

**Comparative Analysis of Bangladesh's Legal Framework and ADB Safeguard Policy Statement:
Indigenous Peoples**

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence¹	(D) Recommended Gap-filling Measures
<p>Scope and Triggers: (Definition of Indigenous Peoples) The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.</p>			
<p>Key Element (1) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others</p>	<p>Rangamati Hill District Council Act 1989, as amended up to 18 September 2000² 2. Definition. – In this Act, unless there is anything repugnant in the subject or context-... (b) “Tribal” means members of Chakma, Marma, Tanchangya, Tripura, Lusai, Pangkhu & Khyang tribes who are permanent inhabitants of Rangamati Hill District;... 4. Composition of the Council. (5) Whether a person is a tribal or not shall be determined, along with the identity of the tribe to which he belongs by the Circle Chief of the district... State Acquisition and Tenancy Act, 1950, as amended as of 2006 97. (1) The Government may from time to time, by notification, declare that the provisions of this section shall, in any district or local area, apply to such of the following aboriginal castes or tribes as may be specified in the notification, and that such castes or tribes shall be deemed to be aboriginals for the purposes of this section, and the publication of such notification shall be conclusive evidence that the provisions of this section have been duly applied to such castes or tribes, namely:- Sonthals, Banais, Bhuiyas, Bhumijes, Dalus, Garos, Gonds, Hadis, Hajangs, Hos, Kharias, Kharwars, Kochs (Dhaka Division), Koras, Maghs (Bakerganj District), Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis.</p>	<p>Partial equivalence</p> <p>There is full equivalence with respect to tribal peoples who live in the Chittagong Hill Tracts.</p> <p>The State Acquisition and Tenancy Act enables the government to legally recognize castes and tribes in other parts of the country.</p>	<p>Consider legal measures that would provide legally recognized tribal peoples in all parts of the country with safeguards similar to those provided for tribal peoples in the Chittagong Hill Tracts.</p>

¹ “Full Equivalence” denotes that Bangladesh’s legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. “Partial Equivalence” denotes that Bangladesh’s legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and “No Equivalence” denotes that no Bangladesh legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

² There are three districts in the Chittagong Hill Tracts: Rangamati, Khagrachari and Bandarban. District Council Acts were adopted for each district in 1989. The Chittagong Hill Tracts Peace Accord of 1997 amended all three of the District Council Acts, which were amended again in 2000. It appears that the substance of the original three Acts may have been identical because each amendment in the Chittagong Hill Tracts Peace Accord applied to all three Acts. The Rangamati Hill District Council Act was the only one that was available for this assessment.

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<p>Key Element (2) Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories</p>	<p>The Chittagong Hill Tracts Peace Accord of 1997 Under the framework of the Constitution of Bangladesh and keeping full and firm confidence in the sovereignty and integrity of Bangladesh, to uphold the political, social, cultural, educational and economic rights of all the people of Chittagong Hill Tracts region and to expedite socio-economic development process...the National Committee on Chittagong Hill Tracts, on behalf of the government of the People's Republic of Bangladesh, and Parbatya Chattagram Jana Sanghati Samity, on behalf of the inhabitants of Chittagong Hill Tracts, have reached the following agreement in four parts...</p>	<p>Partial equivalence</p> <p>There is full equivalence with respect to tribal peoples who live in the Chittagong Hill Tracts.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	<p>See Scope and Triggers, Key element 1.</p>
<p>Key Element (3) Customary cultural...institutions that are separate from those of the dominant society and culture</p>	<p>Constitution as amended up to 2011 The culture of tribes, minor races, ethnic sects and communities ...23A. The State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities....</p> <p>The Chittagong Hill Tracts Peace Accord of 1997 Under the framework of the Constitution of Bangladesh and keeping full and firm confidence in the sovereignty and integrity of Bangladesh, to uphold the political, social, cultural, educational and economic rights of all the people of Chittagong Hill Tracts region and to expedite socio-economic development process...the National Committee on Chittagong Hill Tracts, on behalf of the government of the People's Republic of Bangladesh, and Parbatya Chattagram Jana Sanghati Samity, on behalf of the inhabitants of Chittagong Hill Tracts, have reached the following agreement in four parts...</p> <p>C) (Ga) The Chittagong Hill Tracts Regional Council 9. e) Tribal laws and social justice shall be under the jurisdiction of the Council.</p> <p>Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 79. If in the opinion of the Council any law applicable to Hill District, passed by the national parliament or any other authority, is found to be hurtful to the district or objectionable to the tribal people, the Council may file petition in writing, for the purpose of amendment or relaxation of its application, to the government stating the reasons for which the law is being hurtful or objectionable and the government shall in the light of the petition, adopt necessary remedial measures.</p> <p>First Schedule Functions of the Council 23. Tribal custom, tradition and social justice system</p>	<p>Partial equivalence</p> <p>See Scope and Triggers, Key element 2.</p>	<p>See Scope and Triggers, Key element 1.</p>

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Key Element (4) Customary... economic... institutions that are separate from those of the dominant society and culture	See Scope and Triggers, Key element 3.	Partial equivalence See Scope and Triggers, Key element 2.	See Scope and Triggers, Key element 1.
Key Element (5) Customary... social, institutions that are separate from those of the dominant society and culture	See Scope and Triggers, Key element 3.	Partial equivalence See Scope and Triggers, Key element 2.	See Scope and Triggers, Key element 1.
Key Element (6) Customary... political institutions that are separate from those of the dominant society and culture	See Scope and Triggers, Key element 3. The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. e) Tribal laws and social justice shall be under the jurisdiction of the Council. 11. If the Regional Council finds any rule of the 1900 CHT Regulations and other related laws, rules and ordinances as contradictory to the 1989 Hill District Council Acts, then the government shall remove that inconsistency in law according to recommendation of and in consultation with the Regional Council... 13. If the government wants to formulate any law regarding CHT, it shall do so in consultation with and according to the recommendation of the Regional Council. If there arises the necessity to amend any law that may be harmful for development of the three Hill Districts or for the welfare of the tribals, or to make any new law, the Councils may file a petition or put recommendation before the government. Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 67. Co-ordination between the Council and the Government functions.- If deemed necessary for coordination of activities between the Council and government authorities, government or the Council shall put specific proposal on certain matter(s) and functions may be coordinated by mutual correspondence between the Council and the government. (1) The government in consultation with the Council can, by notification in the official gazette, make rules for carrying out the purposes of this Act and even after the rules had been made, the Council shall have special right to file petition for reconsideration of the rules.	Partial equivalence See Scope and Triggers, Key element 2.	See Scope and Triggers, Key element 1.
Key Element (7) A distinct language, often different from the	Constitution as amended up to 2011 The state language 3. The state language of the Republic is Bangla.	Partial equivalence The Constitution	See Scope and Triggers, Key element 1.

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official language of the country or region	Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 First Schedule Functions of the Council 3. Education-... (l) Primary education through mother tongue;...	designates Bangla as the state language and does not recognize any other language. The Chittagong Hill District Council Acts provide for mother-tongue primary education. There does not appear to be a similar guarantee for tribal peoples that live in other parts of the country.	
Key Element (8) A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.	The Chittagong Hill Tracts Peace Accord of 1997 D) (Gha) Rehabilitation, General Amnesty and other Matters Both sides have reached the following position and agreement to take programmes for restoring normal situation in Chittagong Hill Tracts area and to this end on the matters of rehabilitation, general amnesty and others related issues and activities: 1. An agreement has been signed between the government and the refugee leaders on March 9, 1997 with an aim to take back the tribal refugees from India's Tripura State based on the 20-point Facilities Package. In accordance with the said agreement repatriation of the refugees started since March 28, 1997. This process shall continue and with this in view, the Jana Sanghati Samiti shall provide all kinds of possible cooperation. The Task Force shall, after determination, rehabilitate the internally displaced tribal people of three districts.	Partial equivalence There is full equivalence with respect to tribal peoples who live in the Chittagong Hill Tracts. There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.	See Scope and Triggers, Key element 1.
Policy Principle 1: Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.			
Key element (1): Early screening to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area.	The Environment Conservation Rules 1997 as amended up to 2003³ (ECR 1997) 7. Procedure for issuing Environmental Clearance Certificate. – (1) For the purpose of issuance of Environmental Clearance Certificate, the industrial units and projects shall, in consideration of their site and impact on the environment, be classified into the following four categories:- (a) Green; (b) Orange – A; (c) Orange – B; and (d) Red. (6) The following documents shall be attached with an application made under sub-rule (5):- (a) For Green Category:	Partial equivalence The ECR 1997 provide for screening for pollution impacts, but do not require screening for social impacts.	Amend the ECR 1997 to explicitly require EIA screening to include social as well as environmental impacts and to stipulate that social impact assessment is mandatory when a project may affect tribal peoples anywhere in the country.

³ The Environment Conservation Rules were further amended in 2012; the 2012 amendment was not available for this assessment.

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	<p>(i) general information about the industrial unit or project;</p> <p>(ii) exact description of the raw materials and the manufactured product; and</p> <p>(iii) no objection certificate from the local authority;</p> <p>(b) For Orange – A Category:</p> <p>(i) general information about the industrial unit or project;</p> <p>(ii) exact description of the raw materials and the manufactured product;</p> <p>(iii) no objection certificate from the local authority;</p> <p>(iv) process flow diagram;</p> <p>(v) Layout Plan (showing location of Effluent Treatment Plant);</p> <p>(vi) effluent discharge arrangement;</p> <p>(vii) outlines of the plan for relocation, rehabilitation (if applicable);</p> <p>(viii) other necessary information (if applicable);</p> <p>(c) For Orange – B Category:</p> <p>(i) report on the feasibility of the industrial unit or project (applicable only for proposed industrial unit or project);</p> <p>(ii) report on the Initial Environmental Examination of the industrial unit or project, and also the process flow diagram, Layout Plan (showing location of Effluent Treatment Plant), design of the Effluent Treatment Plant (ETP) of the unit or project (these are applicable only for a proposed industrial unit or project);</p> <p>(iii) report on the Environmental Management Plan (EMP) for the industrial unit or project, and also the Process Flow Diagram, Layout Plan (showing location of Effluent Treatment Plant), design of the Effluent Treatment Plant and information about the effectiveness of the ETP of the unit or project, (these are applicable only for an existing industrial unit or project);</p> <p>(iv) no objection certificate from the local authority;</p> <p>(v) emergency plan relating adverse environmental impact and plan for mitigation of the effect of pollution;</p> <p>(vi) outline of the relocation, rehabilitation plan (where applicable);</p> <p>(vii) other necessary information (where applicable).</p> <p>(d) For Red Category:</p> <p>(i) report on the feasibility of the industrial unit or project (applicable only for proposed industrial unit or project);</p> <p>(ii) report on the Initial Environmental Examination (IEE) relating to the industrial unit or project, and also the terms of reference for the Environmental Impact Assessment of the unit or the project and its Process Flow Diagram;</p> <p>or</p> <p>Environmental Impact Assessment report prepared on the basis of terms of reference previously approved by the Department of Environment, along with the Layout Plan (showing location of Effluent Treatment Plant), Process Flow Diagram, design and time schedule of the Effluent Treatment Plant of the unit or project, (these are applicable only for a proposed industrial unit or project);</p>		

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	(iii) report on the Environmental Management Plan (EMP) for the industrial unit or project, and also the Process Flow Diagram, Layout Plan (showing location of Effluent Treatment Plant), design and information about the effectiveness of the Effluent Treatment Plan of the unit or project (these are applicable only for an existing industrial unit or project); (iv) no objection certificate of the local authority; (v) emergency plan relating adverse environmental impact and plan for mitigation of the effect of pollution; (vi) outline of relocation, rehabilitation plan (where applicable); (vii) other necessary information (where applicable);...		
Key element (2): Early screening to determine whether project impacts on Indigenous Peoples are likely.	See Policy Principle 1, Key element 1.	Partial equivalence See Policy Principle 1, Key element 1.	See Policy Principle 1, Key element 1.
Policy Principle 2: Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.			
Key element (1): Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.	The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. a) The Council, including coordination of all development activities conducted under the three Hill District Councils, shall supervise and coordinate the subjects vested upon the Hill District Councils. Besides these, if any lack of coordination and inconsistency is found among the Hill District Councils in discharging their responsibilities the decision of the Regional Council shall be taken as final.... c) Regional Council can coordinate and supervise in the matters of...development of the three Hill Districts.... Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 23. Transfer of functions of the Government and the Council. – Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may, with the consent of the council, direct that-... (b) any institution or service maintained by the Government shall be transferred to the management and control of the Council. 42. Development plans.- (1) The council may prepare and implement development plan any matter under its jurisdiction consistent with its resources. (2) Such plan shall provide for- (a) the manner in which the plants shall be financed, executed, implemented and supervised; (b) implementing agency of the plant;	Partial equivalence The ECR 1997 do not require social impact assessment. The Chittagong Hill Tracts Peace Accord of 1997 and the District Council Acts provide that the Regional Council and District Councils are responsible for planning and overseeing development. It may be assumed that the Regional Council and District Councils would require project preparation processes to carry out social impact assessment.	Amend the ECR 1997 to explicitly require culturally appropriate and gender-sensitive social impact assessment that assesses potential project impacts on tribal peoples anywhere in the country.

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	<p>(c) other ancillary matters of the plan.</p> <p>(2a) The Council with its own fund or fund received from the Government under Sub-Section (1) of this Section may formulate and implement development plans on the subjects and departments transferred to it under Section 23(b).</p> <p>(3) The Council shall send a copy of its development plan to the Government before its implementation.</p> <p>(4) The concerned Ministry, Division or Department shall implement through the Council all development works undertaken by the Government at the national level on the subjects transferred to the Council.</p>	<p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	
<p>Key element (2): Assessment process gives full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.</p>	<p>See Policy Principle 2, Key element 1.</p>	<p>Partial equivalence</p> <p>See Policy Principle 2, Key element 1.</p> <p>The ECR 1997 do not require EIA to consider options that tribal peoples prefer with respect to project benefits and mitigation measures.</p> <p>It may be assumed that the Regional Council and District Councils would require projects to consider options that tribal peoples prefer with respect to project benefits and mitigation measures.</p>	<p>Amend the ECR 1997 to stipulate that the EIA process must give full consideration to options affected tribal people anywhere in the country prefer in relation to the provision of project benefits and the design of mitigation measures.</p>

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<p>Key element (3): Assessment process identifies social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive.</p>	<p>See Policy Principle 2, Key element 1.</p>	<p>Partial equivalence</p> <p>See Policy Principle 2, Key element 1.</p> <p>The ECR 1997 do not require EIA to identify social and economic benefits for tribal peoples that are culturally appropriate and gender and inter-generationally inclusive.</p> <p>It may be assumed that the Regional Council and District Councils would require EIA for projects in the Hill Tracts to identify social and economic benefits for affected tribal peoples that are culturally appropriate and gender and inter-generationally inclusive.</p>	<p>Amend the ECR 1997 to stipulate that the EIA process must include social impact assessment, or similar methods, that identifies social and economic benefits for affected tribal people, anywhere in the country, that are culturally appropriate and gender and inter-generationally inclusive.</p>
<p>Key element (4): Project preparation process develops measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.</p>	<p>See Policy Principle 2, Key element 1.</p>	<p>Partial equivalence</p> <p>See Policy Principle 2, Key element 1.</p> <p>It may be assumed that the Regional Council and District Councils would require the preparation of projects in the Hill Tracts to develop measures to avoid, minimize, and/or mitigate adverse impacts on tribal peoples.</p>	<p>Amend the ECR 1997 to stipulate that the project preparation process must develop measures to avoid, minimize, and/or mitigate adverse impacts on tribal peoples anywhere in the country.</p>
<p>Policy Principle 3: Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation</p>			

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(i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.			
<p>Key element (1): Affected Indigenous Peoples communities and organizations are consulted in a meaningful manner.</p>	See Policy Principle 2, Key element 1.	<p>Partial equivalence</p> <p>The ECR 1997 do not require public consultation during the EIA process.</p> <p>See Policy Principle 2, Key element 1.</p> <p>It may be assumed that the Chittagong Hill Tracts Regional Council and District Councils would require public consultation with project-affected tribal peoples in the Hill Tracts.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	Amend the ECR 1997 to require public consultation during the EIA process and to ensure that affected tribal peoples anywhere in the country are consulted in a meaningful manner.
<p>Key element (2): The scope of consultations includes design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.</p>	See Policy Principle 2, Key element 1.	<p>Partial equivalence</p> <p>See Policy Principle 3, Key element 1.</p>	Amend the ECR 1997 to require public consultation during the EIA process, to explicitly stipulate that the scope of consultations must include project design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.

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Key element (3): The Scope of consultations includes tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner.	See Policy Principle 2, Key element 1.	Partial equivalence See Policy Principle 3, Key element 1.	Amend the ECR 1997 to explicitly stipulate that the scope of consultations includes tailoring project benefits for affected tribal peoples in a culturally appropriate manner.
Key element (4): Enhance Indigenous Peoples' active participation in projects affecting them will provide for culturally appropriate and gender inclusive capacity development.	Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 First Schedule Functions of the Council 13. Construction, maintenance and development of highways, culverts and bridges not reserved by the Government or any local authority.... 17. Implementation of development plans entrusted to the Council by the Government.... 20. Preparation of plans for local development. 26. Conservation and development of ecology.	Partial equivalence The District Council Acts empower the tribal peoples who live in the Chittagong Hill Tracts to generally oversee development in their districts, but do not specifically address the issue of ensuring that individual projects provide for culturally appropriate and gender inclusive capacity development. There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.	Amend the ECR 1997 to explicitly stipulate that the design of projects that will impact tribal peoples anywhere in the country must include measures to enhance their active participation in projects affecting them and provide for culturally appropriate and gender inclusive capacity development.
Key element (5): Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.	Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 66. Provision regarding settlement of disputes on tribal matters.- (1) In the event of any social, cultural or tribal dispute among tribal people domiciled in Rangamati Hill District, the same should be referred to the local Karbari or Headman for settlement and he shall settle the dispute according to existing custom of the tribes concerned. (2) Appeal against the decision of the Karbari or Headman shall lie with the Chakma Circle Chief and Bohmong Circle Chief as the case may be. (3) Appeal against the decision of the Chakma Circle Chief and Bohmong Circle Chief shall lie with the Commissioner of Chittagong Division and his decision shall be final: Provided that, before disposal of the appeal he will consult with not less than three tribal elders	Partial equivalence The ECR 1997 do not provide for project-specific grievance redress mechanisms. There is full equivalence with respect to culturally-appropriate dispute	Amend the ECR 1997 to explicitly stipulate that the design of projects that will impact tribal peoples anywhere in the country must include a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of

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	nominated by the tribe concerned.	<p>resolution mechanisms for tribal peoples who live in the Chittagong Hill Tracts.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	affected tribal peoples' concerns.
<p>Policy Principle 4: Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.</p>			
<p>Key element (1): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of cultural resources and knowledge of Indigenous Peoples.</p>	<p>The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. a) The Council, including coordination of all development activities conducted under the three Hill District Councils, shall supervise and coordinate the subjects vested upon the Hill District Councils. Besides these, if any lack of coordination and inconsistency is found among the Hill District Councils in discharging their responsibilities the decision of the Regional Council shall be taken as final.... c) Regional Council can coordinate and supervise in the matters of...development of the three Hill Districts....</p> <p>Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 First Schedule Functions of the Council 13. Construction, maintenance and development of highways, culverts and bridges not reserved by the Government or any local authority.... 17. Implementation of development plans entrusted to the Council by the Government.... 20. Preparation of plans for local development. 26. Conservation and development of ecology.</p>	<p>Partial equivalence</p> <p>The District Council Acts empower the tribal peoples who live in the Chittagong Hill Tracts to generally oversee development in their districts, but do not specifically address commercial development of cultural resources and traditional knowledge.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	<p>See Scope and Triggers, Key element 1.</p> <p>Amend the ECR 1997 to explicitly stipulate that project proponents must secure the consent of affected tribal people anywhere in the country for project activities that would include commercial development of their cultural resources and knowledge.</p>
<p>Key element (2): Consent of affected Indigenous Peoples communities is required for project activities that</p>	<p>Constitution as amended up to 2011 Rights to property 42. (1) Subject to any restrictions imposed by law...no property shall be compulsorily acquired, nationalised or requisitioned save by authority of law.</p>	<p>Partial equivalence</p> <p>There is full equivalence with respect to tribal peoples who live in the</p>	<p>See Scope and Triggers, Key element 1.</p> <p>Amend the ECR 1997 to explicitly require the</p>

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would include physical displacement of Indigenous Peoples from traditional or customary lands.	<p>The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. a) The Council, including coordination of all development activities conducted under the three Hill District Councils, shall supervise and coordinate the subjects vested upon the Hill District Councils. Besides these, if any lack of coordination and inconsistency is found among the Hill District Councils in discharging their responsibilities the decision of the Regional Council shall be taken as final.... c) Regional Council can coordinate and supervise in the matters of...development of the three Hill Districts.... f) The Council can issue license for heavy industry.</p> <p>Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 64. Restriction on land transfer.- (1) Notwithstanding anything contained in any law for the time being in force- (a) no land including the khas land suitable for settlement within the jurisdiction of Rangamati Hill District shall be leased out, settled with, purchased, sold out or transferred otherwise with the prior approval of the Council;... b) Notwithstanding anything contained in any law for the time being in force, no lands, hills and forests within the control and jurisdiction of the Hill District Council shall be acquired or transferred by the government without consultation and consent of the Hill District Council.</p> <p>State Acquisition and Tenancy Act, 1950, as amended as of 2006 97. (2) Except as provided in this section, no transfer by an aboriginal raiyat of his right in his holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in Bangladesh who is a person to whom the transfer of such holding or portion thereof can be made under section 90.</p> <p>The Chittagong Division Development Board Ordinance, 1976 16. Any land required by the Board for carrying out its functions under this Ordinance shall be deemed to be needed for a public purpose and such land may be requisitioned or acquired for the Board by the Government or the Deputy Commissioner, as the case may be, in accordance with any law for the time being in force.</p>	Chittagong Hill Tracts. There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.	consent of affected tribal people for project activities that would include their physical displacement from traditional or customary lands.
Key element (3): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial	<p>The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. a) The Council, including coordination of all development activities conducted under the three Hill District Councils, shall supervise and coordinate the subjects vested upon the Hill District Councils. Besides these, if any lack of coordination and inconsistency is found among the Hill District Councils in discharging their responsibilities the decision of the Regional Council shall be taken as final....</p>	Partial equivalence There is full equivalence with respect to tribal peoples who live in the Chittagong Hill Tracts.	See Scope and Triggers, Key element 1. Amend the ECR 1997 to explicitly require the written consent of affected tribal people anywhere in the

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development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.	<p>c) Regional Council can coordinate and supervise in the matters of...development of the three Hill Districts.... f) The Council can issue license for heavy industry.</p> <p>Rangamati Hill District Council Act 1989, as amended up to 18 September 2000 First Schedule Functions of the Council 13. Construction, maintenance and development of highways, culverts and bridges not reserved by the Government or any local authority.... 17. Implementation of development plans entrusted to the Council by the Government.... 20. Preparation of plans for local development. 26. Conservation and development of ecology.</p>	There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.	country for project activities that would include commercial development of natural resources within customary lands that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define their identity and community.
Policy Principle 5: Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.			
<p>Key element (1): Project design avoids, to the maximum extent possible, any restrictions on Indigenous Peoples' access to, and physical displacement of Indigenous Peoples from, protected areas and natural resources.</p>	<p>The Chittagong Hill Tracts Peace Accord of 1997 C) (Ga) The Chittagong Hill Tracts Regional Council 9. a) The Council, including coordination of all development activities conducted under the three Hill District Councils, shall supervise and coordinate the subjects vested upon the Hill District Councils. Besides these, if any lack of coordination and inconsistency is found among the Hill District Councils in discharging their responsibilities the decision of the Regional Council shall be taken as final.... c) Regional Council can coordinate and supervise in the matters of...development of the three Hill Districts....</p>	<p>Partial equivalence</p> <p>Under the Chittagong Hill Tracts Peace Accord of 1997, the Chittagong Hill Tracts Regional Council is responsible for overseeing development. It may be assumed that the Regional Council would require projects to avoid restrictions on tribal peoples' access to protected areas and natural resources.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	<p>See Scope and Triggers, Key element 1.</p> <p>Amend the ECR 1997 to explicitly stipulate that project proponents must reach prior agreement with affected tribal peoples anywhere in the country, on a project-specific basis, that displacement from protected areas and natural resources will be avoided to the maximum extent possible and reflect this agreement in the project design.</p>
<p>Key element (2): Where avoidance is not possible, project designs ensure that the</p>	See Policy Principle 5, Key element 1.	<p>Partial equivalence</p> <p>Under the Chittagong Hill Tracts Peace Accord of</p>	<p>See Scope and Triggers, Key element 1.</p> <p>Amend the ECR 1997 to</p>

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<p>affected Indigenous Peoples communities can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.</p>		<p>1997, the Chittagong Hill Tracts Regional Council is responsible for overseeing development. It may be assumed that the Regional Council would require projects to ensure that affected tribal peoples participate in the design, implementation, and monitoring and evaluation of management arrangements for protected areas and natural resources in the Hill Tracts.</p> <p>There do not appear to be any similar legal safeguards for tribal peoples who live in other parts of the country.</p>	<p>explicitly stipulate that, where avoidance is not possible, project designs ensure that affected tribal people anywhere in the country can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.</p>
<p>Key element (3): Where avoidance is not possible, project designs ensure that affected Indigenous Peoples communities share equitably in project benefits.</p>	<p>See Policy Principle 5, Key element 1.</p>	<p>Partial equivalence</p> <p>Under the Chittagong Hill Tracts Peace Accord of 1997, the Chittagong Hill Tracts Regional Council is responsible for overseeing development. It may be assumed that the Regional Council would require that project designs ensure that affected tribal peoples share equitably in project benefits.</p> <p>There do not appear to</p>	<p>See Scope and Triggers, Key element 1.</p> <p>Amend the ECR 1997 to explicitly stipulate that, where avoidance is not possible, project designs must ensure that affected tribal people anywhere in the country can share equitably in project benefits.</p>

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		be any similar legal safeguards for tribal peoples who live in other parts of the country.	
Policy Principle 6: Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.			
Key element (1): When Indigenous Peoples communities are present in the project area, or are likely to be affected by project activities, an Indigenous Peoples Plan (IPP) is prepared.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that, when tribal people are present in a project area, or are likely to be affected by project activities, anywhere in the country, project proponents must prepare the equivalent of an Indigenous Peoples Plan.
Key element (2): The IPP is based on social impact assessment and is prepared by qualified experts.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to stipulate that an Indigenous Peoples Plan or the equivalent must be based on social impact assessment and must be prepared by qualified experts.
Key element (3): The IPP draws on indigenous knowledge and participation by the affected Indigenous Peoples communities.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must draw on tribal peoples' knowledge and participation.
Key element (4): The IPP includes a framework for continued consultation with the affected Indigenous Peoples	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a framework for continued consultation with affected

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communities during project implementation.			tribal people during project implementation.
Key element (5): The IPP includes specific measures to ensure that Indigenous Peoples communities receive culturally appropriate benefits.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include specific measures to ensure that tribal people receive culturally appropriate benefits.
Key element (6): The IPP identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must identify measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.
Key element (7): The IPP includes a culturally appropriate grievance redress mechanism.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a culturally appropriate grievance redress mechanism.
Key element (8): The IPP includes arrangements for monitoring during project implementation and for evaluation of results.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include arrangements for monitoring during project implementation and for evaluation of results.
Key element (9): The IPP includes a budget and time-bound plan for implementing all required actions.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must include a budget and time-bound plan for implementing all required actions.

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Policy Principle 7: Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.			
Key element (1): A draft IPP (including documentation of consultations with Indigenous Peoples communities and social impact assessment results is publicly disclosed in a timely manner before project appraisal.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent, including documentation of consultations with affected tribal people and social impact assessment results, is publicly disclosed in a timely manner before project appraisal.
Key element (2): The disclosed draft IPP is accessible to, and in a form and language(s) understandable to, affected Indigenous Peoples communities and other stakeholders.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent must be accessible to, and in a form and language(s) understandable to, affected tribal people and other stakeholders.
Key element (3): The final IPP (and any subsequent updates) also are disclosed to affected Indigenous Peoples communities and other stakeholders.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that an Indigenous Peoples Plan or the equivalent and any subsequent updates must be disclosed to affected tribal people and other stakeholders.
Policy Principle 8: Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.			
Key element (1): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly include in the EIA process a requirement that: 1. in the event that a proposed project's activities are contingent on

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when the project involves activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied.			establishing legally recognized rights of distinct cultural groups to land; and/or 2. in the event of involuntary acquisition of lands traditionally occupied by distinct cultural groups, project proponents must prepare an action plan for securing legal recognition of the distinct cultural groups' rights to lands they have traditionally occupied.
Key element (2): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves involuntary acquisition of such areas.	No corresponding legal provision.	No equivalence	See Policy Principle 8, Key element 1.
Policy Principle 9: Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.			
Key element (1): Monitor implementation of the IPP using qualified and experienced experts.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that the implementation of an Indigenous Peoples Plan or the equivalent must be monitored by qualified and experienced experts.
Key element (2): Include arrangements for participatory monitoring whenever possible.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that project design must include arrangements for participatory monitoring of the implementation of an Indigenous Peoples Plan

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			or the equivalent, wherever possible.
Key element (3): Assess whether IPP objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly stipulate that participatory monitoring of the implementation of an Indigenous Peoples Plan or the equivalent must assess whether the plan's objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.
Key element (4): Monitoring reports are disclosed.	No corresponding legal provision.	No equivalence	Amend the ECR 1997 to explicitly require that monitoring reports must be disclosed.