional knowledge-making capacities, their cultural traditions, and those who have contributed to forests. The Government may also undertake education and awareness campaigns to build knowledge on forest conservation, the role of communities including indigenous peoples, in forest management, and the integration of traditional practices into modern conservation mechanisms. Fostering public-private partnerships among government entities, indigenous communities, and environmental groups for forest conservation and resource management could also be a relevant policy recommendation.

Unlike the Forest Act of 1927, the Bangladesh Environment Conservation Act of 1995 also does not refer to “indigenous” and explicitly acknowledges the rights of indigenous peoples. Indigenous wisdom is a unique resource for combating climate change, conserving biodiversity and reversing environmental degradation. There is no reference to climate change in any of its provisions, and there are also no provisions for integrating indigenous knowledge into the mitigation and adaptation process. To ensure climate justice for the indigenous peoples, provisions regarding climate change should be introduced in Bangladesh Environment Conservation Act, 1995.

The legal barriers mentioned in the Environment Court Act, 2010, specifically sections 6(1), 6(3), and 7(4) should be amended. For indigenous communities, the government needs to amend the Environment Court Act to provide direct access to environmental courts. While Section 17 of the Bangladesh Environment Conservation Act, 1995, permits individuals, groups, or the public to seek compensation in an Environment Court if they suffer harm due to a breach of this Act or its rules, Section 7(4) of the Environment Court Act, 2010, complicates this process. It stipulates that the Environment Court can only accept compensation claims under environmental law with a written report from an Inspector from the Department of Environment (DoE), creating a barrier for those seeking compensation. Additionally, the jurisdiction of the Environment Court under the ECA of 2010 is ambiguous. According to the definition of "environmental law" in this Act, the Environment Court does not have jurisdiction to hear cases related to biodiversity, water resources, wildlife, forests, fisheries, forest resources, and other natural resources because

the Bangladesh government has not issued a gazette notification to include additional Acts within the scope of "environmental law" as defined in the ECA, 2010 (Sajal, 2015). To support indigenous communities, the government should revise the Environment Court Act to allow direct access to environmental courts without necessitating reports from Inspectors. Additionally, the definition of "environmental law" should be broadened to cover cases related to forests and other natural resources. These adjustments would enable indigenous communities to have their voices heard and provide them with the tools to safeguard their environment and cultural heritage.

Indigenous peoples have a profound connection to wildlife, which is deeply rooted in their cultural practices and traditional beliefs. Their ecological knowledge plays a vital role in biodiversity conservation and maintaining harmony with nature. However, the Wildlife (Conservation and Security) Act 2012 neglects this knowledge and lacks clear guidelines for managing indigenous communities in protected areas, leaving them vulnerable to conflicts and exploitation. The Act's centralization of power in the Chief Wildlife Warden and the absence of significant indigenous representation in decision-making raise concerns about effective wildlife management and the protection of indigenous rights. Therefore, the Wildlife (Conservation and Security) Act 2012 aims to acknowledge and integrate indigenous ecological knowledge into wildlife conservation strategies. This approach promotes biodiversity and fosters sustainable wildlife stewardship. In addition, the Government may establish a framework that includes indigenous representatives in decision-making processes related to wildlife management and conservation. This change may indicate that traditional perspectives and values continue to hold significant influence in policy decisions. The government may also create guidelines within the Act for managing human-wildlife interactions, with a focus on addressing the needs and rights of indigenous communities in and around protected areas. This initiative may help reduce conflicts and ensure peaceful coexistence.

To address the shortcomings in the Bangladesh Biodiversity Act, 2017, amendment should bring in the Act to recognize the collective and individual rights of indigenous peoples to their traditional lands, biological resources, and traditional knowledge. Bangladesh's policymakers should mandate legal requirements to obtain consent from indigenous communities before accessing their resources or expertise, ensuring equitable benefit-sharing and safeguarding indigenous interests. The Government should create mechanisms for resolving land disputes that reflect indigenous tenure and community ownership, including legal recognition of indigenous territories and safeguards against forced displacement. Bangladesh's policymakers should also include provisions on intellectual property rights for indigenous communities, which could incentivize them to protect the environment.

CONCLUSION

In conclusion, the pivotal role of indigenous communities in safeguarding forest resources, engaging in forest and environmental conservation, and preserving wildlife and biodiversity is undeniable. Through the lens of environmental rights, it becomes apparent that indigenous peoples are not only stakeholders but custodians of the ecosystems they inhabit. This research has shed light on the multifaceted contributions indigenous communities make towards sustainable environmental management, often rooted in their deep-seated cultural and spiritual connections to the land. First and foremost, indigenous peoples possess invaluable traditional knowledge systems that have been honed over centuries of coexistence with nature. This skillset encompasses an in-depth understanding of nearby ecosystems, encompassing plant and animal life, seasonal cycles, and methods for sustainably managing resources. Through the fusion of traditional knowledge with contemporary conservation

initiatives, indigenous communities provide comprehensive approaches that enhance biodiversity while honoring the intricate harmony between human requirements and ecological well-being. Moreover, the role of indigenous peoples in protecting forest resources extends beyond mere preservation; it encompasses active stewardship and advocacy for land rights and territorial sovereignty. Legally recognizing environmental rights for indigenous peoples is vital for ensuring their involvement in decision-making processes that affect their territories. Global instruments, such as UNDRIP, highlight the entitlements of indigenous peoples to self-governance, land possession, and the safeguarding of their ancestral lands. Upholding these rights is not only a matter of justice but also essential for promoting effective conservation strategies that are grounded in local knowledge and community empowerment. This study calls for a more robust integration of indigenous knowledge, practices, and rights into environmental conservation frameworks. Policymakers, conservationists, and stakeholders must work collaboratively with indigenous communities to develop strategies that support both cultural and ecological sustainability. Additionally, this collaborative approach fosters a greater sense of shared responsibility, promoting environmental justice and recognizing the invaluable contributions of indigenous peoples to global conservation efforts. To this end, future research should focus on developing mechanisms to support and amplify indigenous voices in conservation discourse. By embracing these approaches, it may create a more inclusive and sustainable path forward for both environmental conservation and the rights of indigenous peoples.

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