

HOPE *and* DESPAIR

Indigenous Jumma Peoples
Speak on the Chittagong Hill
Tracts Peace Accord



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Published by



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Hope and Despair: Indigenous Jumma Peoples Speak on the Chittagong Hill Tracts Peace Accord

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Decade Assessment of the Chittagong Hill Tracts Peace Accord: An Overview

By Victoria Tauli-Corpuz

Executive Director, Tebtebba

Former Chairperson, UN Permanent Forum on Indigenous Issues

Where there is no Hope, Let us create Hope.

- Albert Camus

The involvement of Tebtebba in the peace and development initiatives in the Chittagong Hill Tracts dates back to the year 2000, when I, together with Professor Raymundo Rovillos, then a graduate (PhD) student and volunteer research coordinator of Tebtebba and now the Dean of College of Social Sciences at the University of the Philippines Baguio, favorably responded to an invitation by indigenous leaders and organizations in CHT to conduct a benchmarking study of the post-Accord situation of the indigenous peoples in that region. The results of this study would become the basis of sustained solidarity engagements between Tebtebba and the indigenous peoples' organizations of the CHT. Part of the study was published by Tebtebba; a material entitled *The Road to Peace in the Chittagong Hill Tracts, Bangladesh* (2000).

The case of the CHT Peace Accord was later included in a global comparative study on peace and conflict resolution that was undertaken by Tebtebba and its partner indigenous peoples' organizations from 2000 to 2002. This collaborative study culminated in an International Conference on Conflict Resolution, Peace-Building, Sustainable Development and Indigenous Peoples which was held in Manila from December 6-8, 2000. Most of the papers that were presented in this conference were later published by Tebtebba

into a book, entitled *Reclaiming Balance* (2002) which I co-edited with Ms. Joji Cariño.

The Peace Accord that was signed in 1997 by the Bangladesh government and the Partbattya Chattagram Jana Samhati Samiti (PCJSS) formally ended the more than two decades of armed conflict in Bangladesh. With the signing of the Accord, hope was renewed among the Jumma peoples that they will eventually live in peace and dignity. Unfortunately, these expectations have thus far been derailed by many documented violations like torture, killing and arson that have taken place in the CHT after the Peace Accord was signed.

In 2003, I went for a fact-finding mission to Mahalchari upazila under the Khagrachari Hill District after it was burned on August 23 of that same year by Bengali settlers. I saw what remained after more than 350 indigenous Jumma households belonging to 14 villages under five mouzas were looted and burnt to ashes. It was reported that more than 100 houses of the Jumma peoples, including four Buddhist temples, one UNICEF-run primary school and several shops and statues of Lord Buddha were destroyed and ransacked. Ten Jumma women were reported to have been raped by the Bengali settlers. However, we did not manage to talk with any of these rape victims because they were too scared to talk with anybody. This experience further made me realize how fragile the peace was in the Hill Tracts. Any small incident where a Bengali has been harmed by an indigenous person can be magnified and used to mobilize irate Bengalis to just go and burn many Jumma communities. What is even more worrisome is that the military, themselves, are clearly supportive of such actions.

Six years after, in 2009, I visited Bangladesh again as part of the Chittagong Hill Tracts Commission and as the Chair of the United Nations Permanent Forum on Indigenous Issues (UNPFII). This was the third mission of the Commission and this visit was aimed at gathering more information about alleged human rights violations, as well as to assess how far the implementation of some of the provisions have gone. This mission held high-level meetings with the Prime Minister and concerned Ministers, the CHT Land Commission and the Law Commission. Meetings were also held

with brigade commanders, senior police officers, political parties, indigenous peoples' organizations and civil society representatives and interviewed victims of human rights violation. The delegation did field visits in Bandarban, Rangamati and Khagrachari Districts, interviewing and holding discussions with both indigenous peoples and Bengalis, including victims of human rights violations and forcible land grabbing. I was not able to take part in the field visits and the meetings with some of the high level officials.

I took part in the later interviews and dialogues together with Lord Eric Avebury, the Chair of the Commission. We talked with representatives of various political parties (BJP, Awami League, PCJSS, Communist Party of Bangladesh, etc.) and indigenous peoples' organizations and NGOs. We talked with Shantu Larma, the head of PCJSS and the Chairman of the CHT Regional Council. This time, Awami League, which was the government when the CHT Accord was negotiated, was back in power so we were more hopeful that there would be major changes in terms of how the Accord will be implemented. When the Awami League won the elections in December 2008, they pledged to fully implement the CHT Accord and to secure the Jumma peoples' rights. Hopes were raised high for the satisfactory implementation of the Accord.

What struck me whenever I visited the region and the country was the firm belief of the Jumma peoples that only the implementation of the Accord can bring about a long and lasting peace to their land. Unfortunately, at every turn the barriers in achieving this elusive peace seem to get stronger and more complicated. The Awami League undertook some steps towards meeting the pledge they gave. It set up of the National Committee for Implementation of the CHT Accord, reestablished the Land Commission and the Task Force on Rehabilitation of Returnee Jumma Refugees and Internally Displaced Persons. Plantation leases that have not been properly developed were cancelled and some temporary military camps were dismantled.

Over the years, the indigenous peoples' in the CHT, their supporters throughout Bangladesh and the international network of

indigenous peoples' organizations have clamored for a review on the implementation of the Peace Accord in the light of above-mentioned developments. Indigenous peoples have expressed dissatisfaction on the level and process of the Accord's implementation in various international fora. They lament the fact that the Bangladesh government has failed to deliver its commitments to the various aspects of the Accord. The steps taken by the Awami League has been met with some amount of skepticism because even after this government came into power, human rights violations continue and the number of Bengali settlers entering the CHT Region has not yet been controlled.

Another reality in the region is the existence of the UPDF (United Peoples' Democratic Front), another political party set up by a faction which split from the PCJSS. The UPDF rejected the CHT Accord and accused PCJSS of selling out to the Awami League. It does not believe this will bring about peace and so their fight for the full autonomy for the Jumma continues. The UPDF is an armed movement but it also has fronts operating in the open. In one of my visits, I had a chance to meet with some of their leaders as well.

In 2008, the Jumma peoples' local and regional organizations initiated the process of a comprehensive assessment of the Accord. They sought the technical assistance of Tebtelba in some of their major activities, like the scoping workshop that was organized on January 22-26, 2008 at Dhaka, Bangladesh. In this workshop, participants discussed the framework for the study and agreed on the objectives and parameters of the study. The workshop was followed up by another meeting conducted in August of the same year hosted by the Jumma peace activists in Dhaka, Bangladesh. The meeting aimed at finalizing the overall implementation of the project and finalized the research proposal. These series of meetings were participated in by various sectors and adivashis (tribals) in the CHT, therefore making it truly participatory and comprehensive. In all these meetings we, in Tebtelba, pushed that the ones who will do the research and evaluate what has been achieved or not should be the Jumma, themselves. From among the Jumma colleagues we have been meeting, several volunteered to carry out the work under the different themes. Our contribution as Tebt-

ebba is to accompany them along the way, provide technical guidance on the research process, edit the papers and get this published.

The 1997 Peace Accord had two main purpose: 1) to reestablish peace in the Hill Tracts; and 2) to provide a measure of autonomy to this south eastern border region, home to indigenous peoples, namely: Chakma, Marma, Tripura, Tanchangya, Murung, Lushai, Khumi, Chak, Kyang, Bawm, and Pankhua. There were four components of the Accord as discussed by Raja Devasish Roy in his article. The first section of the Accord recognized CHT as a tribal inhabited area. It also deals with the commitment to the passage of legislation and details of composition of the committee envisioned to oversee the implementation of the Accord. The succeeding two sections included institutional and political arrangements and responsibilities which covers the Hill District Local Government Councils and the Chittagong Hill Tracts Regional Councils. The last section provided key provisions for rehabilitation; general amnesty and other matters, including planned rehabilitation of the international refugees, the internally displaced people and the indigenous fighters; and the grant of amnesty to the guerrillas and other indigenous peoples who were involved in the armed struggle.

This study generally aims to assess the implementation of the 1997 CHT Peace Accord from the perspective of the indigenous peoples of the CHT. The study also seeks to determine the facilitating, as well as the hindering factors, in the implementation of the Accord and arrive at policy recommendations for its full implementation.

Three aspects of the implementation of the 1997 Peace Accord were accounted for: Organizational/Institutional Development, Legal Framework and the Grassroots Impact (1997-2008). Included in the area of organizational/institutional development is a thorough diagnosis of the CHT institutions that were created after the signing of the Accord and an appraisal of their performance. Content analysis was employed to study the legal framework of the Accord by integrating previous work of other scholars and Jumma leaders. The grassroots assessment was done by looking into the impacts of the explicit and implicit agreements stipulated in the

Accord. Various experiences and cases in relation to human rights, land recovery and rehabilitation of internal displaced peoples were gathered to draw out indicators of both positive and negative impacts of the Accord implementation.

The results of the assessment are presented in three chapters, to capture the three aspects of the study mentioned above. Chapter 1 begins with a brief overview of the political history of the Chittagong Hill Tracts, then shifts to a more detailed consideration of the genesis of the conflict between the Jumma peoples and plainsmen. From this general background, the study proceeds to examine the provisions that are directly linked to the creation of CHT institutions like the Hill District Councils and Regional Councils, which are deemed to be the primary formal institutions to safeguard and exercise authority over the CHT customary laws. The Ministry of Chittagong Hill Tracts (MoCHTA) was also created as the key administrative authority in charge of the overall development of CHT but was found to have done more disservice to the Jumma peoples. The indigenous peoples have been very critical about the roles and responsibilities of the local institutions in the CHT. They opine that the mandated institutions have not been able to carry their roles and responsibilities because of vicious attempts by anti-Peace Accord elements to undermine these institutions, making them weak and disempowered. The overlapping areas of responsibilities have created tension between the Hill District Councils and CHT Regional Council, on the one hand, and the Deputy Commissioners and the Divisional Commissioner which often resulted to bias against the Jumma peoples. The source of tensions largely centered on efforts of the CHT leaders to decentralize administration, which is resisted by the bureaucratic authorities who are reluctant to devolve power to the CHT self-government system.

A critical examination of the content of the Accord is presented in Chapter 2, on the legal framework. The legal analysis covers the following salient features of the Accord: (i) handover of arms by JSS fighters and their return to normal life; (ii) rehabilitation of JSS fighters, India-returned refugees and internally displaced people; (iii) dismantling of all temporary military and paramilitary camps, except for six specified garrisons (“cantonments”);

(iv) reestablishment of regional self-government through (a) the strengthening of existing district councils (with authority over land, forests other than reserved forests, secondary and primary education, health, agriculture, fisheries, culture, customary law, environment, etc.), (b) strengthening of the roles of traditional chiefs and headmen (with authority over land, customary law, administration of justice, (c) the establishment of a regional council for the CHT (to coordinate and supervise regional governance and to advise the national government on legislation over the CHT), (d) the establishment of a separate ministry on CHT Affairs (to supervise all matters relating to the CHT); and several provisions dealing with (v) land-related issues, including customary land rights.

The authors argue that the aforesaid agreements had very poor implementation by government institutions (political and military) which have caused more trouble in CHT, instead of restoring peace in the area. The paper further reveals that authority over land administration has not been fully handed over to the HDCs until today. Therefore, in many important respects, land administration is still in the hands of the Deputy Commissioners (DC), although according to law and customs, they generally exercise this prerogative in consultation with the mouza headmen. A major source of discontent in the CHT is the conflict between forest laws—primarily the Forest Act of 1927, including subordinate rules—and customary resource rights regimes concerning ownership and use of forestlands and their resources, and access thereto. The most difficult areas include the purported creation of new forest reserves, prosecution of indigenous farmers for alleged “theft” of forest produce, and harassment of indigenous farmers in the process of granting permits to them to sell their forest produce. Although customary resource rights have been formally acknowledged in the Land Commission law of 2001 in the context of dispute resolution, the forest laws have not been amended to formally acknowledge these rights in areas categorized as “forests.”

The last Chapter echoes the unfeigned experiences of the indigenous peoples on the ground as regard to the implementation of the Accord. From these narratives, it appears that there has not

been any serious effort at indigenizing the administration in the CHT as there has been no effective devolution of power to the local and institutions that are supposed to be run by the Jummas themselves. The voices from the grassroots also show that improvement in the lives of the indigenous peoples in the CHT remains an elusive dream. Evidence shows that the government seems to overlook, if not ignore, the agreements stipulated in the Accord. Instead, the government appears to be involved in violating the commitment themselves.

The indigenous peoples claim that the government ought to show more sincerity in settling land conflict issues as it (the government) still relies on the Land Act of 2001 (i.e., giving final deciding powers to the Chairman of the Land Commission regarding land disputes, disregarding the capacities/roles of the traditional institutions/leaders to resolve disputes) which has been strongly criticized by indigenous intellectuals and leaders. Hence, land grabbing often with the use of military force is still prevalent in the region, displacing more and more Jummas in their own land. The distressed social and political environment in CHT has hampered the economic development of this region, resulting to more miseries among the Jummas. Government's allocation of fund in the region is often inadequate and falls short of substantive development initiatives that should uplift the indigenous peoples. Experiences of indigenous peoples reveal that non-recognition of CHT as a *tribal-inhabited area* is the major obstacle to the realization of the notion of indigenous self determined development that must have been duly respected even before the signing of the Accord.

It is sad to note that abuses against indigenous women and children also persist and reflect a vicious cycle of violence being inflicted among the indigenous peoples. In all the cases where the Jumma communities are burned and pillaged, rape has become a common instrument to further humiliate and insult the Jummas. Nobody has been brought to justice for committing rape against these Jumma women. These are crimes against women and against humanity which should not be tolerated in any way. Such gross violations of human rights fanned by patriarchy, bigotry and discrimination have to be fully investigated and proper support and

psychological services be provided so that the victims will not remain invisible and traumatized.

The problem of illiteracy has not also been fully addressed by the Accord, as in the case of Baghaitat, which showed that there were only 40 children who attended government school. The internally displaced peoples who have established some self-supported schools for their children have received no subsidies from government as schools in the area are considered illegal. The same dilemma is likewise observed in Bandarban. In the area of human security and ascertaining peace and order at CHT, Jumma peoples are given less priority in the formation of local police force. This has led to the deterioration of the peace and order situation in CHT as claimed by the PCJSS because no mixed police force has been formed yet as per the CHT Accord.

Why has the Accord failed thus far? One identifiable factor has been the absence of political will to do so, particularly during the rule of the BNP-led coalition government. The BNP and its rightist ally, Jamaat-e-Islami Bangladesh, were opposed to the Accord when it was signed in 1997, when they were a part of the opposition. Therefore, during their recent term of office (2001-2007), implementation was stymied. A Dutch researcher has commented on the CHT Accord, thus:

Taking a populist stand against aspects of an agreement that can be portrayed as hurting the interests of a section of the population or the state as a whole can be a useful tool for politicians to gain votes. This is precisely what has happened in Bangladesh with respect to the Chittagong Hill Tracts peace agreement.

Raja Devasish Roy and Pratikar Chakma (in Chapter 2) mention the problem of “demonification” as yet another cause of failed Accord implementation. This means that certain provisions in the Accord have been misinterpreted to portray them as discriminatory towards non-indigenous peoples in Bangladesh, particularly in the CHT, when in fact what happened or is still happening in the ground is the opposite.

Peace building efforts through the CHT Peace Accord surfaces a lot of challenges and ways forward to attain political stability and human security in Bangladesh. The key to a lasting solution to the problem in CHT is to consider a historical, social, economic and cultural contextualization of the issues affecting the peace and development in the region. For example, the land problem is an encompassing issue in CHT as this shapes the life, values and cultures of Jummas. Hence, the government must come to realize the centrality of resolving the land question satisfactorily as a key step towards a lasting peace in the region.

It would also help if the government created a roadmap to peace, ensuring transparency and accountability by identifying specific targets within specified timelines, and identifying the focal institution or individuals responsible for the respective responsibilities. Lobby work by indigenous political parties and other groups, supportive political and civic groups or others must be done in accordance to issues such as rehabilitation, de-militarization, human rights, land disputes, devolution and development, education, health, culture, among others. Campaigns should be launched to dispel myths and misconceptions about the Accord and its process of implementation (whether they are the result of absence of information or a result of deliberate “demonification” campaigns by groups opposed to the Accord). Legislations and related amendments on existing laws must be made in conformity with just attainment of peace, in consultation with the indigenous peoples and other civil society organizations. Enabling laws must be passed in order to increase the participation of indigenous peoples and safeguard their rights in various areas (land, resources, health, education, etc.). Decentralization of state power is also crucial to ensure participation of district and sub-district officials in local governance. Above all, there is the need for constitutional reform that will institutionalize the provisions of the peace agreement.

The case of the CHT Peace Accord and its aftermath have again taught us that, indeed, building peace is not just about arriving at a political settlement to an armed conflict. More importantly, it is about creating an environment that will enable both indigenous and non-indigenous peoples to live with dignity and in harmony with each other, based on social justice.

ACRONYMS

AIC	Accord Implementation Committee
AL	Awami League
APBN	Armed Police Battalion
BCS	Bangladesh Civil Service
BDR	Bangladesh Rifles
BNP	Bangladesh Nationalist Party
BRTC	Bangladesh Road Transport Corporation
CCCA	Cabinet Committee on the Chittagong Hill Tracts Affairs
CEO	Chief Executive Officer
CHT	Chittagong Hill Tracts
CHTDB	Chittagong Hill Tracts Development Board
CHTRC	Chittagong Hill Tracts Regional Council
CTG	Caretaker Government
DC	Deputy Commissioner
EC	European Commission
EO	Executive Officer
FD	Forest Department
FGD	Focus Group Discussion
GoB	Government of Bangladesh
GOC	General Officer Commanding
HDC	Hill District Council
IDP	Internally Displaced Persons/People
ILO	International Labor Organization
IP	Indigenous Peoples
IRR	India Returnee Refugees
JRWA	Jumma Refugee Welfare Association

KI	Key Informants
KII	Key Informant Interviews
LGRD	Local Government & Rural Development
MDG	Millennium Development Goals
MoCHTA	Ministry of the Chittagong Hill Tracts Affairs
MoPME	Ministry of Mass and Primary Education
MP	Member of Parliament
NGO	Non Government Organization
PCJSS	Parbattya Chattagram Jana Samhati Samiti, local political party also known as JSS or Jana Samhati Samiti
PCMS	Parbattya Chattagram Mahila Samiti, women wing of PCJSS
RF	Reserved Forest
SB	Shanti Bahini
SP	Superintendent of Police
UNDP	United Nations Development Program
UP	Union Parishad
UPDF	United People's Democratic Front
VDP	Village Defense Party

An Appraisal of the Peace Accord and the Political Institutions in the Chittagong Hill Tracts

By Prof. Mong Shanoo Chowdhury

I. Introduction

The history of many nation-states across the world is replete with divisive pulls that often stem from ethnicity, race, religion, culture, and even language. Conflicts arising from these pulls have made humanity bleed at the cost of the weaker and smaller ethnic groups who either get assimilated with the dominant races or get gradually eliminated. Many smaller ethnic minorities, cultural and linguistic groups vanish due to their failure to stem the chauvinistic onslaught of the numerically larger, relatively stronger and organized groups.

The indigenous peoples in the Chittagong Hill Tracts, commonly referred to as *Jummas* or *Paharis*, are no exception to this above-mentioned storyline. Like many other ethnic indigenous groups who were consigned to the periphery in the course of history, the Jummas dream to regain their traditional way of life which is intricately bound with nature; a culture of self reliance and self-esteem which they prize most and above all their indigenous identity which is intimately related to land, language and culture continue to melt away with every stroke of the hour. The indigenous Jummas in the CHT risk losing all these elements as an obdurate process of colonization through planned migration has been sweeping through their sylvan habitats.

The indigenous Jummas in the CHT took to arms when the elite-dominated State started violating their rights to land and resources following the denial in the national constitution of their demand for special administrative status. In a bid to contain the Jumma struggle for their traditional rights, the government initially responded with a military solution. This was complemented by a government policy of massive transmigration to resettle 400,000 Bengali Muslims from the neighboring plains in the predominantly Jumma territory of the CHT in a jingoist attempt to reduce the Jummas into a minority community. The transmigrated people were put to two pronged use: to act as a deterrent to the attacks from the indigenous guerillas and to use them to cut off the communication line of the guerrillas with the rural mass by relocating them in-between the indigenous hamlets.

The state-sponsored program to relocate the Bengali Muslims from the lowlands to the CHT gave a twist to the political situation in the CHT. Instead of acceding to the Jummas' demand for traditional land rights, the government moved thousands of Bengalis from the plains. Added to this menace was the ADB-financed program (known as Joutha Khamar or Collective Farm) which required the Jummas to settle in cluster villages where each family was given some land to plant rubber and horticultural crops. The relocation of Jummas to cluster villages was intended to purposefully isolate the indigenous armed resistance from the general masses in the rural backyard.

The resettling of the Bengali Muslims also came about at a time when the CHT was reeling from the acute agricultural land constraints due to the flooding of the 40 percent of its most fertile lands following the construction of the Kaptai Hydroelectric project in 1960. State-sponsored development projects, such as the one above, often generated more miseries than well being for the CHT people. The government misread the simmering discontent among the CHT Jummas as an economic one, and not political and ethnic in nature. Accordingly, the Chittagong Hill Tracts Development Board (CHTDB) was set up in 1976, manifestly to promote the economic standing of the *adivashis*. But the CHTDB failed to bring about the intended transformation in the life of the CHT *adivashis* as the roots of the CHT issue lie elsewhere. The develop-

ment programs undertaken by the CHTDB were often found to be run by military commanders which further strengthened their authority in the area and exacerbated the sense of injustice and frustration of the CHT peoples, and their impoverishment.¹

Bangladesh as a nation has failed miserably to accommodate the ethos, sentiments and values of its ethnic minorities in its constitution. Rather it has opted for state policies imbued with parochial intent. It has been a general tendency among the ruling elite in Bangladesh to construct a monolithic state based on a model of nationhood permeated with religion in the form of Islam, and a culture and language which is way apart from secular Bengali. In 1974, a bill declaring Bangladesh a unicultural and unilingual nation-state was passed by the Bangladesh parliament paving the way for building a homogenous nation-state patterned around Bengali culture.² In 1975 the Bangladeshi nationalism evolved further to assert its Muslim identity prominently along with focusing on its linguistic and cultural elements. All these developments point to increasingly dominant use of religion, language and culture to construct an identity for the Bengalis in Bangladesh. As a result, the rift between Jummas and the Bengalis widened. The Awami League which claims to be a secular political party formed government twice—in 1996 and in 2009. But there has not been any perceptible change in the contours of Bangladeshi nationhood. Ershad, the military dictator of the 80s, hammered the last nail into the coffin by declaring Islam as the state religion through the eighth amendment to the constitution and thus giving the Bangladeshi nationhood an Islamic twist.

The Jummas are caught in a blind alley in this complex situation. They can neither identify themselves with the Bengali nationhood which is based on mono language and culture nor with the Bangladeshi nationhood with a religious bias. It is wrong to say that Jummas are against integration with the mainstream people. They favor integration with the Bengalis in a political, and not in a cultural sense. The identity crisis coupled with the crisis of large scale displacement of the CHT adivashis from their lands and resources ultimately drove the adivashi Jummas to take to arms to fight for their cause when their only political platform, the Parbattya Chattagram Jana Sanhati Samiti (PCJSS), was outlawed

in 1975 closing all the avenues to the legal political processes. The “bush war” continued for more than two decades, causing extensive human catastrophe until the peace deal was signed with the promise to remove all the irritants and to enable the Jummas to lead a life of their own choice.

The present discourse attempts at gauging the Jumma views on the implementation status of the CHT Accord viz. empowerment of the Chittagong Hill Tracts Regional Council (CHT RC), Hill District Councils (HDC), rehabilitation of the India Returnee Refugees (IRR) and the Internally Displaced People (IDP), rehabilitation of the ex-combatants, useful functioning of the CHT Affairs Ministry (MoCHTA), dismantling of the military camps, cultural integrity of the indigenous peoples, among others. It is mainly a study to fathom the perspectives of the CHT adivashis about the achievement, if any, and failures of the Peace Accord and of those critical factors which are responsible for its failures.

Methodology

This study has made use of both the primary and secondary data sources. Field work constituted the primary data source while secondary data source included a wide range of relevant books, documents, articles and analytical papers produced by scholars, researchers, publications from Tebtebba Foundation on the CHT, and indigenous issues and other sources. The primary techniques used for collecting data during the field work were structured, unstructured and open-ended group discussions. Key informants from among the adivashi/Jumma people in the three hill districts of the CHT were interviewed. No fixed formats were used during the interviews and group discussions. In addition to this, Focus Group Discussions (FGD) were also organized in the three districts among 11 different indigenous ethnic groups, *mouza* headmen, members of women associations to seek their opinions with regard to the implementation status of the CHT Accord, the present functioning state of the CHT institutions such as the RC and the HDC, and the rehabilitation of the refugees. In the process, the research assistants of the study team travelled through the difficult hill terrain to reach the remote communities for FGD. Differ-

ent modes of transports varying from 4-wheeled jeeps to country/engine boats were used depending on the nature of the terrain. Travelling was done on foot where vehicles could not be used. Data collection could not be completed at a single visit in some areas. On many occasions the study team members had to wait for days on secure grounds.

The study team also tried to approach the chairman and members of the RC, the ex-chairmen and members of the HDC, Circle Chiefs, headmen, leading members of women association and other social elites in the three hill districts for interviews and group discussions. As there was a State of Emergency all over the country from 11 January 2006 till 29 December 2009, some of the selected key informants avoided being interviewed while some others preferred to remain anonymous. The team missed to interview some important persons. Notwithstanding the limitations, our investigation work at the field level was not substantially affected.

Area profile

Sandwiched between the greater Chittagong of Bangladesh in the west and the Indian state of Mizoram and Arakan Hills of Myanmar to the east, the Chittagong Hill Tracts (CHT), with an area of 5,093 square miles, is entirely hilly, covered with tropical forest, and belongs to the sub-tropical zone. It is the homeland of 11 ethnic minority groups,³ officially referred to as tribes and locally known as *jumma* (derived from *jum* meaning people practicing shifting cultivation) or *pahari* (hill men). They are of Mongoloid stock and speak a dialect belonging to Tibeto-Burman language group while the language spoken by the Chakma and the Tanchangya is of Indo-Aryan origin.

The CHT Political History and the Genesis of Conflict

CHT was never under any foreign power before it was formally taken over by the British India Empire. The entire tract was ruled under two indigenous chieftains, the Chakma and the Bohmong. The British, after finally conquering Bengal in 1760, looked east-

ward for expansion of their revenue base. But it was resisted by the Chakma Raja for 10 years from 1777 to 1787 before both the warring parties agreed to sign a treaty which required the Raja to pay 20 tons of cotton annually in exchange of retaining a relatively autonomous status of his territory (CHT) until 1860 when it was formally merged to the province of Bengal.

The historical association of the Jummas with the Bengalis in the plains was characterized by suspicion and disbelief. The Jummas viewed the Bengalis as exploiters as they always felt deprived in their dealings with the Bengalis. The Bengalis, on the other, treated the hill people from the CHT as plunderers.

As the British could not develop any formal administrative structure at that time, they had to engage the Bengalis as the commission agents or middlemen to collect for the British East India Company revenues from the CHT. These commission agents were mostly ravenous and took advantage of the access they enjoyed as British agents. They frequented the region and collected revenue in cotton more than what they paid to the company and practiced money lending with the tax defaulters at exorbitantly high interest rates. This bred antagonism between the Jummas and the Bengalis.

In 1789 the company's demand for the revenue to be paid in cash put the Jummas in severe economic stress as theirs was a subsistence economy producing almost nothing for private profit. To collect cash money for paying tax, they were forced to sell their entire products to the Bengali traders at a cheaper price. Unable to accumulate the requisite cash despite sale to the last crops, they fell back to borrowing from the rapacious and remorseless Bengali money lenders. This decision by the company failed to reflect on the prevailing economic system in the hills, and it proved disastrous for the Jummas. The British, on the other, depended on the company commission agents for any measures to be taken to run the CHT affairs. Neither the company nor the British Crown administration ever tried to read the anguish of the adivashis generated at the execution of different official policies often influenced by their commission agents. By 1890 more than half of the 3,000 hectares of lands reclaimed for plough cultivation were occupied

by the Bengalis. This factor, along with merciless usury practice by the Bengali money lenders and other considerations, prompted the government to enact a special regulation in the CHT to protect the interest of its adivashis. At the turn of the century, an elaborate set of rules called the CHT Regulations of 1900 (Act 1 of 1990) were promulgated to regulate the administrative affairs of the region. The 1900 Regulations proved seemingly favorable to the adivashis at that time as it helped protect them from outside exploitation. But in the long run, it eroded their ability to accommodate to any change in the political system as it denied them their political rights. The regulation also had a provision that recognized a less formal administration comprising the traditional hereditary Chiefs of three Circles (CHT is split into three circles: Chakma, Bohmong and Mong). CHT was declared as an “Excluded Area” by the Government of India Act 1935. This administrative arrangement provided for the CHT a limited scope of autonomy under the jurisdiction of the traditional Rajas with direct control of the central government.

In 1947, the CHT became a part of Pakistan and its special administrative status as “Excluded Area” was retained in the first constitution of Pakistan adopted in 1956. It was abrogated in 1958 following a military coup. In 1962, the second constitution was adopted which also recognized the CHT as the “Tribal Area.” But at the end of 1963 Fazlul Quader Chowdhury, a Bengali and the speaker of the parliament of Pakistan (known as National Assembly of Pakistan), brought an amendment to the constitution to annul the special status of the CHT. However, the act seeking amendment to the Tribal Area status of the CHT was put off by an executive order following a representation of the three Chiefs to Field Marshal Ayub Khan, the president of Pakistan. The CHT Regulations also remained operative. In 1971 the Bengalis fought it out to become a free nation with a free country named Bangladesh as the Bengalis in the eastern part of Pakistan felt threatened with the loss of their identity based on culture and language. Soon they adopted a constitution which failed to accommodate the aspirations of the cultural and linguistic minorities in the country especially of the CHT adivashis who traditionally enjoyed such safeguards in the pre-British and during the colonial period. The CHT Regulations were subject to indiscriminate changes since the

60s without any consultation with the adivashis for whom it was promulgated. For example, rule 34 prohibiting outsiders from owning land in the CHT was amended allowing them to own land if they had resided in the area for 15 consecutive years. But in 1979, rule 34 in the amended form was further amended to legalize the government sponsored settlement program of the Bengalis in the CHT. This chain of developments followed the enormous disaster that struck the Jummas in the wake of the commissioning of the Kaptai Hydroelectric project. It allowed the Bengalis to reap the economic benefits generated by the Kaptai Reservoir. The Jummas systematically felt robbed of their traditional statutory privileges which deepened their sense of alienation from and antagonism towards the Bengalis.

Land is in the cornerstone of all the issues gripping the CHT. At the same time, it holds the key to any lasting solution to the CHT problem. Land is vital for the adivashi Jummas as it shapes their life and values, their culture and way of living. Their existence and identity is built around land. With land lost the indigenous identity also stands to disappear. But land in predominantly agricultural Bangladesh—other than in the hills—is the symbol of prestige and aristocracy and is synonymous with power. The indigenous peoples evolved *community ownership of land* in the quest for their identity. Adivashis traditionally remain attached to common land for their livelihood. Gradually a community nexus thrives with certain common cultural and social practices that converge toward a distinct collective identity. The Bengalis, on the other, concentrated on holding land under individual ownership to consolidate their hold on the social and political power structure. As the Jummas in the CHT struggle for their traditional rights in order to safeguard their ethnic identity, the Bengali, on the other, want to capture as much land as possible to help them expedite the process of building a monolithic nation based on language and culture and religion.

The year 1979 was a turning point in the history of the CHT. A completely different story started unraveling since then. It was a story of a people who, being ethnic minorities and numerically undersized with no viable social, economic and political organizations to match that of the mainstream, face constant

marginalization and alienation from land and livelihood. The economic marginalization has been exacerbated by an identity crisis as their traditional rights have failed to get constitutional accommodation. Added to this predicament is the constant confrontation with the advancing settlers who continue to encroach on the indigenous lands with “covert support from a coterie within the government.” The development in the CHT is a spectacular case history of an irreversible marginalization of a region which even in 1979 was dominantly populated by diverse cultural and linguistic minorities entirely different from that of the mainland.

II. Current Implementation Status of the Accord

The CHT Accord was signed on 2 December 1997. But many of its provisions unfortunately remained to be implemented until now at the cost of goodwill that brought the two warring sides to make peace.

There has not been any legislation as of now recognizing CHT as the “tribal inhabited region” by the government for incorporation in the national constitution as has been provided in the Accord. Unless some timely measures in the form of safeguards are adopted, the tribal character of the region will soon be lost with the onrushing migrants into the CHT.

The objective of creating the CHT institutions such as the HDC and the RC was to promote the Jumma cause in the CHT for which these institutions were empowered with some prerogatives over the customary laws. Unfortunately, it never occasioned for these bodies (for HDC from 1989 and for RC from 1998) to exercise these prerogatives over CHT customary laws.

Since its inception, the MoCHTA could hardly transform itself into an independently functioning ministry fairly capable to resolve the CHT problems. Rather, the MoCHTA has done more disservice to the Jummas. The working relationship of MoCHTA with the RC and the HDC is at variance. The present interim HDC

maintains a malleable relationship and plays a sycophantic role with the MoCHTA. The nominated councilors, with a few exceptions, appear to be given more to self-aggrandizement than to serve the people. It (MoCHTA) has failed to inform other ministries and different government offices of the necessary guidelines and instructions pursuant of the provisions of the Accord, thus paving the way for the central bureaucrats, e.g., the DCs and SPs, to ignore the authority of the HDC.

The interim Regional Council was constituted in May 1999. However, the RC proved incompetent to supervise and coordinate the activities of the HDC and its transferred departments and other local bodies as the CHT Regulations of 1900, CHTDB Ordinance 1976, Municipality Ordinance, 1977, Union Parishad (council) Ordinance 1983 were not amended in accordance with the Accord. The aforementioned bodies cannot step out of their respective body of rules to respond to the call of the RC. As the Accord failed to mention the necessary institutional linkage between the RC and other local institutions in the CHT, useful cooperation could not be developed among them. Heads of different local government institutions and other district government offices continue to disregard the authority of the RC.

The Accord Implementation Committee (AIC)-headed by Abul Hasnat Abdulla, MP and the chief whip in the national parliament, with Dipankar Talukder, MP and the Task Force chairman and J.B. Larma, the president of PCJSS as members—was formed in 1998. The Committee held five meetings but made no headway in advancing the implementation process of the Accord. The monitoring of the implementation process of the Accord was stopped altogether as the activities of the AIC were suspended by the Caretaker Government (CTG) immediately after it assumed office in 2001. Soon a new government led by the Four Party Alliance was formed following the national election in the same year. Despite repeated request by the RC to reconstitute the AIC, the new government, in violation of the agreement, formed a “Cabinet Committee on the CHT Affairs (CCCA) which practically could do nothing except appoint a new chairman for the Task Force Committee.”

The Circle Chiefs or the Rajas in the CHT, as authorized by the Accord, were to issue permanent resident certificate to permanent inhabitants in the three hill districts. But MoCHTA, through its official circular, authorized the DCs over and above the Rajas to issue permanent resident certificates in gross violation of the Accord. It is tantamount to superceding an expressed provision of law approved in the parliament by an executive order.

The Accord stipulates that there should be a separate voter list for the CHT, but the Bangladesh Election Commission said that a separate voter list for the CHT was not possible without amendment to the concerned acts, this despite the fact that the HDC and the RC Acts, Electoral Rolls Ordinance 1982, Rules on Electoral Rolls 1982, and above, all articles 119(2) and 122 of the Constitution do not prohibit the preparation of a separate voter list for the CHT.

The Accord provides for the HDC to have its own police force for administrative expediency. But the government has not, in the last 19 years, succeeded in transferring the police administration and its authority to the HDC. The police in the CHT continue to be run and controlled by the traditional line hierarchy as before.

The three HDCs in the CHT are yet to take charge of “Land and Land Management” as laid down in the HDC Acts of 1989. However, the DCs in the hill districts continue to abuse the CHT Regulations 1900 by settling and leasing lands to outsiders. The CHT Ministry ordered the DCs of the three hill districts to revoke the illegal land transfer. That this official order went unheeded is evident from the continuation of leasing of land non-residents by the central government representative in the district.

The Accord provides for the withdrawal of all temporary security camps except for the Bangladesh Rifles (BDR), the Bangladesh border security forces and six cantonments at Ruma, Alikadam and Dighinala in the three districts and at three district headquarters of Rangamati, Bandarban and Khagrachari. There were reportedly 543 security camps across the CHT out of which 31 camps are said to have been withdrawn. The 1973 policy of military administration in the CHT is still in force. Operation Uttoron (Uplift)

replaced Operation Dabanol (wildfire) since September 2001. Moreover, the government plans to acquire 66,239 acres of more land in the CHT for military purposes.

Rehabilitation of the India Returnee Refugees remains unimplemented 11 years after the signing of the Accord. A total of 64,609 refugees belonging to 12,222 families returned to the CHT from their camps in Tripura. They were given cash and other grants. However, 9,780 families or 80 percent of the total returnee refugee families whose lands were occupied by the settler Bengalis in their absence have not acquired back their lands as of today as was agreed with the Bangladesh government in Agartala. Forty indigenous villages still remained under the settlers' occupation.

A task force headed by Dipankar Talukder, MP from the Rangamati constituency, was formed to rehabilitate the IRR and identify and list IDPs in the three hill districts. Other members of the task force were one representative each from the PCJSS, the Jumma Refugee Welfare Association (JRWA) and the three HDC chairmen respectively, a representative of the General Officer Commanding of the 24th Infantry Division. The Commissioner, Chittagong Division was to act as the member secretary. The task force, after some time, came out with a list which put the IDP figure at 90,208 adivashis and 38,156 Bengali settler families. The list prepared by the task force drew severe criticism and generated intense controversies for including the Bengali settlers as IDP, contending that the *Bengali settlement program itself was a main reason for their displacement*. The representatives of PCJSS and JRWA boycotted the task force meeting in protest against compiling a list without consulting them. They declared that they would continue to do so until the committee dropped the Bengali settlers from the list.

Some 1,947 ex-combatants surrendered their arms to return to normal life in early 1998. Of them, 671 were absorbed in the police but a large number of them later left the job as they were ill-treated on ethnic grounds by a section of the Bengali officers. About 124 cases filed against the PCJSS members are yet to be withdrawn while a Tk.22,783 loan taken by four PCJSS men has not been waived as yet. The government did not allocate a single penny for

any of the 1,429 projects proposed for the ex-combatants' self-employment in 1999 as per the provisions of the Accord.

At least 15 main provisions of the Accord were not addressed by the past governments⁴—the Awami League between 1996-2001, Latifur Rahman-led caretaker government in 2001, the BNP-led alliance between 2001-2006, Ijauddin-led caretaker government 2006-2007 and the military-backed government of Dr. Fakhruddin Ahmed.

III. The Implementation Process of the Accord

Following the CHT agreement, the Law Minister of the government of Bangladesh presented to the Parliament on 12 April 1998 the bill on the CHT Regional Council and the bills of amendment to some laws in the existing three hill district councils. The Parliament consented to the approval of the bills. But the bills contained serious discrepancies as the government presented them with such changes that were inconsistent with the Accord. This erroneous departure of the bill from the essence of the agreement (which the indigenous peoples assume intentional), has greatly weakened the spirit of the Accord. Let us examine the implementation process clause by clause to dig out the discrepancies that were made to creep in the amended bills:

General

The Accord:⁵

1. Both sides agreed to treat the CHT as the “Tribal Populated Region” and recognized the need to protect this character and attain the overall development of this region.

Implementation status:

No measures have so far been taken by the government to uphold the Jumma national identity and for the protection of the *special character*, i.e., the *tribal character* of the CHT region. On the contrary, moves are on to extirpate the special character of the region by adopting various

anti-Jumma policies. These include the rehabilitation of the Bengali settlers who were brought in from various locations of the plain districts with the political design to expand cluster villages with new settlements in different areas in the CHT, inciting the settlers in carrying out communal attacks on the Jumma people, illegal land grabbing, inclusion of the Bengali settlers and non-indigenous outsiders in the voter list, issuance of permanent resident certificate by DC, and providing the Bengali settlers with employment and other opportunities including lease and settlement of land. Moreover, activities to stir up communal frenzy in the CHT are being intensified through the creation of a communalist organization called *Sama Adhikar Andolan* (Movement for Equal Rights). There were serious attempts to provide ration to 28,000 more settler families and to settle 10,000 more families in the Sajek area under the Rangamati Hill District.⁶

Comment:

Many among the government functionaries, both at the local and national level, are disinclined to protect the special character of the CHT as the “tribal inhabited region” in Bangladesh.

2. Both parties have decided to formulate, change, amend and incorporate relevant acts, rules and regulations as allowed by law as soon as possible in accordance with the consensus and responsibilities expressed in different sections of the Accord.

Implementation status:

The CHT Regional Council placed its recommendations before the government for necessary amendment to the Electoral Roll Ordinance 1982, the Electoral Roll Rules 1982, the CHT Regulation 1900, and the Draft Rules on Social Afforestation 2001 and the Code of Conduct for the NGOs. But the government has not taken any step in this regard, except the Draft Rules on Social Afforestation 2001. There has been no substantial progress with regard to alteration, amendment and addition to other relevant CHT laws, regulation and practices in accordance with the CHT Accord.

Comment:

No steps in support of implementing this provision have so far been taken by the government. On the contrary, both the Acts of the Regional Council and the three Hill District Councils 1998, continue to be violated by government functionaries.

3. An Implementation Committee with the following members shall be formed to monitor the implementation process:

- a) A member to be nominated by the Prime Minister - Convenor
- b) Chairman of the Task Force formed under the purview of the agreement - Member
- c) President of Parbattya Chhatragram Jana Sanghati Samiti - Member

Implementation status:

The Implementation Committee formed in 1998 had four meetings on 21 March, 16 April, 7 August and 2 November in the same year and two meetings in 2001 with the last ever meeting held on 1 July 2001.⁷ Interestingly, no proceedings or minutes were recorded and no steps were taken to execute the decisions taken at the meetings. In fact, the committee totally remained inactive since 1998.⁸ Since then, the monitoring process of the CHT Accord implementation stopped altogether.

Comment:

With the new BNP-led government taking power in 2001 it was not known if the old committee stood dissolved or continued. Neither was it known if a new Implementation Committee was formed with the change of government. On the contrary, the government was buying time in the name of executing the Accord by forming, in total violation of the Accord, a Cabinet Committee on CHT under the chairmanship of Mr. Abdul Mannan Bhuiya, the Minister for the Local Government and Rural Development. The PCJSS had as many as eight meetings with this Cabinet Committee. Following the discussions, it was decided to activate the Land Commission by bringing in necessary amendments the Land Dispute Resolution Com-

mission Act 2001, set up an organigram and office for it, reorganization of the CHT Accord Implementation Committee and the Task Force Committee on the India Returnee Refugees and the Internally Displaced Persons, finalization of the Rules of Business of the RC, placing of all the Transferred Subjects at the disposal of the HDCs, handing over of Cotton Development Board, Textile Vocational Institute and Horticultural Centre to HDCs and setting up of District Session Judge Court in the three districts. Except for the appointment of Mr. Samiron Dewan as the Task Force Chairman and the setting up of the Courts of District Session Judge in the three districts, none of the other decisions were executed.

In reality, the implementation of the Accord has remained frozen since the initial years of the signing of the Accord.

4. The agreement shall come into effect from the date of its signing and execution by both sides. This agreement shall remain valid from the date it goes into effect until all the steps are executed as per the agreement.

Implementation status:

The Accord was in force from the date of its signing. But no formal official order, instruction, or notice was issued to the concerned ministries, departments and institutions and local authorities for complying with provision of the Accord. But steps and measures inconsistent with the agreement have continued to be put into action immediately after the Accord was signed.

Comment:

The government as one of the signatories to the Accord does not seem to be keen in complying with the agreement.

Chittagong Hill Tracts Local Government Council/Hill District Council

The Accord:

Both parties agreed to change, amend, incorporate and repeal the Hill District Local Government Council Acts of 1989 (Rangamati Hill District Local Government Council Act, 1989, Bandarban Hill District Local Government Council Act, 1989, Khagrachari Hill District Local Government Council Act, 1989) and the various sections which were in existence before this agreement came into force, as given below:

1. The word “Tribe” used in various sections of the Councils’ Acts shall be retained.
2. The name “Hill District Local Government Council” shall be amended and this council shall be renamed as “Hill District Council.”

Implementation status:

Amended and incorporated in the HDC Acts.

3. “Non-tribal permanent residents” shall mean a person who is not a tribal and has land of lawful entitlement in the hill districts and generally lives in the hill district at a specific address.

Implementation status:

While amending the Rangamati Local Government Council Act 1989 under the CHT Accord, the definition of “non-tribal permanent resident” was changed. The word “and” connecting the two phrases “who owns land in legal manner” and “who generally lives in a particular address in the Hill Districts” was replaced by “or” in the Act No. 9, 10 and 11 of the Hill District Council Acts, 1998.

It was a total deviation from what was noted down in the Accord. It was later amended in line with the Accord by an Act no XXIII of 1998 following a strong protest from the Jumma people and their organizations.

Comment:

The intention behind replacing “and” with “or” in the definition was to include all the Bengali settlers and outsiders, who lived in a particular address, howsoever, under the category of “non-tribal permanent residents.” The ground reality is that a section of the government officials are not inclined to differentiate between permanent and non-permanent residents as far as Bengalis are concerned.

4. a) There shall be 3 (three) seats for women in each of the Hill District Councils. One third (1/3) of these seats shall be for non-tribals.

Implementation status:

Incorporated in the HDC Acts.

b) Sub-sections 1, 2, 3 and 4 of section 4 shall remain in force as per the original act.

Implementation status:

This provision is in force. Provision 4 (a) providing for three women-elected members to the local bodies is the same as that of the local government system in the rest of the country.

c) The words “deputy commissioner” and “deputy commissioner’s” in the second line of sub-section (5) of section 5 shall be replaced by “circle chief” and “circle chief’s.”

Implementation status:

Incorporated in the HDC Acts.

d) The following sub-section shall be added to section 4:
Whether a person is a non-tribal shall be determined, along with the identity of non-tribal community he belongs to, by the concerned Circle Chief on the production of certificate from concerned Headman/Union Council chairman/Municipality chairman and no person can be a candidate for the office of the non-tribal member without a certificate from the concerned Circle Chief in this regard.

Implementation status:

The provision has been included in the Hill District Councils Acts.

Comment:

But the authorities and concerned officials, in an apparent move to hinder implementation process of the Accord, insist that this provision is applicable only to the election to the posts of the members of the hill district councils. The process of issuing so-called “Permanent Resident Certificate” to the Bengali settlers by the DCs (who belong to ethnic Bengalis) continues by a government order issued, in clear violation of the Accord, on 21 December 2000 by the CHT Ministry order No CHTAM (P-1)-HDC/Certificate/62/99-587 authorizing the DCs of the three hill districts to issue “Permanent Resident Certificate.” An executive order cannot override any law passed in the parliament. On an objection raised by the CHT Regional Council, a decision was taken to annul this instruction at a meeting of the Advisory Committee on the CHT Affairs on 1 July 2001. But no order has so far been issued cancelling this controversial instruction. On the contrary, an official letter (No SHAPKM/CHISHIJ/MBBS, DDS Course/Students Admission-31/2008/713, dated 31 September 2008) issued by the medical section of the Ministry of Health and Family Welfare to all the offices including the RC, HDC, DC of the three hill districts asked all concerned to ensure that the intending tribal candidates seeking admission to all Government Medical and Dental Colleges must produce permanent resident certificate from both the Circle Chiefs and the DCs of the respective districts while the non-tribal candidates need to produce the same certificate either from the Circle Chiefs or from the DCs of the respective districts.

It is unclear why a tribal candidate need to be certified by two persons and the non-tribal one from one person only. Does it mean that the residency of the tribal candidate is more suspected than that of the non-tribal candidate despite the fact that tribals are the earliest people to settle in the CHT? Why does he need to be double checked? As a

result, the settlers and other Bengali outsiders are given the opportunity to make use of these legal twists to get employment opportunities, purchase or settlement of land in the CHT and quotas reserved for the Jumma students in higher educational institutions of the country. Taking advantage of this situation, the Bengali population has grown in alarming proportion in recent years, far outnumbering the indigenous population which stands at less than half of the total population in 2008. This is down from 77 percent in 1978 in 30 years as against 50 percent plus Bengalis whose figure stood in 1978 at only 23 percent. There is no provision of law in the country empowering a DC in Bangladesh, including the three hill districts, to issue such a certificate. The DCs are only authorized to issue citizenship certificates under the “Charter of Duties of Deputy Commissioners.”

Sometime back, the Rangamati Hill District Council and Khagrachari Hill District Council issued appointment circulars for the posts of both head teachers and assistant teachers in government primary schools (vide memo. no. RHDC/Edu-two-36/97 (4th Part) 473 dated on 19 September 2002 and no. 17-26(3)2000/2002-624(100)/HDC dated 18 September 2002, respectively) demanding the candidates to produce permanent resident certificate either issued by the DC or by the Circle Chief. There were serious and angry reactions from the Jumma people against this unwarranted exercise of authority by the DCs.

The CHT Regional Council sent a letter to the concerned Hill District Councils and the CHT Affairs Ministry demanding correction in the appointment circular and to uphold the legitimacy and applicability of the permanent resident certificate issued by the Circle Chief as provided in the Hill District Council Act. But the Ministry of CHT Affairs again issued an instruction which was very much similar to that one issued on 21 December 2000 reaffirming the authority of the DCs of the three hill districts to issue “Permanent Resident Certificate” to all people in the CHT regardless of their residential status in the region.

The Ministry did not come up with any explanation in defense of its action.

The DCs are mainly drawn from the ethnic Bengalis. Indigenous people find it hard to get a berth in the country's elite administrative service which DCs belong to. Due to the historic conflict between indigenous people and the Bengalis over the issues of self-determination, the DCs, of course with a few notable exceptions, are often found to sympathize with the Bengali causes because of their same ethnic background.

5. Section 7 provides that a person elected as chairman or member shall, before assumption of office, swear or make an oath before the Divisional Commissioner of Chittagong. This shall be amended to the effect that the members shall swear or make an oath before "a Justice of High Court Division" instead of "Divisional Commissioner of Chittagong."

Implementation status:

Incorporated in the HDC Acts as was sought in the Accord.

Comment:

Chairmen and members of the councils were not found swearing or affirming an oath before "a judge of the High Court Division." The oath of office was administered by the "Commissioner, Chittagong Division." It is a violation of the provision which implies a superior standing of the administration at the local level.⁹

6. The words "to Divisional Commissioner of Chittagong" shall be replaced by "as per election rules" in the fourth line of section 8.

Implementation status:

"As per rule" was replaced by "as per election rule" in the amendment.

Comment:

Use of the phrase "as per rule" gives the authority more maneuverability in applying the law because as the law to

be applied does not specify the authority, the authority if prejudiced enough, may apply laws which may prove useful to suit its purpose; whereas the phrase “as per election rules” points to the application of specific rules, i.e., election rules. It has weakened the strength of this provision.

7. The words “three years” shall be replaced by “five years” in the second line of section 10.

Implementation status:

Incorporated in the HDC Acts.

8. There shall be a provision in section 14 that if the office of the Chairman falls vacant or in absence of the Chairman, a tribal member elected by other members of the Council shall preside and perform other responsibilities.

Implementation status:

Incorporated in the HDC Act as is in the Accord.

9. The existing section 17 of the HDC Act shall be replaced with the sentences as mentioned below:

A person shall, under the Act, be eligible to be enrolled in the electoral roll, if

- (1) He/she is a citizen of Bangladesh;
- (2) He/she is not less than 18 years of age;
- (3) He/she is not declared mentally unsound by any competent court;
- (4) He/she is a permanent resident of Hill District.

Implementation status:

Amended as “A person shall be eligible to be enrolled in the electoral roll for Council’s election, if he/she satisfies the four conditions mentioned above” and incorporated in the HDC Act.

Comment:

The words “under the Act” have been replaced by “Council’s election.”¹⁰ This provision was meant for preparing a voter list for CHT, based on conditions laid down in section 17 but the consequent amendment with the in-

section of “Council’s election,” which was not in the Accord, did limit the scope of the application of the CHT electoral roll to council’s election only.

Rule 18 of the HDC Act relating to election was amended in the form of rules 33, 34 and 35 of 2000 in complete disregard of the Accord. The inconsistencies in the amendment have not been corrected as of now. Later, the government made a Draft Rules on the Electoral Rolls for the three hill districts in 2000 and sent it to the Regional Council for its opinion. The Regional Council returned it to the government with its comments and recommendations. When the BNP-led coalition came into power in 2001, whatever modest initiatives were taken by the previous government were stalled. However, the CHT Affairs Ministry, in the face of insistence from the RC, attempted to resolve the issue, and the Law Ministry sent the Draft Rule to the Prime Minister’s Office after due scrutiny. But nothing has been heard of this Draft Rule since then.

Despite the fact that this provision has been incorporated in the HDC Acts, it has come to be flouted constantly by the government which is one of the signatories to the historic CHT agreement. In flagrant violation of this provision all the non-permanent Bengali residents (settlers) not less than 18 years of age and, in some cases, just above 12/13 years of age, were fraudulently included in the voter list prepared from 15 May to 24 June 2000. Out of some 400,000 Bengali voters in the three hill districts, more than 300,000 are non-permanent Bengali settlers and outsiders from other plain districts.¹¹ Apart from the fact that there are hundreds of thousands of non-indigenous plain dwellers who secretly infiltrated the CHT individually or in groups over the recent years, illegally occupied lands and settled in the CHT with passive support from some government functionaries.¹² In addition to this, there are hundreds of thousands of military and paramilitary (BDR, VDP, APBN) personnel serving temporarily in the CHT. Above all, thousands of Bengali outsiders are engaged in various

jobs and other economic activities in the CHT. All of them were illegally included in the said voter list.

The Election Commission declared that the said voter list would be used in all elections including the parliamentary elections except that of the hill district councils and the CHT Regional Council for which a new separate voter list would be prepared in line with the Clause 9, Part B of the CHT Accord. It can be mentioned here that the opinion of the Election Commission is erroneous and unconstitutional as the Constitution of Bangladesh does not admit more than one voter list for all elections.

On the question of preparing a voter list with the permanent residents of CHT, a memorandum objecting to the Election Commission's said notification was sent to the Prime Minister, CHT Affairs Minister, Law Minister and the Election Commission. The Election Commission declared that it was not possible to make a voter list as demanded by the CHT Regional Council without amendment to the concerned Acts. Having studied the Constitution of Bangladesh, Ordinance on Electoral Rolls 1982 and the Rules on Electoral Rolls 1982 with great care, the CHT Regional Council again sent its opinion on the subject to the Prime Minister Sheikh Hasina and the Law Minister stating that there was no legal obstacle in making a voter list with only the permanent residents of the CHT. But the government has not taken any initiative so far in this regard.

It is worth mentioning that the voter list prepared by the Election Commission in 2000 for the CHT is not in line with the CHT Accord, Hill District Councils and CHT Regional Council Act, Article 119 and 122 of the Constitution of the People's Republic of Bangladesh, Electoral Rolls Ordinance 1982 and the Rules on Electoral Rolls 1982.¹³

Clause 2 (d) of Article 122 of the Bangladesh Constitution provides: "A person has the right to be included in the voter list of a constituency determined for parliamentary

elections, if he/she is a resident of that constituency or considered to be a resident of that constituency by law,” and according to the interpretation of the Section 4 of the Electoral Rolls Ordinance 1982, “a person shall be considered to be a resident of that constituency where he/she usually or generally lives.” However, there is no legal provision or obligation with a direction that all the permanent or non-permanent residents of a constituency have to be included in the Electoral Rolls of that constituency. Section 8 (2) further lays down that a government official or employee or a person in government office engaged in service in a constituency (other than his/her own) can be included in the voter list of that constituency provided that he/she applies for it and subject to the permission of the Election Commission. Therefore, in the light of the above sections there is no legal bar to make a voter list for the hill district councils and CHT Regional Council as well as for other elections in the CHT with only the permanent residents of the CHT excluding the non-permanent residents, the Bengali settlers, military and paramilitary forces serving temporarily in the CHT.¹⁴

General administration, law and order, development, etc. of the Hill districts are completely different from those of other districts of Bangladesh which necessitated providing for a special administrative framework for the CHT region. So it is obligatory on the part of the government to protect the special character of the CHT as a Jumma-inhabited region and the government is legally bound to make separate rules on voting right and voter list for the CHT. Bengali settlers and other outsiders of the CHT as such cannot be included as voter in such a voter list.

The Bangladesh Election Commission finalized, with the help of the Bangladesh Army, the voter list for election to the ninth parliamentary election. The CHT Ministry issued a government order (no CHTAM (P-1)-Ranga/Law-80/2000-158) to the RC and three HDCs asking for their cooperation in the voter registration process. The order did not contain any instruction to make a voter list with

only permanent residents of CHT. On the contrary, the order was carried in a language which sounded intimidating with an inherent warning that action would be taken as per ordinance/law/rule in the event of failure to cooperate, or any laxity and negligence in this respect. The 14-Party Coalition (Which formed the government after winning the 29 December 2008 election under the banner of Grand Alliances) in their proposal on the reformation of Election Commission and the Election System also proposed to make a voter list for CHT with the inclusion of the permanent residents of that region only.

10. The words “determination of electoral constituency” shall be added in the sub-section (2) of section 20 of the HDC Act.

Implementation status:

Amended with words “determination of election constituency.”

Comment:

The word “electoral” has been replaced by “election.”

11. There shall be a provision in sub-section (2) of section 25 stating that the chairman and in his absence a tribal member elected by other members shall preside over all the meetings of the council.

Implementation status:

Incorporated in the HDC Act

12. As the entire region of Khagrachari District is not included in the Maung Circle, the words “Khagrachari Maung Chief” in section 26 of Khagrachari Hill District Council Act shall be replaced by the words “Maung Circle Chief and Chakma Circle Chief.” Similarly, there shall be scope for the presence of Bomang Chief in the meeting of Rangamati Hill District Council. In the same way, there shall be a provision that the Bomang Circle Chief can attend the meetings of the Bandarban Hill District Council meetings if he wishes or is invited to join.

Implementation status:

Amended using the words “Khagrachari Mong Chief, Rangamati Chakma Chief and Bandarban Bohmong Chief” in the provision.

Comment:

The names of “districts” instead of “circles” have been used in the amendment. This will contradict the boundaries of the Circles as the Circle boundaries are completely different from those of the districts.¹⁵

13. In sub-section (1) and sub-section (2) of section 31 there shall be a provision that a chief executive officer equivalent to the status of a deputy secretary shall be the secretary in the Council and there shall be a provision that the tribal officials would be given priority for this post.

Implementation status:

Amended as proposed.

Comment:

However, there has not been a single chief executive officer in the HDCs who was drawn from the tribal community since the inception of HDCs in 1989. The government often appoints, on contract basis, from among the retired bureaucrats to higher positions in the service of the republic for better execution of the government policies. In the same manner, the government can appoint the retired adivashi high government officials on contract basis to the executive positions of the RC and the HDC if the present adivashi civil servants in the BCS cadre fail to meet the conditions necessary to become the executive officers of these bodies.

14. a) There shall be a provision in sub-section (1) of section 32 that for the proper conduct of its affairs the Council may, with the approval of the government, create posts of various categories of officers and employees.

Implementation status:

Though the provision was amended as it was intended in the Accord, the HDCs and the national government are yet to implement it.¹⁶

b) Sub-section (2) of section 32 shall, by amendment, be made as follows: The Council can, in accordance with regulations, appoint class three and class four employees, and can transfer, suspend, dismiss, remove or can impose any other punitive action on them. However, it was provided that the priority shall be given to the tribal inhabitants in case of such appointments.

Implementation status:

This provision has been incorporated in the HDC Acts but has not been executed fully.¹⁷

c) There shall be a provision in the sub-section (3) of section 32 stating that the government can, in consultation with the Council, appoint officers to other posts.

d) According to sub-section (4), the government shall transfer the said officers under sub-section (3) and can transfer, suspend, dismiss, remove or impose any other punitive action on them as per regulation.

Implementation status:

Incorporated in the HDC Acts but government never consults the councils before making such appointments.¹⁸

Comments:

With the inclusion of two sub clauses separately in the amended bill, the government can seek the advice of the HDC while appointing officers (1st and 2nd class officers) to the council¹⁹ but the council does not reserve the right to take any punitive actions against them.

On the whole, from the implementation point of view these provisions have not been carried out as intended till today. As a result, the officials and employees of the district and upazila (sub-district) level administration are predominantly non-locals and non-indigenous people. They run their administration according to their mindset which is

heavily influenced by the decades of belligerency between the indigenous peoples on the one hand and the non-indigenous dominated government forces on the other. It is also a reality that most of these non-indigenous officials and employees put up strong opposition to the implementation of the Accord. Appointment of Jumma officers and employees in the local administration is hindered as a result. The entire administrative weight, both civil and military, is put to use to support the *settlers'* interest in the CHT.

15. In sub-section (3) of section 33 “as per regulation” shall be mentioned.

Implementation status:

Included in the HDC Acts.

16. The words “or any other way determined by the government” appearing in the third line of sub-section (1) of section 36 shall be deleted.

Implementation status:

The amendment sought has been implemented.

17. a) The original law shall be in force in the fourth paragraph of sub-section (1) of section 37. b) “As per rules” will be included in Sub-section (2), sub-sub-section (d), of section 37.

Implementation status:

Amended accordingly and inserted in the HDC Acts.

18. Sub-section (3) of section 38 shall be repealed and by amendment, the sub-section (4) shall be framed as follows: At any time before the expiry of the financial year the council may, if deemed necessary, prepare and approve a budget for that financial year **and a transcript of it shall be sent to the government.** (Under-scoring supplied.)

Implementation status:

Amended but with the addition of the line in bold which was not in the original amendment sought. It demands of the council an obligation to submit a transcript of the budget it prepared.

19. In section 42 the following sub-section shall be added: “The Council shall be competent to prepare, undertake, and implement with the fund received from the government, development projects on any subjects placed under the council and all the development programs initiated at the national level shall be implemented by the concerned ministry/department through the Council.”

Implementation status:

This provision was not rightly phrased in the Act No. 9, 10 and 11 of Hill District Council Act, 1998 while amending the Hill District Local Government Council Act, 1989 in line with the CHT Accord.

The proposed provision of section 42 was originally phrased in one sentence but it was split into two sub-sections in the amended form. The amendment appeared in sub-Section (1) of section 42 “The Council shall be competent to prepare, undertake, and implement with the fund received from the government, development projects on the subjects transferred under Section 23 (b)” was carried out as desired. But the amendment that was pressed in sub-section (4) stood totally in contrast to the provision of the agreement: (4) All development programs undertaken by the government at national level on any subject placed under the council shall be implemented by concerned ministries, departments or institutions through the council.

A close examination of the amended sentence that appeared in section 19 clearly shows that in sub-section (4) an extra phrase “on any subject placed under the council” was added in the amendment after the line “All development programs undertaken by the government at the national level.” This extra phrase was not in the Accord. As a result the gov-

ernment is not obliged to execute, in the CHT, any developmental program initiated at the national level through the councils as was originally agreed in the Accord.

The government was pressed again and again to amend the said contradictory provision in line with the CHT Accord. Finally, only the Sub-clause (2a) was amended in accordance with the Accord in the Act no. 29, 30 and 31 of the Council Act, 2000 while sub clause (4) remained unchanged.

Comment:

The amendment confined the role of the HDC on the development projects under different transferred subjects, leaving all other development programs in the hill districts taken at the national level out of its purview. Therefore, by refusing to amend sub clause (4) which stipulates that “all the development programs initiated at the national level shall be implemented by the concerned ministry/department through the Council,” the supervisory role of the HDC over the development programs initiated at the national level for CHT has been curbed, in total violation of the Accord.

20. The word “government” placed in the second line of sub-section (2) of section 45 shall be replaced with the word “Council.”

Implementation status:

Amended accordingly.

21. The rules of section 50, 51 and 52 shall be replaced by the following enactment: “The government, if deemed necessary, may advise or order the Council, in order to ensure conformity with the purpose of this Act. If the government is satisfied with *definite proof* that anything done or intended to be done by the Council, or on behalf of the Council, is not in conformity with law, or contrary to public interest, the government may seek information and clarification and give advice or instruction to the Council on the concerned matters in writing.”

Implementation status:

The amendment was made in the following manner: “The government shall have the rights to order or advise the HDC in case of necessity to ensure conformity of the functions of HDC with the purpose of this Act. If the government is satisfied that anything done or intended to be done by the HDC or on behalf of HDC is not in conformity with law or contrary to public interest the government may seek information and clarification and give advice or order to the HDC on concerned matters in writing *and HDC shall make available information and clarification and implement the order and advice.*”²⁰

Comment:

The words “definite proof” in the third line of the proposed amendment were dropped in the amended bill and one additional line “HDC shall make available information and clarification and implement the order and advice,” which was not proposed in the Accord, was added. As a result the government does not need any definite proof but only satisfaction is enough to call for information or clarification from the HDC on concerned matter. Also consequent upon the amendment, HDC is bound to carry out the order or advice of the government sealing altogether the scope for HDC to explain its position on the matter that the government took exception of. Moreover, the original text of this rule begins as follows: “The government may, if deemed necessary, advice or order the Council....” This line is replaced in the amendment as “The government shall have the rights to order or advise the HDC....” Of the two lines quoted above, the “first line” as appeared in the Accord presents a softer approach of the government in dealing with the council while the “other line” as inserted in the amendment is expressive of domineering dictation to the council.

22. In sub-section (3) of section 53, the words “after the expiry of the period of being defunct” shall be omitted and the words “within ninety days of cancellation of the council” shall be inserted before the words “this Act.”

Implementation status:

Amended with the addition of this phrase “is published in the gazette” after the words “within ninety days of cancellation order of the council,” in violation of the Accord.

Comment:

The provision in the amended form will surely delay beyond 90 days the reorganization of the council by as many days as it takes for gazette notification.

23. The word “government” shall be replaced by the word “ministry” in the third and fourth lines of section 61.

Implementation status:

Amended accordingly.

24. The words “of the government” in the third and fourth lines of section 61 shall be replaced with the words “of the ministry.”

Implementation status:

Amended with the addition of words “or Division” after the words “of the ministry.”

Comment:

This amendment has brought the HDCs under the jurisdiction of the “Division” of the ministry, though the HDCs are answerable as per the Accord to the CHT Affairs Ministry only.

25. a) By amendment, sub-section (1) of section 62 shall be made as follows: Notwithstanding anything contained in any Act for the time being in force, all members of the rank of Sub-Inspector and below of Hill District Police shall be appointed by the Council in manner laid down by regulations, and the Council may transfer and take disciplinary action against them as per procedure laid down in the regulations; provided that in the matter of such appointment tribal of the district shall be given priority.

b) The words “subject to the provision of all other laws for the time being in force” placed in the second line of sub-section (3) of section 62 shall be substituted by the words “as per rules and regulation.”

Implementation status:

This provision has been included in the HDC Act but it is yet to be executed.

Comment:

Even after 11 years since signing the Accord, the Government of Bangladesh had not transferred the concerned subjects and functions to the hill district council for implementation. The police are still controlled and the power is exercised by the same authorities as before.

The provision of the Accord giving priority to indigenous peoples in appointments to the local police forces continues to be violated to date. Proposals calling upon the government to post the indigenous police personnel on duty in the plains to CHT as a stopgap measure to stem the fragile law and order situation from crumbling has not been heeded so far.²¹ Of course, there have been some stray cases of such transfer which was not of any use or significance by any count.

26. The words “providing assistance” in the third line in section 63 shall be retained.

Implementation status:

This provision was retained.

Comment:

As there has not been any change in the police regulation accommodating HDC authority to control the police forces, the HDC Chairman and its officers have nothing to do with the police officials’ failure to provide assistance to the former in the application of their lawful authority.

27. Section 64 shall be amended as follows: a) Notwithstanding anything contained in any law for the time being in force, no land and premises including the leasable khas lands within the territorial boundaries of the Hill District shall be transferable by lease, settlement, purchase or sale without prior approval of the Council provided that this provision shall not be applicable in areas within the Reserved Forests, Kaptai Hydroelectric Project,

Bethbunia Earth Satellite Station, state-owned industries and factories, and lands recorded in the name of government.

Implementation status:

Incorporated as it is in the Khagrachari and Bandarban Hill District Councils' Acts. But in the case of Rangamati Hill District Council, the words "local authorities" have been inserted after the words "in the name of the government."

Comment:

The amendment in the present form, i.e., the addition of the words "local authorities" after the phrase "in the name of the government" in breach of the Accord has narrowed or reduced the area under the HDC jurisdiction. The HDCs will not have any jurisdiction over the lands held in the name of the local authorities such as union councils, municipalities and upazila councils which are, as intended by law, under the supervisory authority of the HDCs.

The contradictory provision was finally amended in line with the Accord in Act no. 29 of the Council Act under pressure from the CHT Regional Council and the PCJSS. However, the authority over the land management has not been transferred to the hill district councils.²²

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.

Implementation status:

Though provision has been included in the Act, the concerned authority, however, is not complying with the law. It has been observed disturbingly that the DCs, contrary to the relevant provisions of the HDC Acts, are increasingly involved in acquiring and transferring lands. The Forest Department, alongside, has come up with a program to acquire 218,000 acres of land (72,000 acres of land alone in Bandarban Hill District) for afforestation.²³ This

scheme by the government has put the Khyangs, one of the smallest indigenous communities of the CHT who are also among the most disadvantaged and deprived of the hill people, to virtual eviction from their ancestral domain where they have lived for centuries.

The woe associated with land acquisition does not end there. The government, yielding to the demand from the army, has initiated the acquisition of 9,560 acres of land for the expansion of Ruma Cantonment, 183 acres of land for the expansion of Bandarban Brigade Headquarters, 30,000 acres of land to open a new Artillery Training Center, 26,000 acres of land to open a new Air Force Training Center and 50 acres of land for the expansion of the Longadu Military Zone without any prior consent either from the hill district councils or from the CHT Regional Council. By now 11,886 acres of land have already been acquired in the Bandarban Hill District for the Artillery Training Center, violating this provision.²⁴

c) The council can supervise and control the functions of Headman, Chainman, Admin, Surveyor, Kanungo and Assistant Commissioner (land).

Implementation status:

This provision has been included in the HDC Acts, but the councils have not officially been invested with any such power.²⁵

d) Fringe land in Kaptai Lake shall be given in settlement on priority basis to original owners.

Implementation status:

This provision has been included in the HDC Acts but the authorities concerned have not been observing it. On the contrary, hundreds of acres of land have been given in lease to the settlers.²⁶

28. Section 65 shall be amended and formulated as follows:

“Notwithstanding anything contained in any other law for the time being in force, the responsibility of collecting the Land Development Tax of the district shall rest in the hands of the council and the collected tax of the district shall be deposited in the fund of the council.”

Implementation status:

The provision has been included in the Hill District Council Acts, but this power is still continued to be exercised by the Deputy Commissioners of the three hill districts.

29. Section 67 shall be amended and formulated as follows:

“in the event of necessity for coordination in the activities of the council and that of the government authorities, the government or the council shall put up proposals on specific subject and the coordination of the activities shall be effected through mutual communications between the government and council.”

Implementation status:

This provision has been amended and included in the HDC Acts as was intended but is yet to be exercised either by the government or the hill district council.

30. Sub-section 1 of section 68 shall be amended and formulated as follows: “With a view to carrying out the purposes of this act, the government may, upon consultation with the council, make rules through notification in the Government Official Gazette and the council shall have a special right to apply to the government for review of the said rules even after they are already made.”

Implementation status:

This provision has been amended and included in the HDC Acts but the government is yet to make rules applicable to the hill district council.

31. a) The words “with prior approval of the government” in the first and second lines of sub-section 1 of section 69 shall be deleted, and after the words “may make” in the third line the follow-

ing proviso shall be added: “provided that if the government does not agree with any part of the regulations made, it shall be competent to give advice or directive to the council towards amendments of the said regulations.”

Implementation status:

This provision has been included in the Hill District Council Acts but its application is yet to be tested.

b) The words “conferment of the powers of the chairman on any officer of the council” in clause (h) of sub-section 2 of section 69 shall be deleted.

Implementation status:

This provision has been implemented.

32. Section 70 shall be deleted.

Implementation status:

This provision has been implemented.

33. Section 79 shall be amended and formulated as follows: “If, in the opinion of the council, any law made by the national parliament or any other authority as applicable to the hill district is one which creates hardship for the said district or is objectionable to the tribal, the council may, upon stating the cause of hardship or objection, apply to the government in writing for amending or relaxing the application of such law, and the government may take remedial measures in accordance with such applications.”

Implementation status:

Amended and included in the Hill District Council Acts. However, this legislative privilege is yet to be tested.

34. a) The word “supervision” shall be added after the word “discipline” in the schedule number one on the activities of the council.

Implementation status:

Amended and included in the Hill District Council Acts.

b) In item no. 3 of the Council's activities, the following shall be added: "(1) Vocational education, (2) Primary education through mother tongue, (3) Secondary education."

Implementation status:

Amended accordingly and included in the Hill District Council Acts. But no initiative was taken to impart primary education through mother tongue. Vocational education was transferred but secondary education is yet to be handed over to the HDC.

c) The words "reserved or" appearing in clause 6(b) of the Council's activities shall be deleted.

Implementation status:

This provision has been implemented.

35. The following subjects shall be included in the functions and the responsibilities of the Hill District Council:

- a) Land and land management
- b) Police (local)
- c) Tribal law and social justice
- d) Youth welfare
- e) Environmental protection and development
- f) Local tourism
- g) Improvement Trust and other institutions concerning local administration, other than Municipality and Union Council
- h) Issuing license for local commerce and industries
- i) Proper utilization of rivers and streams, canals and beels (low-lying marshy tracts) and irrigation systems other than water resources of the Kaptai Lake
- j) Maintaining of the statistics of birth and deaths
- k) Wholesale business
- l) Jum cultivation

Implementation status:

Included, accordingly, in the Hill District Council Acts, but except tribal law and social justice, and youth welfare none of the aforementioned subjects has been transferred to the hill district councils as of now.

36. The following items shall be added to the subjects for imposition of taxes, rates, tolls, and fees by the council as stated in the second schedule:

- a) Registration fees of non-mechanical transports
- b) Tax on buying and selling commodities
- c) Holding tax on lands and buildings
- d) Tax on selling of domestic animals
- e) Fees for community adjudication
- f) Holding tax on government and non-government industries
- g) A specified part of the royalty on forest resources
- h) Supplementary Tax on Cinema, Jatra (a form of theater), and Circus
- i) Part of royalty received by the government against granting licenses or pattas (ownership rights to land) for the exploitation of mineral resources
- j) Tax on business
- k) Tax on lottery
- l) Tax on catching fish

Implementation status:

This provision has been included in the Hill District Council Acts, but the power to exercise this provision has not been accorded to the hill district council.²⁷

Chittagong Hill Tracts Regional Council²⁸

1. Subject to the amendment and addition of the various sections in the Hill District Local Government Council Act XIX, XX, and XXI of 1989, a Regional Council, comprising the local government councils of three Hill Districts, shall be formed for the purpose of making the Hill District Council more powerful and effective.

Implementation status:

Accordingly, the three Hill District Council Acts have been amended.

2. The chairman of this council whose status shall be equivalent to that of a state minister and who shall be a tribal shall be elected indirectly by the elected members of the Hill District Councils.

Implementation status:

This provision has been included in the Regional Council Act. The chairman is also a tribal and has been given the status of a state minister.

Comment:

The incumbent chairman is not elected as the present council is an interim one which the government formed in exercise of the power provided in section 12 of the RC Act. The election to this council could not be held during the last 11 years due to non-holding of elections for the HDCs pending a case with the High Court. As per rule the elected members of the HDCs shall elect the chairman of the Regional Council.

3. Twenty-two members including the chairman shall constitute the Council. Two-thirds of the members shall be elected from amongst the tribal. The Council shall determine its modus operandi. The constitution of the council shall be as follows:

- a) Chairman - 1
- b) Members: male (tribal) - 12
- c) Members: female (tribal) - 2
- d) Members: male (non-tribal) - 6
- e) Member: female (non-tribal) - 1

Of the tribal male members, five persons shall be elected from the Chakma, while three persons from the Marma, two persons from the Tripura, one person from the Murung and Tanchangya and one person from the Khyang, Chak, Khumi, Bawm, Pankhua and Lushai tribes combined together. Of the non-tribal male members two persons from each district shall be elected. Of the female tribal members, one shall be elected from the Chakma tribe while the other one shall be from the rest of the tribes.

Implementation status:

Included in the Regional Council Act and implemented.

4. Three seats for women shall be reserved in the Council and one-third thereof shall be for non-tribal women.

Implementation status:

Included in the Regional Council Act and implemented.

5. The Council members shall be elected in an indirect way by the elected members of the three Hill District Councils. The three HDC chairmen shall be the ex officio members of the council with the right to vote. The eligibility and non-eligibility of candidature for Council members shall be similar to that of the members of the Hill District Councils.

Implementation status:

Included in the Regional Council Act. The government in exercise of the power given in section 12 of the RC Act 1998 nominated the RC members as the election to the HDC has been held up due to High Court rulings.

Comment:

The provision is yet to be put into action as the government appears to lack in sincerity and urgency to fully implement the Accord. The government being the main defender can, if it so wishes, pursue the case in the High Court for its speedy disposal.

6. The tenure of office of the Council shall be five years. The procedure and other matters regarding the preparation and approval of the budget of the council, dissolution of the council, framing of the rules of the Council, appointment and control of the officers and employees, etc., shall be similar to the procedure and other matters as are applicable to the hill district councils.

Implementation status:

Included in the Regional Council Act but has not been implemented accordingly. It has been 11 years since the rules for conduction of the RC were framed and sent to the government for its opinion. But the government is yet

to comment on this. The interim council constituted in place of regular elected council in 1999 continues to function for the last 10 years without break though the provision sets five years for one term of the council.

7. There shall be in the Council a Chief Executive Officer of the rank of a joint secretary to the government and the tribal candidate shall get priority for appointment to this post.

Implementation status:

Included in the Regional Council Act and implemented accordingly.

8. a) In case the post of chairman of the Council falls vacant, the members of the Hill District Council shall elect a chairman in an indirect way from among the tribal members for the interim period.

Implementation status:

Inserted accordingly in the Regional Council Act.

b) In case the office of a member of the Council falls vacant for any reason, it shall be filled up by-election.

Implementation status:

Inserted in the Regional Council Act. No office of the RC members has become vacant as of now.

9. a) The Council shall supervise and coordinate all the subjects vested in the Hill District Councils in addition to coordinating all the development activities carried out by the three Hill District Councils. In the event of lack of congruity or any inconsistency in the discharge of responsibilities of the three Hill District Councils, the decision of the Regional Council shall be deemed as final.

Implementation status:

Included in the Regional Council Act but is not being observed in practice. The three hill districts were non-cooperative with the Regional Council during the BNP (2001-2006) and the Caretaker Government (2006-2008).

b) The Council shall coordinate and supervise the local councils, including the municipalities.

Implementation status:

Included in the Regional Council Act. But the union councils along with other local government bodies, for example, the municipalities are not cooperative with the Regional Council.

c) The Council shall coordinate and supervise the three Hill Districts in matters of general administration, law and order, and development of the three Hill Districts.

Implementation status:

Incorporated into the Regional Council Act, but the district administrative authorities, police superintendents in the three hill districts, and development authorities like the CHTDB, while performing their functions, continue to ignore the Regional Council.

d) The Council shall coordinate the activities of the non-governmental organizations (NGOs), in addition to disaster management and conduction of relief programs.

Implementation status:

Incorporated accordingly in the Regional Council Act. However, the coordinating role to be performed by the RC with regard to the NGO activities remains to be seen as of now. The disaster management and relief operation in the CHT, as in other parts of the country, continues to be controlled by DC, sidelining the RC even 11 years after the agreement was signed. Thus, the Ministry of Relief and Disaster Management has continued to flout the Accord.

e) Tribal law and social arbitration shall be under the jurisdiction of the Regional Council.

Implementation status:

Incorporated in the Regional Council Act. This customary prerogative of the RC is yet to be tested.

f) The Council shall be competent to issue licenses for heavy industries.

Implementation status:

Included in the Regional Council Act. However, when the process of establishing a fertilizer industry in the Chittagong Hill Tracts and installation of two more units in the Kaptai Hydroelectric project were in progress, the Regional Council was not consulted.

10. The Chittagong Hill Tracts Development Board shall discharge duties assigned to it under the general and overall supervision of the Council. The government, in appointing the chairman of the Development Board, shall give preference to the competent tribal candidates.

Implementation status:

Incorporated in the Regional Council Act. But the Development Board continues to disregard the authority of the Regional Council while discharging its functions. The government in complete disregard of the provisions of the peace treaty, appointed Abdul Wadud Bhuiya, MP from Khagrachari constituency as the chairman of the CHTDB.

11. The Chittagong Hill Tracts Regulation of 1900 and other related acts, rules, and ordinances, if found inconsistent with the Hill District Council Acts of 1989, shall be removed by law as per the recommendations of and in consultation with the Regional Council.

Implementation status:

Included accordingly in the Regional Council Act. But the government has so far not taken any steps to do away with the inconsistencies in the above-mentioned Acts and Regulations (for one such example, please see the “implementation status” of sub-section (b) of section 26 under the head “B. Chittagong Hill Tracts Local Government Council/Hill District Council”).

12. Until the formation of the Regional Council through direct and indirect election, the government shall be competent to con-

stitute an interim Regional Council and empower it to discharge the assigned responsibilities.

Implementation status:

Included in the Regional Council Act and an interim council has also been formed.

Comment:

But the council has not been made effective as of now as the government has failed to invest it with necessary power as has been provided in the RC Act.

13. In making any law in connection with the Chittagong Hill Tracts, the government shall enact such law in consultation with and as per the advice of the Regional Council. If it becomes necessary to amend any such law or to make any new law that bears an adverse effect on the development of the three Hill Districts and the welfare of the tribal people, the Council shall be competent to file a petition or submit recommendations to the government.

Implementation status:

Incorporated into the Regional Council Act as was sought in the Accord. But this legislative prerogative of the RC largely remains untested especially in matters of such laws as are exclusively meant to deal with the CHT issues. Otherwise, it is not uncommon that the government, sometimes, without consulting the RC makes, by gazette notification, national laws applicable to the CHT without taking the CHT perspective and its distinctive character into account. For example, the government introduced in August 2003 the Speedy Trial Act in the CHT without consulting the RC. Enacting and introducing laws without an insight and understanding of the context may prove disastrous for the people for whom the laws are meant for. *Neither is the government amenable to any such recommendations submitted by the RC on CHT issues.*²⁹

14. The fund of the Council shall be created from the following sources:

- a) Money received from the District Council Fund
- b) Money or profits received from all the properties vested

in or managed by the council

c) Loans and grants from the government and other authorities

d) Grants given by any institution or person

e) Profits earned from the investments of the Council Fund

f) Any money received by the council

g) Money received from other sources provided to the council as per the direction of the government

Implementation status:

Included in the Regional Council Act. But the government has not been very cooperative in playing a supportive role in creating such fund for the council.

Rehabilitation, General Amnesty, and Other Matters³⁰

In order that normalcy is restored both the parties to that end have arrived at the following consensus and agreed to undertake programs as given below in respect of activities and matters of rehabilitation, general amnesty, and allied issues:

1. An agreement, with a view to bring the tribal refugees staying in the Tripura State of India back to Bangladesh, was signed on 9 March 1997 at Agartala in Tripura State between the government and leaders of tribal refugees. The tribal refugees, in pursuance of that agreement, started to return to Bangladesh on 28 March 1997. This process shall continue without interruption, and the Jana Samhiti Samiti shall give all possible cooperation to that end. Measures to rehabilitate the Internally Displaced People of the three hill districts shall be undertaken through a task force after ascertaining their identity.

Implementation status:

a) The Jumma refugees numbering about 12,222 families with a total of 64,609 persons returned to the CHT from the Tripura State of India. But 9,780 families could not go back to their own homesteads, farm lands and native villages as they could not be reinstated in their original lands which were already occupied by the settlers. The prospect of rehabilitation has been shrouded in uncertainty since

then. Forty Jumma villages are still under the occupation of the settlers. A total of 890 families did not receive money to buy bullock for cultivation. Six government primary schools relocated during the insurgency period to new places were not brought back to their original sites. Five bazaars relocated to the places with settler populations were not reinstated in their former locations. Seven temples remained under settlers' occupation.³¹

b) The government has not done anything so far to rehabilitate the Internally Displaced People. The Task Force Committee (TFC) on the Rehabilitation of the Refugees and Internally Displaced People, other than compiling a preliminary list of them, has done nothing concrete for their rehabilitation. In a unilateral meeting held on 15 May 2000, the TFC produced a list of 90,208 Jumma families and 38,156 Bengali settler families as Internally Displaced People without consulting other members of the committee belonging to PCJSS and Jumma Refugee Welfare Association (JRWA) and recommended a package program. Earlier, on 22 September 1999 the PCJSS and the JRWA walked out of the ninth meeting of the TFC in protest against its continued attempts to identify the Bengali settlers as Internally Displaced People with a declaration that they would not attend the TFCs meeting until the impugned attempt to include the Bengali settlers as internal refugees was halted. Ignoring the spirit of the Accord and the Jumma sentiment, efforts are on, in violation of the provision, to rehabilitate Bengali settlers in the CHT as permanent residents.

2. After the agreement between the government and the Jana Samhati Samity is signed and implemented, and the tribal refugees and the internally displaced tribals rehabilitated, the government, in consultation with the Regional Council to be constituted under this agreement, shall commence in the CHT the land survey as soon as possible and shall finally determine the land ownership of the tribal people through settling the land disputes following proper verification, and record their land and ensure their rights thereto.

Implementation status:

This is a crucial program which remains to be implemented. It is a major provision in the agreement as claim to land and its ownership has turned into an explosive issue that often leads to communal clashes between the tribal and the settlers.

3. In order to ensure the land ownership of tribal families having no land or lands below two acres, the government shall, subject to availability of land in the locality, ensure settling two acres of land per family. In the event of non-availability of required land, grove-lands shall be arranged.

Implementation status:

This program has not been implemented as of now.

4. A Land Commission headed by retired justice shall be constituted for settlement of disputes regarding lands and premises. This commission shall, in addition to early disposal of land disputes of the rehabilitated refugees, have full authority to annul the rights of ownership of those hills and lands which have been illegally settled and in respect of which illegal dispossession has taken place. No appeal shall be maintained against the judgment of this commission and the decision of this commission shall be deemed to be final. This provision shall also be applicable in the case of fringe-lands.

Implementation status:

The head of this commission was named, but he died before he could enter office. Later the government appointed another retired judge as chairman of the commission but he resigned from the post soon after accepting it. As many as three chairmen were appointed to head the commission. But the commission could not be activated. In the meantime, the Awami League-led government which signed the Accord is back in power again following the December 2008 national election. Now it remains to be seen what it decides to do with the Land Commission.

5. The commission shall comprise of the following members:

- a) Retired justice
- b) Circle chief (concerned)
- c) Chairman/representative of the Regional Council
- d) Divisional commissioner/additional commissioner
- e) Chairman of the District Council (concerned)

Implementation status:

The government continues to appoint the Chairman of the Land Commission but it has never been found sincere in activating this crucial body. The government has also refrained from appointing the members of the commission.

6. a) The tenure of office of the commission shall be three years. But its tenure shall be extendible in consultation with the Regional Council. b) The commission shall resolve the disputes in line with law, customs and practices in force in the Chittagong Hill Tracts.

Implementation status:

No steps have so far been taken by the government to determine the customary laws and practices in force in the Chittagong Hill Tracts.

7. The tribal refugees who took loans from government agencies, but could not utilize them properly due to a state of belligerency, shall be exempted from repaying along with interest.

Implementation status:

The stated position of the government is that the matter is under process in the Ministry of Finance. But the process seems to be an unending one. Eleven years have gone by for the Ministry of Finance to issue an order condoning the loans as was promised in the Accord. The government is yet to write off the loans of 642 refugees.³²

With the BNP-led Four Party Alliance government assuming office in 2001, a sinister move was initiated at the instigation of Abdul Wadud Bhuiya to stop ration to the Jumma refugees. The Ittefaq, a national Bengali daily, carried a

report saying that “prime minister’s office informed that the Jumma refugees could no longer be provided with regular ration. Rather it needed to be mooted if something could be done for their rehabilitation with the fund from the Annual Development Plan. It was also learned that the prime minister’s office gave orders to continue regular ration to the Bengali settlers” (abridged). This, we believe, is a racist decision. You are feeding a people who caused eviction to thousands of adivashis from lands where they lived for centuries and you are stopping food for those adivashi people who lost their lands and homesteads to the former. In the face of continuous protests, rallies and demonstrations the government at last yielded to the demand of the Jumma refugees for the resumption of food rationing and that was also for three months. Later, they were told that the ration provided was meant for six months. It was a cruel game on the part of the government.

8. Allotment of land for rubber and other purposes: Settlement of lands of those non-tribal and non-locals who were allotted with lands for rubber and other purposes but did not undertake any project during the last 10 years or failed to utilize the land properly shall be cancelled.

Implementation status:

There is no government initiative as yet to implement this provision of the agreement. On the contrary, the Deputy Commissioners of the three hill districts, in violation of the provision, have continued to allocate more lands to non-tribal and non-local persons during the years following the Accord.

9. The government shall allocate additional funds on a priority basis for the implementation of an increased number of projects towards developments in the CHT. The government shall implement new projects on a priority basis for the construction of required infrastructure for the development of the region and shall allocate necessary funds to this end. Keeping in view the environment of this region, the government shall encourage the develop-

ment of tourism facilities for the tourists from within the country and abroad.

Implementation status:

The fund allocated by the government on various projects in the CHT is too inadequate to make any tangible impact on the Jumma people and the permanent Bengali residents as these programs were more centrally guided than they were participatory. On the other hand, tourism has yet to be transferred to the HDC. The government is yet to come up with an effective discussion and consultation with the HDC and the RC on the management of tourism in the CHT.

10. Quota reservation and stipend grants: The government shall maintain the quota system for the tribal with respect to government service and in institutions for higher studies until their attainment of parity with other regions of the country. To the aforementioned end, the government shall grant an increased number of stipends to the tribal male and female students in educational institutions. The government shall provide necessary scholarships for higher education and research in foreign countries.

Implementation status:

The provision on quota reservation and stipend grants is not being implemented properly. The strangest thing is that the General Officer Commanding or the GOC of the 24th Infantry Division of the Chittagong Cantonment decides on the fate of the Jumma students for their admission into medical, engineering, and agricultural universities under the quota system. No Jumma students are allowed admission into these universities without a “No Objection Certificate” from the GOC. The request made by the RC to discontinue this system was rejected by the government without providing any reasonable ground. The number of stipends has also not been increased and scholarships for higher education and research in foreign countries have not been provided. On the contrary, the government has reduced the tribal quotas in Dhaka, Feni, Chit-

tagong and Kaptai Technical Institutes to four percent from five percent.³³

11. The government and the elected representatives shall strive to uphold the characteristics of tribal creed and culture. The government shall patronize and help the cultural activities of the tribes towards their development.

Implementation status:

The government, so far, has not come up with any such policy and program as to protect the CHT adivashi custom, tradition and distinctive cultural identity. There are three Tribal Cultural Institutes in the three hill districts. But their role remains confined to entertaining the VIPs with colorful presentation of tribal dances and a few publications. Absence of state patronage to promote the indigenous culture and tradition is discernible in the systematic decay of these ethnic Jumma heritages.

12. The Jana Samhiti Samiti shall, within 45 days of the signing of this agreement, submit lists of all of its members—both armed and unarmed—to the government along with details about the particulars of arms and ammunitions in its possession and within its control.

Implementation status:

This provision has been executed on time.

13. The government and the Jana Samhiti Samiti shall, within 45 days of the signing of this agreement, jointly determine the date, time, and place for the deposit of arms. After the determination of the date and place for the deposit of arms and ammunitions of the listed members of Jana Samhiti Samiti, all sorts of security measures shall be provided for the return of the members of Jana Samhiti Samiti and their family members to normal life.

Implementation status:

This provision has been executed.

14. The government shall declare amnesty for those members who will deposit arms and ammunitions on the scheduled date. The government shall withdraw all cases lodged against them.

Implementation status:

The government declared amnesty for all PCJSS members who returned to normal life. In 1998 the JSS submitted to the government a list of 844 cases filed against 2,524 of its members for withdrawal. But even after 11 years since the signing of this agreement, the government is yet to withdraw 124 cases against the JSS members. Moreover, no cases of the JSS members in the Martial Law Court were withdrawn so far.³⁴

15. In the event of any person's failing to deposit arms within the specified time limit the government shall take legal action against such a person.

Implementation status:

The JSS deposited all arms and ammunitions within the specified time limit.

16. A general amnesty shall be given to all members of the Jana Sanghati Samity after their return to normal life and a general amnesty shall also be given to all the permanent inhabitants connected with the activities of the Jana Sanghati Samity.

Implementation status:

This provision has been implemented.

a) In order to rehabilitate the returnee JSS members, Tk.50,000 per family shall be given at a time.

Implementation status:

The returning members received Tk.50,000. Those who were in jail were also granted Tk.50,000 each.

b) After the deposit of arms and return to normal life, all cases against all JSS members—including the armed ones—shall be withdrawn, warrants of arrest and hulas shall be called back, and

sentences given in absentia shall be condoned as early as possible. If any JSS member is in jail, he too shall be set free.

Implementation status:

Of the 844 cases placed before the government for withdrawal or dismissal, 720 cases were withdrawn. About 124 cases are yet to be withdrawn. But cases under the military court have not yet been taken up for withdrawal or dismissal by the government.³⁵

c) Similarly, after the deposit of arms and return to normal life, no case shall be filed against, or punishment be given to, or arrest be made of any person merely on account of his/her being a member of the Jana Samhati Samity.

Implementation Status:

Cases were filed and warrant arrests of were issued against some JSS members. A few of many such examples are: one Sadhan Tanchangya from Rajasthali under Rangamati Hill District was taken into custody. Mong Sa Thwai Marma was beaten to death by the security forces of Guimara camp under Ramgarh upazila of Khagrachari Hill District, Alia Chakma was beaten by some army personnel of the same camp, causing serious injuries. Warrants were issued against Kalian Chakma and Anubhuti Chakma whose cases were in the withdrawal process.³⁶

d) The loans which were taken out by the JSS members from the government banks and establishments that could not be utilized properly due to state of belligerency, shall be condoned along with interest.

Implementation status:

No measures have so far been taken to write off the loans amounting to Tk.22,783 of four PCJSS members.³⁷ The government says that the matter is under process in the Ministry of Finance. But the process as claimed by the government seems to be a never ending process.

c) Those returnee members of JSS who were previously in the service of the government or government organizations shall be reinstated to their respective posts, and the members of the JSS and members of their families shall gain employment in accordance with their qualifications. In this respect, government policy regarding the relaxation of age limits shall be followed.

Implementation status:

Seventy eight JSS members submitted their application for reinstatement. Sixty four of them were reinstated to their posts. But no measures were taken for consideration of their services during the insurgency period as “effective service” period including time scale, seniority, regularization of pay scale and related allowances and retirement benefits, etc. The rest of the PCJSS members were not reinstated in their previous jobs. A total of 671 JSS members were absorbed as police constables and 10 JSS members as traffic sergeants. But on account of alleged harassment, abuse and discriminatory treatment on racial and ethnic grounds by some high ranking Bengali police officials, many of these constables had to quit the service after some time. Repeated requests made by the RC to transfer them to the CHT were not heeded by the government except in a few exceptional cases.³⁸

d) Priority shall be given to the JSS members in paying back loans on simple terms with a view to helping their self-employment activities such as cottage industries, horticulture, etc.

Implementation status:

In the months of June-July 1998, the PCJSS members submitted 1,429 self employment schemes to the government. But the government has yet to decide on the conclusive action (either to approve or to reject the proposal) to be taken on the fate of these projects even after 11 years.

e) Education facilities shall be provided to the children of the JSS members and their certificate obtained from foreign academic institutions shall be treated as valid.

Implementation status:

With one exception, all certificates were treated valid.

17. a) After the signing and execution of the Accord between the government and the JSS and immediately after the return of the JSS to normal life, all temporary camps of the army, the ansars and the village defense party (VDP), excepting the Border Security Force (BDR) and permanent army establishments (consisting of those three at the three district headquarters and those at Alikadam, Ruma, and Dighinala), shall be taken back in phases from the Chittagong Hill Tracts to permanent cantonments and a time limit shall be fixed for this purpose. In cases of the deterioration of law and order in the region, in times of normal calamities, and for similar other purposes, the armed forces may be deployed under the authority of the civil administration in adherence to law and rules as are applicable to all the other parts of the country. In this respect, the Regional Council may, in order to get the required or timely help, make requests to the appropriate authority.

Implementation status:

No time limit has been fixed for completion of the withdrawal of camps. It is tantamount to delaying the process of withdrawal. Thirty one army camps out of 543 have so far been taken back (vide letter no. CHTAM [SAMA-1]103/98/86 dated 15 April 1999 and CHTAM [SAMA-]106/98/130 dated 10 June 1999). But the government claims that 172 camps have been withdrawn. An order issued in 1973 for clamping military administration in the CHT has in effect never been withdrawn.³⁹ As a result, the army continues to involve itself in the civil administration, hindering normalcy from returning.

b) The abandoned lands of military and paramilitary forces and cantonments shall be transferred to their original owners or to the hill district councils.

Implementation status:

This provision has not been implemented fully. Many villagers whose lands were used as camps alleged that some members of the security forces instructed them not to raise any structure in the places vacated by them.⁴⁰

18. Permanent residents of the CHT, subject to priority being given to tribals, shall be appointed to all posts of officers and employees at all levels of government, semi-government, council offices, and autonomous bodies in the CHT. In case qualified candidates among the permanent residents of CHT are not available for a particular post, appointment in that post may be made on deputation from the government for a term of a certain period.

Implementation status:

No steps have so far been taken by the government for inclusion of the said provision in the concerned appointment or service rules and regulations of the ministries for application in the CHT region.

19. A Ministry of the Chittagong Hill Tracts Affairs shall be established by appointing a minister from among the tribal groups. An Advisory Council shall be formed to assist this ministry with the persons stated below:

- a) Minister on Chittagong Hill Tracts Affairs
- b) Chairman/representative, Regional Council
- c) Chairman/representative, Rangamati Hill District Council
- d) Chairman/representative, Khagrachari Hill District Council
- e) Chairman/representative, Bandarban Hill District Council
- f) Member of Parliament, Rangamati
- g) Member of Parliament, Kagrachari
- h) Member of Parliament, Bandarban
- i) Chakma Raja
- j) Bohmong Raja
- k) Mong Raja
- l) Three members from the non-tribal residents of hilly areas nominated by the government from three hill districts.

Implementation status:

The CHT Affairs Ministry came into existence with a minister from the tribal. But when the Bangladesh Nationalist Party was voted to power, the CHT Ministry was run

without a full-fledged minister. A tribal member of parliament (MP) was appointed as deputy minister to the ministry, while the post of the cabinet minister was retained by the Prime Minister. After the 2008 election, having won absolute majority in the parliament, the Awami League formed the government. Dipankar Talukder, MP from the Rangamati constituency was given the charge of the MoCHTA with the rank and status of a State Minister. However, the Accord envisages a full minister for the said ministry.

The MoCHTA has an Advisory Council which met only twice during the incumbency of the caretaker government with no results on record. With the formation of the new government on 6 January 2009, the Advisory Committee had a meeting a few months later. The results are not known as yet.

Some of the provisions that are yet to be taken into account for execution are:

- i. So far there have not been any official steps by the government to preserve the characteristics of the “tribal inhabited region” by keeping their life and living undisturbed and attaining overall development thereof as embodied in the Accord.
- ii. Full execution of the CHT Regional Council Act has not been carried out as yet. The Rules of Business of the CHTRC has been kept pending as it still waits for government approval after 11 years. In the absence of this provision, the CHTRC is unable to exercise its authority to supervise and coordinate the activities of all transferred subjects under the three HDCs, law and order, general administration, development programs, the activities of CHT Development Board, coordination of NGO activities, disaster management and relief operation, traditional and social justice, and issuing license for heavy industries, as mandated in the RC Act.
- iii. No other subjects, especially the most important, i.e., land management, general administration and police, have so far been transferred to the three hill district councils

(HDCs) since the signing of the Accord.

iv. Election of the HDCs has yet to be held and a voter list with only the permanent residents of the CHT, to be certified by the Circle Chiefs, has yet to be prepared for the election of HDCs.

v. The Land Commission is yet to commence its function and its Act is yet to be amended in the light of the Accord. This has not only kept land disputes unresolved but also opened the floodgates for new land disputes to emerge, making the situation more complicated for smooth resolution.

vi. Only 31 *temporary army camps out of 543 camps were withdrawn*. The rest of the temporary camps are yet to be withdrawn. Moreover, security operation codenamed Operation Uttaron was resorted to in 2001 to tighten the security noose.

vii. A total of 9,780 families out of 12,222 families of repatriated Jumma refugees are yet to be reinstated in their lands, homesteads and orchards while 40 villages of the returnees are still under the occupation of the settlers.

viii. More than 90,000 internally displaced families have not yet been rehabilitated.

ix. The activities of the *CHT Accord Implementation Committee have never been reactivated since its activities were suspended by the then caretaker government on 13 September 2001*.

The decision to withdraw cases filed against PCJSS members and those permanent residents who were associated with PCJSS prior to the signing of the Accord are yet to be carried out.⁴¹

The Task Force Committee on Rehabilitation

The Task Force Committee on rehabilitation of the India Returnee Tribal Refugees and Internally Displaced Tribal Families held a meeting at the Circuit House of Khagrachari Hill District on 3 June 2007 with Mr. Samiron Dewan as chairman. But the meeting ended with no decision or discussion on the rehabilitation of the internally displaced Jumma people who continue to live an unbearably miserable life, many of them since 1981. On the contrary,

Mr. Bakul Chakma, the leader of the Jumma Refugee Welfare Association, was arrested as soon as he emerged from the Task Force Committee meeting on unknown charges. Moreover, despite any decision taken in the Task Force Committee meeting on the rehabilitation of 26 families, arrangements were made through the Khagrachari Hill District Council to rehabilitate them, in violation of the terms and reference of the Task Force Committee, on a land which belongs to one Ranajit Kumar Tripura, a member of the PCJSS.

Task Force Committee Report:⁴²

The honorable Chairman of the Task Force Committee was pleased enough to provide me with this report sheet during my meeting with him on 20 October 2008. The original report is in Bengali. The following is the English version:

Current status of the India Returnee Refugees:

Sl No	District	Upazila	No. of Families	No. of members
1.	Rangamati Hill District	1. Rangamati sadar 2. Kaokhali 3. Naniarchar 4. Langadu 5. Baghaichari	04 01 02 15 31	16 03 04 82 177
			Total: 53	Total: 282
2.	Khagrachari Hill District	1. Khagrachari sadar 2. Laxichari 3. Manikchari 4. Mahalchari 5. Panchari 6. Dighinala 7. Ramgarh 8. Matiranga	1,160 06 329 23 3,714 4,234 1,227 1,476	6,083 27 1,467 116 19,867 23,253 5,771 7,746
			Total: 12,169	Total: 64,330
			Grand Total: 12,222	Grand Total: 64,612

Current Status of the India Returnee Refugees:

According to the Task Force Committee the facilities provided to

the India Returnee Refugees are the following:

1. House building and Agricultural grant: Tk.15,000 was given to each family;
2. Food grains: Provision of food grains to India Returnee Refugees at 27.70 kg and 10.85 kg of rice per month to each adult and minor member of a family, respectively, continues although it was agreed to provide 27.70 kg and 10.85 kg of rice to each adult and minor member, respectively, four kg of rice, two liters soybean oil, and two kg salt;
3. Construction of house: Provided two bundles of corrugated iron sheets;
4. Purchase of bulls for cultivation: Tk.10,000 given to purchase one pair of bullocks to those who own cultivable lands;
5. Purchase of cow: Given Tk.3,000 to landless to buy a cow;
6. Agricultural loan exemption: Agricultural loan exempted up to Tk.5,000;
7. Reinstitution in the old job: Of the India Returnee Refugees who used to serve in different capacities in different institutions before they were forced to cross over to India under pressing circumstances, the following people were not reinstituted in their old jobs:

Sl. No	Name	Position/Name of the Institution
1.	Mr. Akhsoy Moni Chakma	Asst. Teacher, Primary School
2.	Mr. Arabindu Chakma	Do
3.	Mr. Ashok Kumar Chakma	Do
4.	Mr. Tiren Das Tripura	Do
5.	Mrs. Anupama Chakma	Do
6.	Mr. Chain Hla Prue Marma	21 st East Bengal, Comilla Cantonment
7.	Mr. Upayan Chakma	Road & Highways Division
8.	Mr. Pratap Singha Chakma	Sonal Bank
9.	Mr. Sanchoy Ketu Chakma	BSIC
10.	Mr. Prakriti Ranjan Chakma	Sonali Bank
11.	Mr. Bakul Kanti Chakma	Khagrachari Govt. College
12.	Mr. Harun Moni Chakma	Secretary, Babuchara UP

8. Rehabilitation: Twenty six India Returnee refugee families could not be rehabilitated in their own land due to land dispute. This year each of these refugee families has been rehabilitated on 0.06 acres of khas land with a complete house, latrine and tube well installed. Tk.20,000 has been given to each family so that they can become self reliant through economic activities;

9. Economic Development: No separate development program, except nationally adopted and executed development projects, has been drawn for the India Returnee Refugees.

10. Socio-economic Development: No activities so far have been undertaken in areas of socio-economic development due to non-availability of fund from the government although executions of development programs for the India Returnee Tribal Refugees were agreed upon.

Identifying Internally Displaced People (IDPs) and their Rehabilitation:

Following is the list of IDPs as identified by the previous task force:

Sl. No	District	Upazila	Number of families		
			Tribal	Non-tribal	Total
1	2	3	4	5	6
	Rangamati Hill District	1.Rangamati sadar	3,723	-	3,723
		2.Kaptai	297		309
		3.Jurachari	4,533	12	4,553
		4.Kaokhali	2,598	-	5,166
		5.Baghaichari	6,439	2,568	7,720
		6.Rajasthali	165	1,281	224
		7.Langadu	7,253	59	14,716
		8.Belaichari	1,659	7,463	1,862
		9.Naniarchar	2,895	203	4,531
		10.Barkal	5,709	1,636	8,003
		11.Rangmati Municipality	304	2,294	304
				-	

Sl. No	District	Number of families		
		Tribal	Non-tribal	Total
1	Rangamati Hill District	35,595	15,516	51,111
2	Bandarban Hill District	8,043	269	8,312
3	Khagarchari Hill District	46,570	22,371	68,941

It was not possible to initiate any move to rehabilitate the internally displaced persons in the face of vehement opposition by the Parbattya Chattagram Jana Sanhati Samity and the Jumma Refugee Welfare Association to the inclusion of non-indigenous families into the list of the Internally Displaced Persons despite a series of dialogues at the national level. This hindered the rehabilitation process of the India Returnee Refugees, as well.

The plight of the refugees and the Internally Displaced Persons is beyond description. The refugees are provided with rations but the Internally Displaced Persons have not received anything. These families are fated to face extreme situation if necessary support is not extended to them.

However, the honorable chairman of the Task Force had a different story to tell on item 8 in section A. There has not been any attempt, according to him, to recover the land already occupied by the settlers in absence of these 26 families who are the genuine owners of the land in contention and these families had to undergo untold miseries for the last 11 years in the makeshift camp. They lived a sub-human life spanning over two decades—11 years in the refugee camps in India and another 11 years in their own homeland despite the fact that they have their own land to live on. They have been refusing to go anywhere other than their own homestead and premises. The authority took advantage of countrywide emergency situation to compel these ill-fated families to move to the new place. Moreover, the new site on which these unfortunate families were rehabilitated is not undisputed either. One Ranajit Kumar Tripura, ex-combatant of Shanti Bahini, claims ownership of the said land. An imposing gate was con-

structed in front of the new settlement with the inscription “The Last Rehabilitated 26 India Returnee Refugee Families” on the head of the gate. It is to be noted here that the Task Force Committee is the only authorized body to decide on the issues of rehabilitation of the refugees. But there was no such decision by the Task Force Committee on the rehabilitation of these 26 families on the present location and, interesting enough, the rehabilitation of 26 families was carried out by the Khagrachari Hill District Council and necessary fund for this purpose was placed at its disposal.⁴³

The Caretaker Government (2006-2008) and the CHT Accord

Since its assumption of office on January 11, 2007, the present caretaker government (CTG), generated hope in redeeming the country of political *hara-kiri* (suicide). It has undertaken various vital initiatives that past administrations did not dare to do, such as a drive against widespread corruption, separation of judiciary from the executive, reconstitution of the Anti-Corruption Commission, etc. This course of action by the CTG led common people, who suffered immeasurably during previous governments, to repose faith on it. The signal that the CTG managed to transmit did not miss the indigenous Jumma people either. They tried to pull themselves once again out of years of frustration by rallying round the promises of the CTG. They believed that CTG would not fail in implementing the Accord.

But what happened was contrary to what they expected. More settlers surreptitiously found their way into the CHT during the period of this government. Seemingly, there was no concrete action to stop the influx of these people which began during the BNP rule, although there is no official policy to settle the lowlanders in the CHT.⁴⁴ Moreover, in 2009, the Health Ministry, in clear violation of the Accord, issued a circular requiring the students aspiring to pursue medical studies to produce permanent residency certificate from the CHT Ministry despite objection from the CHT Ministry itself. It also failed to do away with many of the ill-conceived policies of the previous governments. A few

pragmatic steps by this government could have gone a long way to untie many of the tangles that kept peace and understanding from being unlocked in the CHT. The spirit of accommodation generated by the war of independence in the 70s could have provided a base towards a durable solution to the CHT issues, when the same spirit was expressed in the CTG initiatives.

Meetings on CHT Issues at MoCHTA

The CHT Affairs Ministry held three meetings since the CTG assumed office in 2006. But as far as the progress on the implementation of the Accord was concerned, it could not be said with certainty that progress was made. The first of the three meetings, attended by the Chairman of CHT Regional Council and the Chairmen of the three hill district councils, was chaired by Dr. Iftekhar Ahmad Chowdhury, the Advisor in charge of CHT Affairs Ministry (CHTAM). The Advisory Committee meetings of MoCHTA were also held twice during the period of the caretaker government. It was learned that development activities in the CHT, the implementation of the CHT Accord and other issues were discussed in these meetings. But these meetings failed to come up with any concrete decision thereby reducing the whole process into a futile exercise.

CHTRC Budget Curtailed

The CHT Regional Council is the apex body of the special administrative arrangement for CHT. In order to sustain peace and gain political stability, it is imperative to empower the Regional Council and make it functional as was promised in the Accord. Moreover, in order that the Regional Council can assert its authority increasingly, it is also necessary that it must be assured of an adequate fund to meet its operational requirements until it can generate its own revenue.

The caretaker government, being non-political in its composition, should have been positive in its dealings with the Regional Council in allowing it to become an effective local government institution. On the contrary, it moved the opposite way and curtailed the budget of the Regional Council by at least one third of the

routine allocation instead of increasing it to meet the growing needs in the region.⁴⁵ The Regional Council is now practically handicapped to run its activities. Rules of Business of CHTRC and budget for CHTRC complex, submitted years before, are yet to be given opinion by the government.

Government Reluctance to Implement the Accord

It is also widely shared by the Jummas that a section in the army as well as the military-backed caretaker government is reluctant to implement the Accord. As in the past, the army still continues to have the final say in policy matters relating to CHT in spite of the fact that the political government is in power. Hill men in the CHT by and large believe that the army is, in reality, the de facto executive authority in the CHT. The apparent anti-Accord attitude of a section in the army is the main challenge in implementing the Accord.⁴⁶ So far, the government has not taken any measure towards full implementation of the provisions of the Accord by supposedly allowing the Regional Council and the three hill district councils to effectively carry out their mandates. A number of amendments that were sought in the District Councils and Regional Council Acts respectively were not done faithfully. Rather these amendments, as were carried out, emasculated both the district councils and the Regional Council.

The caretaker government appointed the General Officer Commanding (GOC), 24th Infantry Division of Chittagong cantonment as Chairman of the CHT Development Board (CHTDB) on 22 October 2007. It should be noted that the GOC used to be appointed as the chairman of the CHTDB in the pre-Accord days. It was widely perceived by the Jummas that his professional line of thinking more or less influenced the Board programs. In the post Accord period during the BNP rule, a non-indigenous person⁴⁷ was made the Chairman of CHTDB although the CHT Accord provided that the government should give preference to the eligible tribal candidates. Indigenous peoples, in general, viewed the appointment of the GOC to the Board's number one position as a kind of militarization of development activities in the CHT as it was during the pre-Accord days.

The implementation of the CHT Accord is crucial for unhindered development of the country. For peace to thrive and stability to continue in a poor country like Bangladesh, it is important to press the state's goodwill to stimulate everything that the Accord stands for. Honoring the Accord is also essential for good governance and rule of law to prevail in the CHT. A free, fair and impartial election in the CHT would not suffice unless the Accord is executed in the same spirit as it was inked.

Support to the anti-Accord elements named *Sama Odhikar Andolon* (Equal Rights Movements) in CHT

In January 2007, when the state of emergency in the country was declared, the infringement of rights of the indigenous people in the CHT intensified. Taking advantage of the emergency situation *Sama Odhikar Andolan*, a conglomerate of extreme communal forces belonging to the right-leaning Bengali community fanned up a movement to demand for revoking the Accord and equal share for the Bengalis in any dispensation intended for CHT indigenous peoples. This organization was also formed with the ulterior motive to settle the non-indigenous plainsmen in the CHT. Its followers vehemently opposed any moves at protecting the interest of the ethnic minorities (Jummas/adivashis) in this hill territory. Hill men in general believe that Sama Adhikar Andolan enjoys the blessings of a faction of the Army or a government agency.⁴⁸ People at large, both indigenous and non-indigenous, believed that the caretaker government, acting on the advice of the de facto administration in CHT, nominated the chairman and the members of the HDCs and tried to replace the Bengali member of the present Regional Council with extremist leaders of the Sama Adhikar Andolan.

As part of the establishment's move to highlight the cause that Sama Adhikar Andolan stands for, the anti-Accord elements, with the covert support from different government agencies, organized its district conference on 20 July 2007 at the office of the Khagrachari Contractors' Association. Though the State of Emergency does not permit organizing such conference, Sama Odhikar Andolan still sailed through their program quite easily without any obstruction from the administration. As was decided in the confer-

ence, the holding of sub-district level conferences and reconstitution of sub-district committee of the Sama Odhikar Andolan was carried out uninterrupted.

On 2 December 2007 the then Law and Information Advisor to the Caretaker Government Barrister Mainul Hossain attended a discussion meeting organized by Sama Odhikar Andolan, at the VIP lounge of the National Press Club in Dhaka. He said in the discussion meeting that CHT Peace Agreement of 1997 would be reviewed.

The followers of Abdul Wadud Bhuiyan, the undisputed leader of Sama Adhikar Andolan, were rehabilitated in the Khagrachari Hill District Council (KHDC) as some of them got nominated as its members in July 2007 by the caretaker government. The Chairman of the council, Mr. Manindra Lal Tripura, was appointed by Adbul Wadud Bhuiyan during the regime of BNP-led coalition government. He was retained as chairman. The Bengali member of the newly constituted KHDC, Md. Abu Bakar Siddique, is a leader of both BNP and the Sama Odhikar Andolan.

Writ Petition Against CHT Peace Accord

On 22 August 2007 a writ petition (no. 6451/2007) against the CHT Accord was filed in the High Court by Advocate Md. Tajul Islam. Acting on the prayers of the petitioner, the High Court on 27 October issued a Rule Nisi calling upon the respondents to explain why the signing and implementation of the CHT Accord of 1997 by the government and the Jana Sanghati Samity (PCJSS), by violating the provisions of the Constitution of the People's Republic of Bangladesh and in contravention with the sovereignty of Bangladesh and supremacy of its sacred constitution, shall not be declared to have been done without any lawful authority and is of no legal effect. The Court further issued an interim order directing the Respondent no. 8 (the Election Commission) not to deprive any non-tribal citizen residing at CHT area from being enlisted as voter during the voter enlistment process on the ground of being non-permanent resident in CHT pending disposal of the rule. The Government of Bangladesh is yet to submit its show cause reply to the Court.

On 12 November 2007, the CHT Regional Council (CHTRC) submitted an application to be admitted as respondent no. 9 to the writ petition. In its prayer, the CHTRC submitted that it has been established in order to ensure the participation and representation of people from the CHT in the governance of the three hill districts and for the purpose of the implementation of the CHT Accord; it is a genuinely interested party in the outcome of this writ petition and as such its sequel would be greatly affected unless the CHTRC is allowed to be admitted as respondent no. 9 to the writ petition. Mr. Ushatan Talukder prayed on behalf of CHTRC.

It must be noted that one Md. Samsuddin filed a writ petition (no. 4113/1999), a first of its kind, against the CHT Accord in 1999. The Court issued a similar Rule Nisi as referred above upon the Government of Bangladesh. Furthermore, in the 2000 second writ petition (no. 26669/2000) was also filed against the CHT Regional Council Act 1998 and the three Acts of Rangamati, Khagrachari and Bandarban Hill District Councils. Again a Rule Nisi of similar kind was issued on the government by the Court. These two writ petitions are still pending in the High Court awaiting disposal.

Voter List in CHT

A voter list, enlisting non-permanent Bengali residents as voters, was prepared in complete violation of the CHT Accord and the three Hill District Council Acts. The CHT Accord as well as the three Hill District Council (HDC) Acts provide that the voter list in the CHT shall be prepared with the permanent residents of the CHT region only. A nontribal in the CHT is eligible to become a permanent resident of this region when he owns lawful land property and lives here at a permanent address. Contrary to this provision, many non-permanent residents who frequent CHT and spend months on various professional calls here but do not make CHT as their permanent place of residency are included in the voter list to outnumber the Jumma people.⁴⁹

An Update of the Writ Petition in the High Court:

The High Court Division of the Bangladesh Supreme Court, in a verdict on 12-13 April 2010, declared the Chittagong Hill Tracts Regional Council Act 1998 as unconstitutional for it violated the “characteristic of the unitary structure of the state.” Similarly, sections 4(6), 17, 31(2), and 62(1) of the HDC Acts as amended in 1998 in accordance with the CHT Accord were also declared to have violated the “characteristic of a unitary state.” However, the High Court observed that the Accord, being political in nature, could not be reviewed judicially.

The High Court in its judgment issued five guidelines to the government. In one of the guidelines, the High Court said that the CHT Regional Council Act violated some articles of the constitution. But it is still up to the government to form a public statutory institution comprised of entirely nominated members as part of the peace process. As regard the backward sections of citizens as stated in the constitution, the court observed that it was the responsibility of the government to adopt a method and procedure reasonable and convenient for application to the CHT indigenous peoples. The court also said that the peace process has to be pursued against the backdrop of geo-strategic consideration and the historical circumstances under which the conflict ensued and was brought to an end in 1997.

Most of the constitutional experts are of the opinion that the High Court verdict was fully *ex parte*. It failed to take into consideration the distinct characteristics and administrative history of the CHT. They are apprehensive that the verdict might hamper the peace process, jeopardizing the stability of the region and create complexities in the functions of the CHT regional administration.

Induction of Raja Devasish Roy as Special Assistant to the Chief Advisor

On January 11, 2007 the caretaker government nominated Raja Barrister Devasish Roy as Special Assistant to the Chief Adviser. Indigenous peoples hailed it as a positive gesture of the caretaker

government to resolve the indigenous issues including CHT problem. But nothing special developed during the period to indicate that the government entertained genuine desire to resolve the CHT issue.

Human Rights Situation in CHT: Arrest, Detention and Torture of Indigenous Activists

The military-backed Caretaker Government of Dr. Fakhruddin Ahmed imposed a State of Emergency amid political chaos and conflict across the country. The Joint Forces launched security drives against corrupt politicians, businessmen and godfathers. As part of this drive, some godfathers, leaders of past governments under both Awami and BNP regime were arrested all over the country. Some arrests were also made in the CHT. But the de facto executive authority in the CHT continued to use this emergency situation to undo the process of conflict resolution which eluded the ethnic minorities in the hills for many years now. It was used to suppress the voice and infringe the rights of Jumma people.

The emergency rules are frequently resorted to unleash sweeping political repression against the Jummas, including PCJSS and its front organizations. Raiding forces slipped arms into the house of the person they targeted and lodged false arms case against the latter. During of the State of Emergency, at least two innocent villagers were killed and 50 indigenous activists including 20 members of PCJSS (among others, PCJSS general secretary Satyabir Dewan, two central members of PCJSS, headman and UP chairman Ranglai Mro, etc.) were arrested by the government forces and later some of them were convicted with a long term sentence. In addition, it was also reported that at least 20 innocent Jummas including public representatives, women and villagers were held.⁵⁰ Rang Lai Mro was later released on bail after a few months.

The Status of the CHT Institutions after the Peace Accord

In an interview with the reporter of the Bengali news daily *Prothom Alo* during his term of office, Humayun Kabir, former Superintendent of Police, Rangamati Hill District (6 June 2001 to 23 March 2005) was on record to have commented on the CHT Accord that Shantu Larma (the nickname of RC Chairman Jyotirindra Bodhipriya Larma) could shout as much as he could against the government but the CHT Accord would never be implemented. Kabir further said that the Awami League (the party that formed the government during the period 1996-2001 and signed the Accord) did a good thing by offering him a carrot⁵¹ in the form of an Accord.⁵² Did Humayun Kabir say anything wrong? It is more than a decade now since the Peace Accord was signed amidst much fanfare. Peace is still down in the horizon in the Chittagong Hill Tracts. An uneasy peace hangs like an ephemeral cloud in the CHT⁵³ as the Accord was followed over years by scores of arrests and hundreds killed in organized assaults orchestrated by the Bengali settlers and a section of the security forces. These horrific incidents were accompanied by rape, plunder, arson, land grabbing which are reminiscent of the nightmarish pre-Accord days. No one can vouchsafe that man-made disaster of this horrific scale will finally come to a stop in the CHT. Caught in between a section of the army opposed to the Accord and a hell bent opposition, the Awami League government, the signatory to the Accord, preferred to play safe by keeping the terms of the Accord from being implemented.⁵⁴ Was it a wise step? Now the iron rod has turned ice cold. You cannot hammer it into a desired shape. In the meantime, the opponents to the Accord consolidated their position while that of the pro-Accord camp weakened following internal bickering among them, accusing each other for their failure to mount constant pressure on the government. A close investigation into implementation of various terms of the Accord will help us pin down the present implementation status of the CHT Accord:

Preserving the Indigenous Character of the CHT and the Cultural Integrity of its People (as of June 2009)

The Accord recognizes the CHT as the “tribal inhabited region” when clause 1 of Part A stipulates, “both the parties, having considered the Chittagong Hill Tracts region as a tribal inhabited region, recognized the need of preserving the characteristics of this region and attaining the overall development thereof.”

The preamble of the Accord includes a declaration which describes the CHT as the “tribal inhabited region” and pledged to take all necessary initiatives to preserve the tribal character of this region. Events that unfolded at this time in the CHT are in no way conducive to preserving the tribal/indigenous character of this region. The large scale settling of the Bengalis that began in the late 70s and early 80s continues today. Every conceivable move is geared to liquidate the *special character* of the region. Circumstances that lead to communal clashes are nursed covertly or overtly. Illegal land grabbing is encouraged. The voter list prepared by the Election Commission included the Bengali settlers and non-indigenous outsiders.

The permanent resident certificate issued by DC, violating the terms of the Accord, provides the Bengali migrants with employment and other opportunities including lease and settlement of land, etc. A communalist organization Somo Adhikar Andolan (Movement for Equal Rights) was set up to fan communal tensions. There were moves to sanction rations to 28,000 more settler families and to settle 10,000 more families in the Sajek area under the Rangamati Hill District.⁵⁵ This is the continuation of the counter-insurgency policy initiated by military ruler Ziaur Rahman with the two-pronged purpose which includes use of force to evict the paharis (hill men) from their lands and villages and planned “transmigration” of the thousands of landless Bengalis from the plains to settle in the CHT. It was supposed to have been terminated following the '97 Accord. The political motive of this demographic engineering was to accelerate the Bengali settlement to increase the Bengali population loyal to the government who would also serve as pawn and human shields for the security forces, and to

weaken the support base of the PCJSS.⁵⁶ If this trend continues, then it would be enough to end the tribal character of the region.

There has never been any conscious initiative leading to the formulation of a pragmatic plan by the government to protect, foster and promote the indigenous identity of the CHT people based on their language, culture, customs and traditions. The three cultural institutes in the three hill districts failed to contribute to the indigenous cultural revival and development. Their activities seem to raise a group of artists to provide entertainment to the VIPs with colorful presentation of tribal dances. They have also brought out occasional publications on the life and culture of the CHT indigenous groups. Still, these are not enough to disseminate and strengthen the cultural roots of the CHT indigenous peoples. Identity and cultural crisis of the CHT adivashi Jummas is at the cross road now. Notwithstanding the Peace Accord, the ethnic and cultural identity of the ethnic minority groups in the Chittagong hills face elimination or assimilation as the post-Accord developments here failed to conform to what has been spelled out in the Accord. Less than a million marginalized indigenous peoples cannot withstand the pressure from a 150 million-strong population unless the state protects the former by means of constitutional safeguards.

The Hill District Councils

Formed in 1989 with two-third adivashi majority and an adivashi chairman, the HDC, as envisaged in the Accord, was to be strengthened by transferring the rest of the subjects including the vital law and order, land administration and management, police administration under its jurisdiction, by enhancing its legislative prerogatives along with increase in the nature of the authority exercised by the HDC over the transferred subjects. However, as of June 2009 the most vital subjects crucial for preserving the essential features of the adivashi society have not so far been transferred to the HDC. Neither has the nature of authority exercised by the HDC over the transferred subjects been enhanced in the manner as stipulated in the Accord.⁵⁷

The HDC Acts 1989 invests the HDC with the authority to supervise and coordinate the general administration, law and order in the CHT. It has also the authority to appoint police officials up to the rank of sub-inspector. But HDC is yet to be vested with this authority in consequence of which it is not in a position to control the enforcement agency (police) to oversee the law and order situation. No lands within the hill districts are to be settled, leased out, transferred or compulsorily acquired, without the consent of the HDC. But none of these powers have been vested with the HDC till today. The transfer of this authority must be preceded by the passage of a law to that effect to be followed by interdepartmental agreements and MOUs. The government has yet to come up with any of such moves. The Accord also stipulates to transfer to HDC the land development tax and a share of the royalty from the extraction of minerals and forest products. This too requires a corresponding legislation or at least some executive measures to effect the transfer of this authority which remains to be acted upon as of now.⁵⁸ The HDC is also officially mandated to supervise and coordinate the functions of the transferred subjects and the development activities of local authorities in the district. As of June 2009, this authority has not been transferred to the HDC. The DCs in the three hill districts continue to exercise, as per CHT Regulation of 1900, the overall administrative authority in the CHT.⁵⁹

The HDC is handicapped by inadequate and incompetent staff, insufficient logistics and fund constraints, limiting the HDC's efforts to groom it into a strong local government institution. The working relationship of the HDC with the transferred departments is not smooth as many of such departments do not relish working under the local government like HDC.

The HDC has the authority to prepare and execute the development plan on any of its transferred subjects depending on its own income from local rates and taxes and the annual grants from the central government. But the amount is so insignificant, due to limited sources of income of the HDC, that it can hardly make any impact of consequence on the development of the CHT.⁶⁰ The budget of the HDC in the CHT which includes staff salaries and the office management cost is around US\$1 M annually.⁶¹ Following

the CHT Accord and amendment to the Local Government Councils (amendment) Acts 1998, the authority to control the development funds of the transferred departments was to be handed over to the HDC. But on the ground, it has been observed that most of the necessary powers have not been transferred. It is found that the HDC does not retain any control over the development works undertaken on the transferred subjects with the central fund.

In this case, the fund is directly placed with the concerned department, bypassing the HDC. The control exercised by the HDC over these departments is nominal and is largely limited to disciplinary sanction requiring the employees of these departments to get the concurrence of the HDC chairman for their transfer to and from the concerned district. It was also provisioned to pay the staff salaries of these departments with clearance from the HDC chairman as the Revenue Funds of these departments are placed at the disposal of the HDC.⁶² However, the HDC never took part in the decision making process of the development plans and budget being prepared for the CHT at the national level.

Apart from the multiple roles of the HDC, it is also mandated under the HDC Acts of 1989 to assume policy making role through the use of its legislative prerogatives which requires the HDC not only to be consulted before making laws relating to the CHT but also to formally call upon the government to desist from pushing through any legislation that may prove damaging to the adivashi interest. It also has the authority to make its own “regulations.” The HDC is also to play a role at the national level in the decision making process to decide on the budgetary allocation for the CHT. But in the absence of an elected council the interim HDC, being appointed politically, is more attuned to play a complaisant role to appease its mentor than to go all out to utilize its full authority. However, these legislative prerogatives of the HDC remain largely untested.

Dr. Imtiaz Ahmed of the Department of International Relations, University of Dhaka in one of his study pointed out that the Local Government Council (LGC), later Hill District Council system, as a part of the counter-insurgency measure, was introduced in the CHT to regulate the socio-economic spheres of the Jummas.

The purpose behind establishing the LGC/HDC was to superimpose the thoughts and perceptions of the plains on the culture and economy of the CHT adivashis. It was no different from those of the plain districts except that the hill district council was vested with land administration and management, some legislative prerogatives to frame its own “regulations” and customary rules, and control over local police to maintain law and order.

With police and land administration remaining undelivered to the HDC, it was gradually made to slip into the tighter executive grip of the MoCHTA through misinterpretation and violation of the terms of the Accord, withholding of the routine election to the HDC (cases were filed in the High Court as part of the conspiracy to keep the HDC non-functional), and non-cooperation with the HDC’s initiative to adopt its “rules of business” and complete set of “regulations” so much so that the HDC can seldom venture to test its legislative prerogatives. Not happy at the present state of things in the HDC, 88 percent of the CHT indigenous peoples want reforming or restructuring of the HDC while 98 percent of its people favor more power and freedom for the HDC.⁶³ So by holding back the transfer of subjects that will otherwise make the HDC unique from the rest of the district councils in the plains, the government in effect has set to achieve the same purpose as pointed out by Dr. Imtiaz. Different administrative structures or tiers have been set up in the CHT since 1989. In some tiers, the indigenous leaders are also included, but not a single administrative tier is working effectively in ensuring the indigenous rights. The security considerations have become the central excuse of the government.⁶⁴

So far, the HDC could not make any significant headway in achieving the purpose it was created for. The HDC is yet to evolve into a true local government institution to safeguard and promote the Jumma rights and their identity. The historic regenerative role that the HDC is destined to play for the CHT Jummās remains to be accomplished in the face of the non-enforcement of the Accord and the lack of necessary executive support or measures from the national government.

The Chittagong Hill Tracts Regional Council

As provided in the Accord, an interim CHT RC was established (clause 12 of the RC Act 1998) with two-third indigenous majority and an adivashi chairman with the authority to supervise and coordinate the HDCs and other local bodies at the district level, general administration, CHTDB and NGO activities, adivashi laws and customary practices (Clause 9 (a) of the RC Act 1998). The RC has the privilege to ask the government to remove inconsistencies, if any, between the HDC Act, 1989 and other existing CHT related laws, ordinances, rules such as the CHT Regulations of 1900, etc. (Clause 11 of the RC Act 1998). The government, on the other, is also obliged to consult and discuss with the RC before it makes any law applicable to the CHT. The RC, on the other hand, may request/recommend to the government to amend any such law which may prove detrimental to the adivashi welfare and development (Clause 13 of the RC Act 1998).

Theoretically, therefore, RC can influence policy making of the government in two ways: through using its legislative prerogatives, and through supervisory and coordinating prerogatives.⁶⁵ But in practice, the RC is yet to use its legislative prerogatives. It could have at least attempted at it by adopting measures in matters of Jumma laws and customary practices through legislative initiatives. But the councilors dominating the RC could never try it due to ever yawning differences of opinion among themselves on the nature of the broad spectrum strategy to be developed for RC.⁶⁶ Its legislative prerogatives, therefore, remain untested. At the same time, it would have been a reasonable move on the part of the government, which it is also morally obliged, as per the Accord, to consult the RC before applying any national law in the CHT. For example, the government made the Speedy Trial Law applicable in the CHT in 2003 but it did not have any prior consultation on the matter with the RC. The institutional structure envisaged for the CHT demands of such a move from the government to make this unique system functional, useful and effective.

The ground reality is that the RC is almost incapable to carry out its supervisory and coordinating role over the subordinate agencies in the CHT as it has not been invested with executive powers.⁶⁷ In other words, the failure of the RC as the apex body in the region owes much to the absence of the “executive sanctions.”⁶⁸ On the other hand, the RC is handicapped to develop effective coordination with the HDC due mainly to the “conflicting political affiliations of the persons heading the MoCHTA and the HDCs on the one hand” (in the present situation) and that of the “majority members of RC on the other.”⁶⁹ Party considerations overshadow the needs of the institutions. The government, making the situation worse, abstained from exercising its executive prerogatives to make both the RC and the HDC complement each other’s role (Clause 1 of the RC Act 1998) to the greater interest of their institutional development and good governance. As provided in the Accord, the RC is given the supervisory authority over the HDCs, and the functions of the CHTDB, however, there is nothing in the HDC Act 1989 and CHTDB Ordinance 1976 on the coordination of their activities with the RC. Therefore, nothing can stop both the HDC and the CHTDB from disagreeing to comply with the supervisory role of the RC.⁷⁰

The organigram that formally established the RC is extremely insufficient to run a regional organization which has to coordinate the three HDCs and other institutions and bodies, as it is officially mandated to do so as per the Accord. Considering that it must have all the essential human and logistic resources to turn it into a self reliant organization to deal with all the offices in the three hill districts, a strong 173 body organigram submitted by the RC to the MoCHTA was rejected. Instead, the MoCHTA agreed to sanction 72 staffs for running the RC.⁷¹ Compared to this structure, the manpower of even the office of the DC of Rangamati Hill district is around 250. On the other hand, the focus and the purposes of the RC are also not very clear to other local government agencies.⁷²

Broadly speaking, the government’s inaction to allow the RC to execute its supervisory and monitoring role with necessary executive sanction and to bring necessary amendments to make the existing CHT laws compatible with the Accord has limited the influence of the RC over its subordinate

bodies. Similarly, it also has succeeded a little to make an assertive impact of its presence in the CHT, as has been conceived of in the Accord, as the premier local government institution of the region.

The Ministry of the CHT Affairs

Formed in pursuant of the CHT Accord, the Ministry of the CHT Affairs (MoCHTA) was to be headed by an adivashi resident from the CHT. Currently, Dipankar Talukder, MP from the Rangamati constituency is the head of this ministry with the rank and status of a state minister.

MoCHTA is the key administrative authority in charge of the overall development of the Chittagong Hill Tracts with the power to supervise and coordinate all development activities of all authorities in the CHT, coordinate all related matters with concerned ministries/divisions, etc. In the process it has to make development plans and budgets for the CHT institutions such as the RC, HDC, and CHTDB, etc. As the spokesperson of the CHT it is its moral obligation to coordinate with different line ministries and divisions on matters relating to the CHT. It also devolves on the MoCHTA to attend the cabinet meetings to influence the national decision making processes regarding the CHT. NGOs with foreign-funded projects to be implemented in the CHT are to be given clearance by this ministry, and most importantly to initiate draft legislation and vet laws to be applied in the CHT.⁷³ It is an important ministry as it is entrusted to deal with a region which has been ravaged by decades of insurgency bringing untold human miseries and material disaster in its wake. It is to show the pathway to those entrusted with the onus to retrieve the CHT from the quicksand of the past mistakes. It is to provide the guidance to eliminate the savagery that stalked the region for years. It is to provide leadership to ensure that wisdom prevails in all its actions that will ultimately end up in helping the peripheral people to stand in dignity. But a ministry of such importance is pitifully understaffed with limited resources and yet to find its moorings.

The role played by the MoCHTA in the last 11 years is certainly not going to be of much help in resolving the issues that kept the region heated as a frying pan. The ministry, instead of evolving itself into a coordinating body for the CHT to facilitate emergence of relatively strong local government institutions in the form of RC, HDC, etc., has gradually grown into a controlling authority which negated the development of strong local government. It has by its number of controversial actions taken from time to time turned itself into an adversary to the local CHT institutions. Some of these steps include: authorizing the DC to issue the permanent resident certificate, holding back its opinion on the regulations submitted by the RC for an indefinite period in total disregard of the 1997 agreement. In fact, the achievement of the MoCHTA is quite insignificant to help the fledgling CHT local institutions to develop into viable bodies capable to meet the aspirations of the Jummas. The MoCHTA is still in the process of gradual transformation. Another important loophole of this ministry is that it does not have indigenous staff in its payroll.

The Accord also provides for an Advisory Committee for the MoCHTA. Accordingly, it was formed comprising the heads of the RC and the three HDCs (or their nominees), the three MPs from the CHT, the three CHT Circle Chiefs and the non-indigenous representatives from the permanent residents of the CHT.

Rehabilitation of the India Returnee Refugees and the Internally Displaced People

India Returnee Refugees

Under a 20-Point Package Program agreed between the government and the Jumma Refugee Welfare Association on 9 March 1997 at Agartala, all the refugees sheltered in camps in the Indian State of Tripura were to return to the CHT for rehabilitation in their original homes and lands with cash and other grants. Accordingly, 60,609 Jumma refugees belonging to 12,222 families returned to the CHT. They were provided with cash and other grants. A

Special Task Force Committee headed by Dipankar Talukder, MP was formed including one representative each from PCJSS and JRWA besides other designated officials. But 9,780 families could not be reinstated in their respective lands as of June 2009 as their lands are currently under the occupation of the settlers. The settlers still kept 40 Jumma villages under their occupation. Six primary schools and five bazaars relocated during the conflict situation were not reinstated in their original sites. Seven temples captured by the settlers are yet to be returned. Some 890 Jumma refugee families could not buy bullock for cultivation as they did not receive any such grant.⁷⁴

Internally Displaced People

It was also provisioned that all the internally displaced “tribal” people were to be rehabilitated. Accordingly, the task force was also assigned with the task to recommend to the government to rehabilitate the internally displaced people. However, the task force, other than compiling a preliminary list of the internally displaced people, could not make headway with the recommendation for rehabilitation. On the contrary, the task force created a controversy by enlisting the Bengali settlers as internally displaced people in violation of the clause 2 of Part D of the Accord, though no such proposal was initiated in the task Force meeting.

The task force, without consulting other members of the committee belonging to PCJSS and JRWA, presented a list of 90,208 Jumma and 38,156 Bengali settler families as internally displaced people and recommended a package program in a unilateral meeting held on 15 May 2000. This meeting was not attended by representatives of PCJSS and JRWA. PCJSS and the JRWA earlier walked out of the ninth meeting of the TFC on 22 September 1999 in protest against the task force’s continued efforts to include the Bengali settlers in the list of internally displaced people. They did also declare to continue the boycott of the TFC meeting until the list containing the Bengali settlers was withdrawn. PCJSS and the JRWA considered this move by the task force as a part of the conspiracy to rehabilitate Bengali settlers in the CHT as permanent residents.

Amnesty and Rehabilitation of the Ex-Combatants

A general amnesty was declared by the government for all PCJSS members who surrendered and returned to normal life. A total of 1947 SB combatants surrendered their arms in different spots as designated earlier by the government and the PCJSS. Later in 1998 the JSS submitted a list of 844 cases filed against 2,524 of its members to the government for withdrawal. But the government has yet to withdraw 124 cases against the JSS members even after 11 years since the signing of this agreement. In addition, the cases pending against the PCJSS in the Martial Law Court were not withdrawn so far.⁷⁵ In the months of June-July of the same year, the ex-combatants submitted 1,429 projects for self-employment to the government, as was stipulated in the agreement. But nothing have been heard of these projects since then.

Dismantling the Military Camps

All temporary military, paramilitary, police and para-police camps, excluding the Bangladesh Rifles (BDR), the border security forces of Bangladesh and six cantonments in the three districts, were to return to their permanent bases in phases from the CHT. The Accord, however, did not include any time frame for the camps to be dismantled.

There were reportedly 543 security camps across the CHT. The PCJSS received the notice informing the withdrawal of 31⁷⁶ camps. However, the government claims to have withdrawn 172 camps but the PCJSS is not in receipt of any such notice.⁷⁷ The 1973 policy of militarization of the administration in the CHT is still in force. Operation Uttoron (Uplift) replaced Operation Dabanol (wildfire) since September 2001. Government plans to acquire 66,239 acres of more land in the CHT for military purposes.⁷⁸

Provisions for the Settlement of Land with the Landless Jumma People

As per Clause 3 of part D, the government, in order to ensure the land ownership of tribal families having no land or lands below two acres, was to ensure settling two acres of land per family, subject to availability of land in the locality. In the event of non-availability of required land, grove-lands were to be tapped. However, no such step has so far been taken by the government to meet the provision of the Accord.

Status of the Accord under Different Governments (as of June 2009)

1. Awami League (AL) Government (1997-2001)

The CHT Accord that officially silenced guns and ended the two decades of armed conflict across the CHT was signed on 2 December 1997. The AIC (Accord Implementation Committee) to oversee the implementation process of the Accord and the TFC to carry forward the rehabilitation of the IRR and IDP as agreed, were formed. The AIC met in several meetings but the process of execution of the Accord remained stuck for reasons better known to the government. The TFC led by an indigenous MP belonging to the ruling AL failed to rise above the party politics and created controversy by unilaterally including the settler Bengalis into the list of the IDP without the knowledge of the PCJSS and JRWA members of the TFC. Neither the IDPs who were evicted from their lands nor the IRRs who lost their lands to the settlers could be returned to their respective lands as of now. Only 31 out of more than 500 temporary security camps were reported to have been withdrawn.

2. Bangladesh Nationalist Party-led Government (2001-2006)

The BNP-led Four Party Alliance swept into power routing the AL in the 2001 national election. The Four Party Alliance was dead set against the signing of the Accord and organized a long march in protest, calling it as unconstitutional and a sell-out deal to India. The committees formed to advance the execution process of the Accord were either discontinued or suspended. An eye wash cabinet committee headed by the LGRD Minister was formed in complete disregard of the Accord to trick the people, on the one hand, and to bide time, on the other. Operation Uttoron got a new lease of life to rush the achievement of its objectives. No army camps were reported to have been withdrawn after 2001.⁷⁹

3. Caretaker Government (CTG) (2006-2008)

The aforementioned period saw two caretaker governments—one led by Dr. Iazuddin Ahmed from 2006-2007 and the other, led by Dr. Fakhruddin Ahmed, was a military-backed CTG. The period of the CTG presided over by Dr. Iazuddin was a turbulent period as the entire country was plunged into uncertainty with regard to holding of national election within the time frame set by the constitution. Then the military, working behind the scenes, forced Dr. Iazuddin to hand over the reins of government to Dr. Fakhruddin to form the second CTG (2007-2008). During this period, the MoCHTA—after five long years—called a meeting of its Advisory Committee, triggering a glimmer of hope that the Accord would finally be implemented. But, the commissioning of a new military operation codenamed “Alor Shandhane” (in search of light) coupled with torching of as many as eight villages in the Sajek region in 20 April 2008, in a bid to capture the Jumma lands, was a clear message that the implementation of the Accord was to remain a dream.

4. AL-Led Grand Alliance Government (2009—)

Five years of misrule and abuse of authority by a government under the BNP-led Four Party Alliance alienated it from the electorate. A declared anti-Jumma stance of all the parties in the alli-

ance, large scale land grabbing, mass killing, rape, arson, looting committed in the CHT deepened the antagonism among the Jummas against these political conglomerates. The AL-led grand alliance was voted to power with overwhelming majority in the 2008 national election. It was the AL which set about to construct the road to peace in the CHT by signing the agreement. Again in the 2008 election manifesto, the AL promised full implementation of the CHT Accord (article 18.2). Leading party men, including the party chief Sheikh Hasina, reiterated this pledge time and again. In the meantime, the Parliamentary Standing Committee on the Affairs of the CHT Ministry has taken a number of steps which includes, among others, the reconstitution of the Accord Implementation Committee with Ms. Sajeda Chowdhury, MP as its convener. The Task Force Committee for the rehabilitation of the IRR and IDP was reconstituted, headed by Jatindra Lal Tripura, an indigenous MP from Khagrachari parliamentary constituency. However, certain disturbing developments in some parts of the CHT, e.g., the looming tension in and around Sadhana Tila in Dighinala of Khagrachari District over the issue of land between the Jummas and the settlers, bedeviling of a Buddhist monk by an army officer in a recent incident in the Bagachari camp under Naniarchar upazila and the consequent silence maintained by the government in all these incidents have put the assurances into question.

Key Informants' Views on the Accord

There is general agreement among the key informants that both the CHT Accord and the local government institutions in the CHT are not functioning as intended and the prospect of peace remains elusive.

Most of the key informants interviewed strongly feel that it is not difficult to identify the factors that hinder the full implementation of the Accord. They hold the government chiefly responsible for failing to keep its commitment. The HDCs that were created in 1989 and were supposed to play significant roles in the three hill districts continue to limp since their creation.

The HDCs were created with the purpose to exercise a very limited self-rule and mandated to supervise and coordinate the general administration, law and order, development activities of different local governments and line departments in the three districts. However they can hardly carry out this function to date. In fact, the Deputy Commissioner has continued to exercise his authority as the chief executive officer in the district as an agent of the central government. Many of the key informants believe that a hostile bureaucracy at different tiers of government administrative machinery is more or less to account for preventing the HDCs from developing into functional local government institutions. They also consider the moratorium on election to HDC as responsible for the near non-functioning state of the HDC. As a result, the government continues to nominate the interim council from the activists of political parties or members of the civil society who are less likely to be accountable and transparent as they are not elected by the people.

The HDC has no power worth mentioning that can contribute positively in the protection and preservation of the indigenous rights and interests. What it can deliver is some small projects, allocation of some money for health care or relief, etc. The rest of the 33 subjects are yet to be transferred to the HDC. The key informants believe that a joint action by both the RC and the HDC would boost the adivashi struggle for the assertion of adivashi rights—a legacy of special administrative status which they have been favored with during the British period and in both the constitutions of Pakistan but later was denied in the constitution of Bangladesh. The HDC has never stood strong in demanding that the government activate the Land Commission with necessary amendments to relevant clauses in the Land Commission Act of 2001 as per the Accord. It also never contested the MoCHTA's interpretation on who to issue the permanent resident certificate. The budgetary allocation made in the central budget for the HDC is not deposited with the HDC account. One has to lobby the ministry to release the fund, which goes against the spirit of the local government concept. During the interviews, a good number of people resented the central government's failure to consult the HDC before making plans for the CHT. On the whole, the adivashis in the CHT are not at all happy with the role of the HDCs

from the very beginning. They are often tormented by frustration as HDC could do nothing in protection of the distinctive adivashi character of the CHT. They think the purpose of establishing the HDCs has been defeated in consequence.

Most of the key informants believe that the HDC suffers from incompetency because it failed to carry out the necessary amendments to different rules of the HDC and other CHT rules in line with Accord. The hill district council is in a mix-up situation, unable to move in the right direction in the face of constant opposition to some of the indigenous rights incorporated in the HDC Act.

It is a general feeling of those interviewed that the HDC has been created by the army which many in the hills hold responsible for the ongoing political imbroglio centering on “adivashi-Bengali” issue. As a result, the HDC cannot, by any measure, come up with a solution that can stabilize the much coveted peace in the region. Many believe that an ingrained opposition at the bureaucratic hierarchy towards the Accord—an anti-Accord stand so doggedly pursued by the religious fanatics and Bengali chauvinists belonging to the right wing political groups in the country—is fundamentally to account for a truncated role being played by the HDCs. They further claim that the HDC is yet to come up with the necessary “regulations” for their operational guidelines for the smooth running of this local institution.

Many are also of the view that the RC is practically dysfunctional. It has totally fallen through as the apex regional institution that oversees the activities of all other CHT local government institutions. Neither is the RC capable of exercising its basic authority which it is invested with as per RC Act of 1998. Many among the key informants also believe that the CHT ministry is reluctant to extend all possible cooperation to turn RC into a functioning regional government institution so that the purpose of creating this regional institution can be justified. It has become a common practice for the RC and MoCHTA to be at loggerheads with each other on the CHT issues. Whatever steps are taken by the RC finds little acceptance with the MoCHTA. A good number of participants in the interview believe that this development is deliberate, to dis-

credit the RC as an effective and competent body and to establish that it exists to serve nothing. The government never consults the RC before making any development plans or making any decisions to make laws for the CHT. Rather, the RC is always sidelined by the MoCHTA in all its engagements with issues of the CHT. It has been almost 10 years since the RC submitted its draft “regulations” to the government but the MoCHTA is yet to give its opinion on it.

Our key informants are extremely critical of the MoCHTA for its insensitivity to the indigenous causes. The activities of MoCHTA during the last 11 years have demonstrated its expressed tendency to oppose the stand taken by the CHT regional and local government institutions (HDCs in particular). It has earned the reputation of misinterpreting the provisions of the CHT Accord time and again. The present role of the MoCHTA also contradicts the concept of the strong local government institutions. The MoCHTA was created, among the host of other objectives, to provide leadership in the adivashi quest for their distinctive identity for which they have fought for decades.

As regards the IRRs, the key informants are of the opinion that none of the 9,000-plus IRR families whose lands have been occupied by the settlers were able to get back their lands to date. Nor those 90,000-plus internally displaced people who fled their villages leaving behind their lands and homesteads during the insurgency period, punctuated by intermittent massive communal assault carried out by the settlers and assisted by a section of the security forces, have been rehabilitated in their respective homesteads and lands. They are equally appalled at the scale of new settlement of fresh groups of Bengali settlers while the thousands of adivashi families are waiting to be settled in their respective villages and farming places.

All the key informants participating in the interview subscribe to a sweeping view that the government is not at all serious about enforcing the Accord it promised to carry out. On the other hand, a powerful government agency is determined to settle the settlers inside the CHT. If the settlers are allowed to live in the areas currently under their occupation, the adivashis will stand dispos-

sessed of their lands they were evicted from during the insurgency period. The government is not politically and morally powerful and assertive enough to defy all the opposition to the Accord and go all out to put the Accord into effect.

There is the minority group among the interviewees who considers the RC and the HDC as capable to some extent, within the present set up, to deliver services to the benefit of the CHT people. Both the RC and the HDC will be able to function as envisaged in the HDC and RC Laws of 1989 and 1998 respectively in the best interest of the ethnic indigenous minorities of the CHT provided that the councilors of these local government institutions are truly committed to the service of their electorate. In a situation like this, all the offices—public, autonomous, semi-autonomous or private—will tend to come under the supervisory and coordinating arm of both the RC and the HDC, because the councilors will themselves put their efforts to make it happen in order that these institutions can play proactive and responsive role. They are also hopeful that the nominated council will soon give way to the elected council, bringing in capable people in the council. The Land Commission will get into business immediately to look into the land disputes which form the leading issue in the CHT. Resolution of land issue will do away with 80 percent of CHT problems.

There is also the other side of the coin. The majority among the participants at the field level dialogue is not at all hopeful about the implementation of the Accord. They believe that the indigenous cause, even if the Accord is put into action, will never be realized. They feel the main issues that distanced the indigenous peoples from the government and the mainstream people received little attention in the Accord. Issues relating to traditional indigenous rights are sidelined. The Accord accommodates no measures in protection and preservation of the indigenous entity and identity; rather it concentrates basically on development of the region despite the fact that the indigenous problems, looked at from practical perspective, are of sheer survival. The portrayal of the Accord as one to deal basically with the social and economic development stands opposed to the official view which has recognized the CHT issue as political one.

The Accord can be repealed at any moment by a simple majority vote in the parliament since it was not backed by any constitutional recognition. The legal basis of the Accord is therefore very weak. The government claims that peace and stability in the CHT is crucial for a secure Bangladesh. On the contrary, the actions which the government adopts in dealing with CHT issue do not reflect its concern.

They further subscribe to a view that the central bureaucracy, civil and military, assigned here to ensure central writ are neither sensitive to nor do they have any clear understanding of indigenous norms and respect for the adivashi values including their distinctive way of life. They are not prepared to share the pangs of the Jumma peoples who face erosion of a way of life they nurtured so carefully and with pride, though some of the indigenous groups may be smaller in number.

The Accord contains a time frame for the PCJSS to fulfill their conditions to make the surrender complete. But there was no time frame for the government for implementation of the Accord. This is discriminatory according to all the participants in the interview. Some of them like to hold the PCJSS responsible for succumbing to government stratagem so cheaply.

All those interviewed irrespective of their profession and social standing share a common view: The establishment must learn from its past mistakes; it must have the firmness to acknowledge the wrongs it had committed in the past. The sufferers should not be subject to unrelenting agonies for the wrongs perpetrated, not for their own fault but for the lapses of others. For a lasting solution to the CHT issue, political will should finally prevail over the military will.

Conclusion

The signing of the Accord in 1997 brought about a rare opportunity to resolve a social crisis politically. But until now, the government, as the principal actor, seems to have lost the political

initiative to the hardliners in the ruling elite who seem to have succeeded in blocking the implementation process. There has not been any change in the CHT situation from what it was in the pre-Accord period. Rather, land grabbing incidence has increased alarmingly. Efforts undertaken to end the conflict between the ethnic minorities, settlers and the government has led to the development of multiple authorities to rule the CHT simultaneously: the brigade command of defense—present as part of counter-insurgency since the 70s, the three HDCs and the CHT Regional Council.⁸⁰ But there is also the central administration with shared responsibilities with the traditional leaders under the Deputy Commissioners which maintain a strong presence in the hill districts as per 1900 Regulations. The quadrangular administrative dispensation in the CHT has left the constituents more bewildered as to the locus of authority. This is due to the absence of administrative and policy guidelines demarcating the respective powers and functions of different CHT actors over the same subject.⁸¹

The CHT peace treaty was struck with the promise to attain:

- Land rights to the indigenous peoples;
- Resettlement and rehabilitation of the internally displaced people and the India returnee refugees;
- Self-government through regional and district councils;
- Revival of their cultural identities; and
- Withdrawal of military from the CHT, with the exception of permanent military establishment.⁸²

Eleven years have slipped into eternity since the Accord was signed but most of the provisions of the Accord remain unimplemented or partially implemented. The state has, pressed under mounting pressure from its ruling elite fed by ever increasing Bengali chauvinism with Islamic tint, failed to implement most of its pledges. A significant section among the Bengalis holding positions in the civil and military bureaucracy, as well as development agencies, and institutions, are biased in favor of their own kith and kin now flooding the CHT. Not surprisingly, delaying tactics and sabotage by concerned officials and government agencies have effec-

tively blocked the implementation and full realization of many key components of the Peace Accord.⁸³ As a result, all the pre-Accord torments viz. violence of all conceivable magnitudes, land grabbing, unnecessary land acquisition leading to ejection of the indigenous Jummas from their lands and infringement of their rights remain a never ending phenomenon. A culture of impunity has pervaded deep into the norms of polity that tends to suppress a wrong doing or offense only to muzzle a host of such other infringements. Thus the CHT adivashis, bogged down as usual in constant fear, uncertainty and confusion, are unable to lend undivided attention to their livelihood exercise. The promise that the Accord held out remain unfulfilled.

Nothing significant has so far happened in the areas of strengthening local governance and ensuring limited self-rule in the CHT through the RC and strengthening the HDCs with more subjects and functions as stipulated in the HDC Acts. In fact, with only few subjects and lesser functions transferred, the HDCs have been reduced to mere instruction-implementing agents of the government. Wrong interpretation of a number of provisions of the Accord, withholding the “Deputy Minister” status of the HDC chairman,⁸⁴ and non-transference of the remaining subjects to it have over the years weakened, instead of strengthened, its position. Measures taken by creating the HDC did not result in any substantial reduction in the power of both the central authority and the security forces, or the dominance of Bengalis in the CHT.⁸⁵ Both the RC and the HDCs are rendered ineffective as the Rules of Business for both these important local and regional bodies are yet to be enacted. The CHT Commission observes:

The three Hill District Councils were intended to function as the premier local government institutions in the CHT, with the CHT Regional Council playing a supervisory and policy-making role. The CHT Regional Council was supposed to oversee the ‘general administration’ of the region, among other things. However, the Hill District Councils and the CHT Regional Council are unable to play their expected role in administration. There are a number of factors that are impeding the role of the Hill District Councils and the CHT Regional Council. Firstly, no legislative or executive measures have been taken to ensure that the administration of the Deputy Commissioners and Upazila Nirbahi

Officers are accountable in some manner to the CHT Regional Council. Secondly, Law and Order and Land Administration are yet to be transferred to the Hill District Councils. Thirdly, the Government is yet to frame rules – in consultation with the CHT Regional Council and the Hill District Councils – to facilitate the administrative functions of the Hill District Councils. Similarly, the CHT Regional Council and Hill District Councils have not been able to frame their regulations allegedly because of absence of support and cooperation from the Ministry of CHT Affairs.

Since the first, and controversial, elections of the hill district councils (then “local government councils”) in 1989, no further elections have been held for the hill district councils, and they are run by interim councils consisting of one chairperson and four members, all government appointees. In recent years, only one woman has served in the councils (as chairperson of Bandarban hill district council). At the moment, none of the 15 hill district council councilors from the three districts is a woman.⁸⁶ If the hill district councils were elected, they would have had 33 members each, whereas the interim councils only have four members each. This means, among others, that many of the ethnic groups—particularly those with small populations and relatively marginalized situations—are under-represented in the hill district councils. This under-representation of women and the smaller ethnic groups needs to be addressed. It will require an amendment to the Hill District Council Acts.⁸⁷

On the whole, the HDCs could not function as the leading local government institutions. Similarly, neither could the RC play its supervisory as well as policy making role nor could the routine elections to the HDCs be held. Representative character of the HDC could not be improved as desired by the smaller ethnic groups with relatively small population and marginalized situation as the Accord largely remained unenforced till now. The budget for the HDC hovers around a meager US\$1 M on an average since its inception, meeting a fraction of its developmental needs only, while that of the RC has been curtailed. The Accord, left uncared for years, has started to take its own toll. The civil administration in the CHT has failed to deliver. It has frustrated the expectations of the Jummas immensely as it often flounders in offering them secu-

rity of life, property and personal dignity which demands inviolability from the juridical view. The CHT Commission observed: The civil administration in the CHT is also hobbled by the continuing heavy military presence in the region, despite the provision in the peace agreement for the withdrawal of all temporary camps, Ansars and Village Defense Forces.⁸⁸ An elected government in power, notwithstanding, the CHT has long been ruled by the military. It is the army and not the civil administrative authority which prevails there.⁸⁹

Years of failure to carry out the CHT Accord has also resulted in failure to establish a workable legal frame to safeguard the adivashi land rights,⁹⁰ creating a huge backlog of unresolved land-related and many other disputes in the CHT. The procrastination in resettling and rehabilitating the repatriated refugees and the internally displaced Jummas and indiscriminate land acquisition resulting in the forcible eviction of the adivashis has hindered commissioning of land survey and updating of land records in the region. These are also the preconditions for preparing a CHT voter list for election to the local government institutions and the national parliament though the Election Commission contest this provision. A government committed to peace and stability cannot, by any means, ignore the fulfillment of these preconditions.

The Jummas in the CHT continue to face abuse of human rights in the form of arson, looting, unlawful detention, arbitrary arrest, killing, rape, torture, religious persecution, political harassment, access to justice, etc. The CHT Commission reports of the police “refusing to register cases brought to their attention or making people sign on a blank piece of paper.” The government legal aid program has not been activated in the CHT till today. Human rights organizations (local, national, international) do not enjoy free access to travel inside the CHT to monitor human rights violations. The diurnal spectacle in the hills does not speak of normalcy in the CHT. Foreigners require special pass from the interior ministry before they are allowed into the CHT. They do not need to produce any such document while travelling to the rest of Bangladesh. Scores of security checkpoints have been mounted along the roads across the CHT where the transportation vehicles are required to register the vehicle registration num-

ber and the driver's name while the passengers therein have to furnish their identity to the security guards.

Even though the peace agreement has officially terminated the hostilities between the indigenous guerillas and the government security forces, the transmigration policy in the CHT, "the influx of settlers," according to the CHT Commission, "continues until today—drastically changing the demographic composition in the CHT—the Bengali population increased from two percent in 1941 to 49 percent in 2003." The recent Amnesty International reports read:

Indigenous people in the CHT of Bangladesh suffered due to government policies while Bangla-speaking settlers continued to capture their land with the behind-the-scene support of the government. The report quoting three UN Special Rapporteurs—on the situation of human rights and freedoms of indigenous people, on adequate housing and on the right to food—expressed concern that there might be systematic campaign to support the relocation of non-indigenous people to the Chittagong Hill Tracts in order to outnumber the local indigenous people.⁹¹

As of June 2009, there has not been any let up in "in-migration of settlers, forcible occupation of pahari lands and acts of violence against the Hill peoples in the CHT."⁹² To block the return of the settling Bengalis to their original home places in the initial years of settlement, the government was found to have doubled the keenness that it demonstrated while bringing the settlers to the CHT. The runaway settlers were pulled down from the buses and launches by security guards on the roads and sent back to the areas where they were settled. Those who managed to dodge the checkpoints to reach their places of origin were arrested and jailed. These measures by the government have contributed to the generation of growing ethnic tension in the region. Forty percent of the adivashis evicted during the construction of the Kaptai Hydroelectric Project could not be rehabilitated due to shortage of land way back in 1960. But 400,000 Bengalis were resettled in the CHT from 1979-84 with land, cash and other incentives depriving its earliest dwellers of the region and thus compounding the land constraints further.⁹³ Consequently, the CHT adivashis have been slowly marginalized by settlers moving into their land since the

eviction following the construction of the Kaptai Dam.⁹⁴ There are many among the settlers who are willing to go back to the plains, if given assistance.⁹⁵

As Hana Shams Ahmed of the *Weekly Star* describes, “some want to live securely in their homes in the CHT, but an overwhelming number of people want to go back to their original homes in the places outside the CHT.”⁹⁶ Years back the EU offered to assist the relocation of the Bengali settlers to the disapproval of the government. Had this relocation program of Bengali settlers been implemented the population pressure in the CHT would have eased considerably paving the way for releasing the occupied lands of the indigenous peoples and creating an environment for peace, stability and progress in the region. But it did not happen. These, in fact, are the inevitable fallouts of the non-implementation of the peace agreement.

More importantly, incompatibility of the existing laws and procedures with the CHT Accord persists, impeding the administrative and development management in the region from functioning at the optimum level. With the passage of the HDC Acts, 1989, for example, there has not been corresponding amendment in the 1900 Regulations of the CHT, the Pourashava (Municipality) Act of 1977, Union Parishad (Council) Ordinance of 1983, CHT Development Board Ordinance of 1976, etc. The CHT Land Dispute Commission Act was not also enacted in accordance with the provisions of the Accord.

The 11 ethnic indigenous minorities in the CHT, like all such peoples across the world, are in search of their identity for the last couple of decades. The search has become relentless immediately after Bangladesh established itself as an independent country in the breakaway eastern province of then Pakistan. Since 1947, after the partition of British India into two independent states (Pakistan and India), the Bengalis, who predominantly populated the eastern province (known as East Pakistan), soon grew disillusioned with the Pakistani establishment as the latter failed to recognize the “Bengali national identity” based on their language and culture by refusing to accept it as part of the Pakistani national identity. Conditions worsened when the Bengalis were also

simultaneously subjected to severe economic exploitation. Pakistan was created for the Muslims of India to have a separate homeland where they would be free to mould their destiny. But that was not to be, even though Pakistan emerged as the homeland for the Muslims of India. Deprived and discriminated, the Bengali Muslims found it tough to put up with Muslim Pakistan and they finally broke away. Surprisingly, the causes that made the Bengalis pull out of Pakistan are the same which the indigenous peoples in the CHT are fighting for. However, the irony is that it is the same Bengalis who take pride in justifying their struggle for identity but do not hesitate to deny that of the CHT Jummas.

Modern nation-states, wedded to conservative bourgeois political ideology, and the indigenous peoples have conflicting interests. The indigenous peoples all over the world are found locked in unequal battle to guard their culture, institutions, natural resources and their habitat—preservation of which is the best guarantee of their own well-being and survival—while the modern states are bent upon moulding it into a strong homogenous social, political and economic unit with maximum control on the territory it incorporates and bringing all its people under the uniform law of the state. Therefore, the character of the modern state itself places the indigenous peoples at a disadvantage.⁹⁷

One can trace the root causes of the conflict between the state and the indigenous peoples as follows:

- Oppressive state policy which the indigenous people find difficult to follow in full or in part;
- Policy of transmigration to relocate one ethnic group to another's territory;
- Conflicting notion about use, ownership of and access to land;
- Conflict between state laws and customary laws.

The causes mentioned above are active in the CHT. The unrealistic stand taken by the government to acquire hundreds and thousands of acres of land for afforestation or creation of reserve forest

and for use of military purposes in the face of growing scarcity of land for cultivation, on the one hand, and increasing settlement of the transmigrated people from the plains in the CHT, on the other, appears to be oppressive for the indigenous peoples of the CHT. This policy pursued by the government eventuates in the contraction of the Jumma habitat steadily and gradually. Settlement of thousands of Bengali families in the adivashi territories that resulted in displacing thousands of Jummas, has heightened the tension between these two communities. The outright refusal by the government officials to recognize the customary land rights of the adivashis, which does not necessitate the Jummas to document his/her hilly land under cultivation or possession, has destabilized the region to a great extent by allowing settlement from outside the region. Customary law is sacred to the community to which it belongs. Denying it is to derecognize the customs of a group of people. Can any authority do it morally?

The CHT peace agreement that unbolted the gateway to a durable peace in the region by removing the roots of conflict has failed to terminate them. The roots of hostilities remain as the implementation of the Accord fell to its face due mainly to the lack of political will of the government. Another big weakness of the Accord is its inbuilt incompetency to make room for constitutional recognition of the self-government system for the CHT Jummas. The PCJSS, on the other, has over the years failed to develop into a solid regional political organization with a strong bargaining strength to negotiate effectively with the government on matters related to Accord implementation. Moreover, opposition from some breakaway PCJSS men and elements of its front organizations among students, women and other sections of the Jummas who later formed United People's Democratic Fronts (UPDF) in 1998 has weakened it over years. At one stage, the rivalry that turned into "bitter acrimony between the PCJSS and the UPDF finally ended in the acts of murderous violence."⁹⁸ Furthermore, infighting in the party (PCJSS) has further weakened it. It could not also build extensive political alliances, indispensable to gain advantages while negotiating, across the country to the advantage of the Jummas in the CHT. The Accord has actually been reduced to nullity as it was not followed, as expected and intended, by relevant administrative, juridical and constitutional changes. Peace

remains unattainable as the government could not rearrange, in line with the peace agreement, the structures (local government institutions, civil and police administration, etc.) under which the Jummas are discriminated against and oppressed.

On the other hand, the government has not so far taken any initiative to redefine the state policies and programs in order that they can effectively respond to the needs of the marginalized adivashis of the Chittagong Hill Tracts. In fact, the full implementation of the CHT Accord depends on, among others, avoiding the “assimilationist approach” pursued by the state policy in nation building which denies the Jummas of their ethnic identity, and giving “equal regard to indigenous systems of governance and economics.”⁹⁹ It is the expressed view of the Jumma people in Bangladesh that the powerful ruling class in Bangladesh should give in to “pluralist approach” as desired by the Jummas, rather than the “assimilationist” one to accommodate the aspirations of the smaller ethnic minorities for their self-determination, and their own system of governance and economies. The salient aspects of the post-hostility healing procedure, for example the empowerment of the HDC and the RC, rehabilitation of the refugees with restitution of their respective lands they lost to the settlers, remain to be acted upon in the spirit of the Accord.

Denied of their historic rights to special administrative status guaranteeing their traditional rights to land, resources and indigenous identity in the national constitution, the CHT indigenous peoples under the leadership of PCJSS were forced to opt for armed movement as the last option to reverse the process of their marginalization. But the armed action by the CHT adivashis was met with near genocidal reprisals by Bengali settlers.¹⁰⁰ However, the movement has undoubtedly impacted on the local, national and international level. It has invited mass peoples’ attention across the country on the issues that raged the CHT for decades. Spaces were opened for debate and discussions in different national and international forums on the issues and concerns of the indigenous peoples in the CHT. The push made by the CHT indigenous peoples’ movement, discourses carried on the indigenous issues at home and at the civil society level, and internationalization of the CHT movement has ultimately culminated in bringing both the Bang-

ladesh government and the PCJSS to the negotiation table to sign the historic peace agreement in 1997. But the promise that was held out by the agreement soon tapered out. By its prolonged silence the government seem to convey the message that it is not serious in enforcing the Accord in its true spirits in the near future. Now, how much of the issues and demands that the Accord stands for will be dealt with and addressed with competency depends on the strength of the CHT adivashis to forge ahead with their movements.

On the other side of the coin, the foremost and most crucial element to and the missing link in the implementation of the Accord is the resolute political will on the part of the government to ensure a radical transformation in the domain of politics and ethnicity in the CHT. The political will at any cost must prevail over civil and military considerations to make the deal fruitful and to pave the way for a solution ensuring a guaranteed space for the adivashis in Bangladesh so that they can pursue a life and living of their own choice, unhindered and uninterrupted. The Awami League, now heading the new government, must not lose the wisdom it demonstrated a decade ago by ceding political concession to the ethnic Jummas in order to arrive at a settlement. The government should acknowledge the need to integrate their genuine concerns into the national agenda. It must be borne in mind that dismantling is easier than constructing. Therefore, jingoism in any form and parochial considerations should not be allowed to corrode the achievements which the Accord has succeeded in wresting in the face of formidable opposition from the opponents to peace, stability and human dignity.

With the signing of the Accord, Bangladesh is pledge-bound to officially put into action what it committed. Since it failed to live up to what it covenanted, Bangladesh, as one would expect, is bound to face certain pertinent questions on ethical grounds: Is it not denying the entity of Bangladesh itself and its history of a profile evolved just a couple of decades back when the Bengalis fought it out with the Pakistani ruling elite to carve out a domain for them where they would be able flourish with an identity that would thrive on language and culture? This was the predominant driving force behind each movement the Bengalis of the then

East Pakistan built brick by brick with dedication, commitment and care to see them culminated in the fulfillment of their dream for “Bengali identity.” They take pride and feel dignified that they waged an armed struggle to snatch their legitimate right to be identified as Bengali.

Is it not a strange mockery of history that the Bengalis who took to arms to establish their identity is now against a people who also resorted to the same struggle to regain the identity they have been privileged to enjoy for hundreds of years? Is not the stand taken by the Bengalis self-denying? Are they not denying themselves of the legitimacy of their own struggle which they waged to gain their political/cultural selfhood by suppressing remorselessly the movement of the Jummas for an entity of their own? What Bangladesh would leave to its posterity in the form of an answer to justify the stand taken by its predecessors against the agitating Jummas? Bangladesh is certainly wedded to a liability—a liability to see through the Accord in no time before it is late, before the Jummas get flooded without a trace by the onrushing migrants from the plains. The Bangladesh government must not lose any more time in preparing the groundwork for eliminating the irritants that kept peace and stability in the CHT buried under recurring rancor and misgivings.

Recommendations

1. Immediately implement the CHT Accord as its delay would continue to diminish the credibility of the government.
2. Amend the Constitution to protect the CHT Accord and to ensure the inviolability of the indigenous/tribal character of the CHT and recognize the indigenous peoples’ “ethnic identity.”
3. Uphold (in the national constitution) the special administrative status that the indigenous peoples in the CHT had enjoyed throughout the British rule down to the Pakistani period.

4. Review, in consultation with the Regional Council, the compatibility of the existing laws and procedures applicable to the CHT and frame laws consistent with both the Accord and the Hill District Councils Acts of 1998. Framing of new laws must be followed by repeal of all provisions in all the existing laws including the 1900 Regulations that are contradictory and discriminatory with the Accord and the Hill District Councils Acts of 1998.
5. Retract all executive orders issued by the CHT Ministry that are in contravention of the Accord.
6. Empower the three Hill District Councils and the Regional Councils by ensuring their rightful access to their administrative and legislative prerogatives provided in their respective Acts. The agreed subjects and functions should be transferred to the HDC.
7. Hold immediate elections of the Hill District Councils. Meanwhile, the representative character of the three Hill District Councils could be improved by engaging members of the smaller ethnic minorities in the area.
8. Honestly execute the rehabilitation of all repatriated and internally displaced indigenous families in their rightful homesteads/villages/lands immediately; at the same time, the government should undo its wrong policy of moving hundreds and thousands of plainsmen onto the CHT by taking them back to their original places.
9. Activate the Land Commission with necessary amendments in the Land Dispute Settlement Act of 2001 in line with the Accord and provide it with means that are necessary to resolve the land disputes with competence and justice as stipulated in the Accord.
10. Initiate the cancellation of the land leases of the non-residents *suo moto* by the Deputy Commissioners and in the process ensure that the information on the leases are made public for the aggrieved persons to obtain redress through applications to the Deputy Commissioners, to the Land Commission, to Courts of Law or otherwise.
11. Start the voluntary relocation of Bengali settlers from the CHT to the plains from where they were brought to facili-

tate their honorable rehabilitation with support in the form of cash grants, employment, training opportunities and transportation.

12. Recruit appropriate and qualified adivashis under a “crash program” on a contract basis to meet the demand of the organigrams of HDC, RC and MoCHTA till they are filled through regular official recruitment process.
13. Prepare the voter list for the CHT based on the inclusion of the permanent residents of the CHT as envisaged in the Accord.
14. Dismantle immediately all security camps except the six army cantonments in the three hill districts as stipulated in the Accord to expedite trust building among the indigenous communities.
15. Call for a moratorium on the plan to acquire land for afforestation or creation of reserve forest and expansion of military facilities in the CHT that leads to contraction of livelihood scopes of the indigenous peoples whose livelihood sustenance is entirely land based.
16. Stop and rescind the arbitrary issuing of the permanent resident certificate by the DC, which violates the provision of the Accord.
17. Nourish the appreciation for rule of law, good governance and democratic norms to foster necessary administrative reforms to accommodate pluralist polity with genuine respect for universal human rights, cultural and religious diversity in Bangladesh.
18. Obtain free, prior and informed consent from the CHT indigenous peoples. This should be made mandatory before taking any initiatives or deciding on any issues of the CHT.
19. Adopt the Rangamati Declaration as the basis for all initiatives aimed at building durable peace and triggering off sustainable development interventions in the CHT.
20. Engage in regular dialogues on issues affecting the peace and development in the CHT with, between and among the CHT peoples, the state and the civil society at large.

21. Assure government's commitment to the Universal Periodic Review to end impunity for human rights violations in the CHT. This should be put into effect by opening investigations into all human rights violations in the CHT and to bring the perpetrators to justice.
22. The government should adopt the UN Declaration on the Rights of the Indigenous Peoples and ratify the ILO Convention No. 169 without delay.

Endnotes

¹ Eleanor Dictaan-Bang-oa, "In Search for Peace in the Chittagong Hill Tracts of Bangladesh," in *Beyond the Silencing of the Guns* (Baguio City: Tebt-ebba Foundation, 2004).

² Amena Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts* (Bangladesh: UPL-Dhaka, 2002).

³ Eleven indigenous communities/tribes are: Chakma, Marma, Tripura, Tanchangya, Mro, Chak, Khumi, Khyang, Bawm, Pangkhua and Lushai.

⁴ Nazrul Islam, "Eleven Years on, CHT Treaty Remains Unimplemented," the daily *New Age*, an English daily, 23 December 2008.

⁵ The texts of the Accord are given in italics.

⁶ PCJSS Report on the Implementation of the CHT Accord, 2005.

⁷ Goutam Kumar Chakma, Senior member of RC.

⁸ Bushra Hasina Chowdhury, "Building Lasting Peace: Issue of Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois, at Urbana Campaign, August 2002.

⁹ Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana Campaign, August 2002.

¹⁰ <http://www.angelfire.com/ab/jumma/bground/british.html>.

¹¹ PCJSS Report on the Implementation of the CHT Accord, 2005.

¹² Dr. Imtiaz Ahmed, "An Overall Review of the Problems of the CHT & Thought for Solutions: A Study, Department of International Relations" (University of Dhaka, 1996).

¹³ The PCJSS report on the Implementation of the CHT Accord, 2005.

¹⁴ The PCJSS report on the Implementation of the CHT Accord, 2005.

¹⁵ <http://www.angelfire.com/ab/jumma/bground/british.html>.

¹⁶ Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana Campaign, August 2002.

¹⁷ Ibid.

¹⁸ Jatindra Lal Tripura, ex-HDC chairman, Khagrachari Hill District, shared the view during an interview with this author.

¹⁹ <http://www.angelfire.com/ab/jumma/bgground/british.html>.

²⁰ Ibid.

²¹ PCJSS Reports on the Implementation of the CHT Accord, 2005.

²² Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana Campaign, August 2002.

²³ Op. cit.

²⁴ Op. cit.

²⁵ Op. cit.

²⁶ Ibid.

²⁷ Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana Campaign, August 2002.

²⁸ Op. cit.

²⁹ This is an allegation often made by the RC chairman in his speeches made on different occasion.

³⁰ Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord," Research of the Program in Arms Control, Disarmament, and International Security, University of Illinois at Urbana Campaign, August 2002.

³¹ The PCJSS Report on the Implementation of the CHT Accord, 2005.

³² PCJSS Report on the implementation of the CHT Accord, 2005.

³³ PCJSS Report on the Implementation of the CHT Accord, 2005.

³⁴ PCJSS Report on the Implementation of the CHT Accord, 2005.

³⁵ Op. cit.

³⁶ PCJSS Reports on the Implementation of the CHT Accord, 2005.

³⁷ The borrowers are: Sunil Talukder, son of Sudhir Talukder; Ratna Bikash Chakma, son of Purna Chandra Chakma; Jyotirmoy Chakma, son of Singa Moni Chakma; Hridoy Ranjan Chakma, son of Tukko Chandra Chakma.

³⁸ PCJSS Report on the implementation of the CHT Accord, 2004, 2005.

³⁹ Eleanor Ditaan Bang-oa, "In Search for Peace in the Chittagong Hill Tracts of Bangladesh" in Chandra K. Roy, Victoria Tauli-Corpuz, Amanda Romero-Medina, eds., *Beyond the Silencing of the Guns* (Baguio City: Tebt-ebba, 2004).

⁴⁰ FGD findings.

⁴¹ PCJSS Report on the Implementation of the CHT Accord, 2005.

⁴² Task Force Committee Report, 2008.

⁴³ This was disclosed to me by Samiran Dewan, the Chairman of the Task Force during my meeting with him at his Khagrachari official residence. Later, he resigned from this position to contest the parliamentary election of 2008.

⁴⁴ Raja Devashsi Roy, Special Assistant to the Chief Adviser, CTG was quoted by a national Bengali daily *Prothom Alo* while talking to the press during his visit to Sajek a few days after more than hundred indigenous houses were torched in April 2008.

⁴⁵ Sudha Sindhu Khisa, a senior member of the RC and a Central Committee member of the PCJSS.

⁴⁶ *The PCJSS Bulletin*, 2007.

⁴⁷ Abdul Wadud Bhuiya, Ex-MP, Khagrachari parliamentary constituency.

⁴⁸ *The PCJSS Bulletin*, 2007.

⁴⁹ Bushra Hasina Chowdhury, "Building Lasting Peace: Issues of Implementaion of the Chittagong Hill Tracts Accord," Research of Program in Arms Control, Disarmanent, and International Security-University of Illinois of Urbana-Campaign.

⁵⁰ The PCJSS Report on the Implementation of the CHT Accord, 2005.

⁵¹ There is popular poetry in Bengali that describes a man riding a sluggish mule holding out before it a carrot to force the mule to run as faster as it can in an effort to get hold of the carrot. The illustration here is to mean that the carrot is the Accord which the Awami League government held out to PCJSS to flush them out of the bush. As the mule in the illustration never gets the carrot, so also the PCJSS will never see the Accord put into effect.

⁵² I read of this interview in the Bengali news daily *Prothom Alo*. Now I don't remember the date.

⁵³ Human Rights Features, <http://www.hrdc.net/sahrdc/hrfeatures/HRF11.htm>.

⁵⁴ Op. cit.

⁵⁵ PCJSS Report on the Implementation of the CHT Accord, 2005.

⁵⁶ Shapan Adnan, *Migration, Land Alienation and Ethnic Conflict: Causes of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

⁵⁷ Raja Devasish Roy, "Salient Features of the CHT Peace Accord of 1997," in Victoria Tauli-Corpuz and Joji Cariño, eds., *Reclaiming Balance* (Baguio City: Tebtebba, 2004).

⁵⁸ Op. cit.

⁵⁹ Dr. Borhan Uddin Khan, *CHT Governance Study: An Institutional Review* (Care-Bangladesh, 2004).

⁶⁰ Wolfgang Mey, "Implications of National Development Planning for Tribal Concepts of Economy and Politics: A Contribution to Critique of Concepts of Development" in Mahmud Shah Qureshi, ed., *Tribal Cultures in Bangladesh* (Rajshahi: Institute of Bangladesh Studies, 1984).

⁶¹ Raja Devasish Roy, "Salient Features of the CHT Peace Accord of 1997," in Victoria Tauli-Corpuz and Joji Cariño, eds., *Reclaiming Balance* (Baguio City: Tebtebba, 2004).

⁶² Raja Devasish Roy, "CHT: Life and Nature at Risk," Philip Gain, ed. (Dhaka: SEHD, 2000).

⁶³ Dr. Imtiaz Ahmed, "An Overall Review of the CHT Problems and Thought for Solutions: A study" as part of the course "Strategic Studies" (course no 303) by 3rd year honors students in 1996, Department of International Relations, University of Dhaka.

⁶⁴ *Advocacy Strategies and Approaches* (Kathmandu: ICIMOD, 2005).

⁶⁵ Raja Devasish Roy, "CHT: Life and Nature at Risk," Philip Gain, ed. (Dhaka: SEHD, 2000).

⁶⁶ Rupayan Dewan and Goutam Kumar Chakma, senior RC members.

⁶⁷ DANIDA. Watershed Development Project: Chittagong Hill Tracts, Bangladesh, 2000.

⁶⁸ Raja Devasish Roy, CHT: Life and Nature at Risk, Philip Gain, ed. (Dhaka: SEHD, 2000).

⁶⁹ Raja Devasish Roy, "CHT: Life and Nature at Risk," Philip Gain, ed. (Dhaka: SEHD, 2000).

⁷⁰ Dr. Borhan Uddin Khan, CHT Governance Study: An Institutional Review, Care-Bangladesh, 2004.

⁷¹ CHT Regional Council.

⁷² DANIDA. Watershed Development Project: Chittagong Hill Tracts, Bangladesh, 2000.

⁷³ Raja Devasish Roy, "CHT: Life and Nature at Risk," Philip Gain, ed. (Dhaka: SEHD, 2000).

⁷⁴ The PCJSS Report on the Implementation of the CHT Accord, 2005.

⁷⁵ PCJSS Report on the Implementation of the CHT Accord, 2005.

⁷⁶ Raja Devasish Roy put the figure at 35.

⁷⁷ PCJSS claims that there was an understanding between the government and the PCJSS that the information about the withdrawal of the security camps would be intimated duly to PCJSS.

⁷⁸ Eleanor Dictaan Bang-oa, "In Search for Peace in the Chittagong Hill Tracts of Bangladesh," in Chandra K. Roy, Victoria Tauli-Corpuz, Amanda Romero-Medina, eds., *Beyond the Silencing of the Guns* (Baguio City: Tebt-ebba, 2004).

⁷⁹ *The New Age*, 12 June 2009.

⁸⁰ New Age weekly Magazine of the daily *New Age*, 13 Feb. 2009.

⁸¹ Raja Devasish Roy, "CHT: Life and Nature at Risk," Philip Gain, ed. (Dhaka: SEHD, 2000).

⁸² Chittagong Hill Tracts Commission: Report of the Chittagong Hill Tracts Commission in Bangladesh, February 16-22, 2009.

⁸³ Shapan Adnan, *Migration, Alienation and Ethnic Conflict: Cases of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

⁸⁴ Vide memo no. 6(1)/88-MaPaBi(sheba-1)/108(7) dated 26th June 2005 issued by the Cabinet Division.

⁸⁵ Amena Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts, Bangladesh* (Dhaka: UPL).

⁸⁶ The new government led by Awami League appointed a set of new councilors for the three hill districts in the last week of May 2009 and only one of them belonging to the Rangamati HDC is a woman.

⁸⁷ Chittagong Hill Tracts Commission: Report of the Chittagong Hill Tracts Commission in Bangladesh, February 16-22, 2009.

⁸⁸ The CHT Commission also says: The CHT Commission received many reports of continued military influence on the civil administration of the CHT. The Commission is concerned that the scope and ambit of Operation Uttoron (Operation Upliftment), currently ongoing in the CHT, is not in the public domain. The executive order authorizing this Operation reportedly confers on the military rights to intervene in civil matters beyond their proper jurisdiction. The CHT Commission also regrets the lack of transparency and accountability in the distribution of food rations by the army under the "pacification" program.

⁸⁹ Badruddin Omar. Natun Shasastra Bahini Gathaner Adbhut Prostab (an Unusual Proposal to Form A new Armed Force), published in a Bengali news daily *Amar Desh* on 11 June 2009.

⁹⁰ Chittagong Hill Tracts Commission: Report of the Chittagong Hill Tracts Commission in Bangladesh, February 16-22, 2009.

⁹¹ Amnesty International Annual Report, 2009 appeared in *The Daily Star*, an English national daily on 29 May 2009.

⁹² Shapan Adnan, *Migration, Alienation and Ethnic Conflict: Cases of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

⁹³ In fact, the Jummas are under constant eviction process: 1960 witnessed the first eviction. Second eviction took place from 1979-1984 when the official transmigration policy was carried out. This is now an unofficial ongoing process. The internally displaced persons who were forced out of their lands and homesteads and currently live in reserved forests often face eviction by the forest departments as illegal occupants.

⁹⁴ New Age Weekly Magazine of the daily *New Age*, 13 Feb. 2009

⁹⁵ Chittagong Hill Tracts Commission: Report of the Chittagong Hill Tracts Commission in Bangladesh, February 16-22, 2009.

⁹⁶ The Weekly Star Magazine of *The Daily Star*, 27 Feb. 2009.

⁹⁷ Jack Medrana, "Indigenous peoples and Peace Accord" in Victoria Tauli-Corpuz and Joji Cariño, eds., *Reclaiming Balance* (Baguio City: Tebt-ebba, 2004).

⁹⁸ Shapan Adnan, *Migration, Alienation and Ethnic Conflict: Cases of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

⁹⁹ Jack GL Medrana, "Indigenous peoples and Peace Accord" in Victoria Tauli-Corpuz and Joji Carino, eds., *Reclaiming Balance* (Baguio City: Tebt-ebba, 2004).

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The Chittagong Hill Tracts Accord & Provisions on Lands, Territories, Resources and Customary Law

By Raja Devasish Roy with Pratikar Chakma

I. Introduction

Physical Features of the CHT

Located in southeastern Bangladesh, the Chittagong Hill Tracts (CHT) occupies about 10 percent of the total land area of Bangladesh and is divided into three administrative districts, namely Rangamati, Khagrachari, and Bandarban. The CHT is mainly hilly or mountainous, and is bounded by the Indian states of Tripura on the north, and by Mizoram on the east, by Myanmar (former Burma) on the south and east, and by Chittagong district of plains Bangladesh on the west. The long forested and mountainous border with northeast India and Myanmar, coupled with ongoing insurgency on the other side of the frontiers, has been the bases of the CHT's strategic importance to Bangladesh. The region is also rich in vast natural resources, including wood, bamboo, and possibly, natural gas, coal and copper.

The CHT comprises seven main valleys formed by the rivers Feni, Karnafuli, Chengi, Maini, Kassalong, Sangu and Matamuhri, and their tributaries. Most of the valleys are narrow and contain sparse plains and lowlands. The rest of the region is covered with low mountains, hills, ravines and cliffs, once covered with dense tropical and sub-tropical forests, but now with a constantly decreas-

ing area with dense vegetative cover. There are two main types of cultivation: upland rain-fed cultivation (including swidden or “jum” cultivation) and irrigation-oriented cultivation in the plains and valley lands of low altitude.

The Indigenous Peoples of the CHT

According to the Hill District Council laws of 1989, there are 11 indigenous peoples in the CHT. These are the Bawm, Chak, Chakma, Khumi, Khyang, Lushei, Marma, Mro, Pangkhua, Tanchangya and Tripura.¹ In addition, a number of people of Nepalese, Assamese and Santal origin have also lived in the region since the British period. Bengali-speaking people—the majority ethno-linguistic group in Bangladesh—started permanently living in the region only since the 19th century, but their number was small until the 1970s.

Ethnically, the CHT indigenous peoples are linked to indigenous groups and other populations of Tibet, Nepal, Northeast India, Burma and Thailand. Most speak languages belonging to the Tibeto Burman group, although the languages now spoken by the Chakma and Tanchangya are related to Assamese, Pali and Bengali from the Indo-Aryan or Indo-European group.

The CHT Administrative System

The administrative system in the CHT has both similarities and dissimilarities with that prevailing in the rest of the country. With regard to the presence of various government extension departments (such as on health, education, etc.), civil servants and elected local government bodies at the lower levels, there is no significant difference between the CHT and the rest of the country.² However, there are two sets of institutions that occur only in the CHT, on account of the different historical context of the CHT. One of these is the system of traditional governance, including the Circle Chiefs or *rajas*, headmen or *mauza headmen* and the (village) *karbaries*. The other is the CHT Regional Council (CHTRC) and the three hill district councils (HDCs).

Not accounting for the formalization of their roles, the traditional system, in its essence, predates the advent of the British colonialists in the region in the 1860s.³ The councils, on the other hand, are recent creations. The HDCs came into being in 1989, when they were called “local government councils,” and their powers and functions were enhanced in 1998, after the signing of the CHT Accord. The CHTRC came into being in 1998. The HDCs have authority over several district-level departments, and over land matters, and limited prerogatives of consultation. At the moment, the chairpersons and members of the HDCs are all government nominees, pending elections.

The CHTRC—the apex CHT institution—has supervisory and coordinating authority over the HDCs and—albeit, theoretically—over local government bodies. It also has the prerogative of being consulted by the Government concerning legislation on the CHT. The chairperson and members of the CHTRC, like the HDCs, are all government appointees. The chairperson is the President of the JSS, and the remaining members are either from the JSS or the ruling party.

The Ministry of CHT Affairs (MoCHTA), established in 1998, has supervisory authority—on behalf of the national Government of Bangladesh—over the CHTRC and HDCs, the traditional system and the district and sub-district administrations. However, although the Rules of Business state that MoCHTA will have authority over local government bodies in the CHT, until today, it is the Ministry of Local Government, Rural Development and Co-operatives that has authority over the local government bodies in the CHT (except the CHTRC, HDCs and traditional institutions).

Except for a very few cases, the offices of the traditional institutions are predominantly held by indigenous men.⁴ In contrast, the posts of civil servants in the district and sub-district (*upazila*) administrations are almost exclusively held by ethnic Bengali individuals. The offices of the chairpersons and two-thirds of the members of the CHTRC and the HDCs are reserved for indigenous persons (“tribal”). Some of the civil servants in the CHTRC and HDCs are of indigenous descent. The majority of the chairpersons and members of the local government bodies (municipali-

ties, union councils and upazila councils) are held by indigenous persons, but the number of Bengali elected leaders is quite significant. Moreover, one-third of the seats in the local government bodies are held by women, both indigenous and Bengali.

Although the roles of the aforesaid sets of institutions are well defined, there are areas of overlapping jurisdictions, and occasionally, tension between them. Firstly, there is clear tension between the bureaucratic authorities on the one hand and the traditional leaders and councilors on the other. Secondly, there is tension between the JSS-dominated CHTRC and the government-allied HDC, and the MoCHTA. Of course, a certain level of tension and healthy rivalry is perhaps only part and parcel of a pluralistic system following democratic traditions. However, the tensions involving the bureaucratic institutions is very largely centered around efforts of the CHT leaders to decentralize administration, which is resisted by the bureaucratic authorities, who are reluctant to devolve power to the CHT self-government system.⁵

II. The CHT Accord, Resource Rights & Customary Law

Salient Features of the CHT Accord of 1997

On 2 December 1997, an agreement was signed between the Parbattya Chattagram Jana Samhati Samiti (PCJSS/JSS) and the Government of Bangladesh, known as the “Chittagong Hill Tracts Accord” or “Peace Accord.” The salient features of the accord include: (i) handover of arms by JSS fighters and their return to normal life; (ii) rehabilitation of JSS fighters, India-returned refugees and internally displaced people; (iii) dismantling of all temporary military and paramilitary camps except for six specified garrisons (“cantonments”); (iv) reestablishment of regional self-government through (a) the strengthening of existing district councils (with authority over land, forests other than reserved forests, secondary and primary education, health, agriculture, fisheries, culture, customary law, environment, etc.), (b) strengthen-

ing of the roles of traditional chiefs and headmen (with authority over land, customary law, administration of justice, (c) the establishment of a regional council for the CHT (to coordinate and supervise regional governance and to advise the national government on legislation over the CHT), (d) the establishment of a separate ministry on CHT Affairs (to supervise all matters relating to the CHT); and several provisions dealing with (v) land-related issues, including customary land rights, whose main features are described below.

1997 Accord Provisions on Land

The express provisions of the 1997 Accord on land issues of the CHT include the following: (i) resolution of land-related disputes by a Commission on Land; (ii) cancellation of leases of lands given out to non-residents and left unutilized for over 10 years; (iii) grant of settlements of two acres of land to landless indigenous families; (iv) transfer of authority over Land Administration and Land Management to the three district-level local government councils (now renamed “hill district councils”); (v) providing a share of royalties on forest produce and mineral resources to the hill district councils; and (vi) survey of land *after* the displaced people are rehabilitated and land disputes are resolved (discussed in Section III). In addition, there are land-related matters that are not directly and expressly mentioned in the accord, but which are an integral part of the spirit of the accord. Some of the most important developments in this regard will also be discussed here (in Section V). These include (vii) land alienation suffered by indigenous people through occupation by Bengali transmigrants; (viii) land alienation through acquisition by government agencies; and (ix) occupation of indigenous peoples’ lands by the Department of Forest.

1997 Accord Provisions on Customary Law

The accord provides only a few provisions that directly deal with customary law, including (i) vesting of authority on customs and customary law to the hill district councils and to the CHT Regional Council; (ii) the resolution of land-related disputes in accordance with the “laws, customs and usages” of the CHT by a

(then future) Commission on Land. Indirectly, however, the Accord addresses the matter of customary law in many more ways, including through legislative and administrative matters pertaining to natural resources and through the maintenance and strengthening of the role of the traditional chiefs and headmen (the Accord mentions the prerogative of the Chiefs to provide residential certificates, to advise the government at several levels and to be part of the CHT Land Commission). Most importantly, the Accord recognizes the CHT as a special area inhabited by indigenous people (“tribal-inhabited area”). Therefore, the recognition and strengthening of custom-based rights is an inherent, integral and prominent part of the accord. This section will discuss (iii) the role of traditional institutions of chiefs, headmen and karbaries in the administration of customary personal law; (iv) challenges in protecting customary land and resource rights; and in a more holistic manner, the relationship between the declaration of the CHT as a “tribal-inhabited area” and the status of customary law and the customs, traditions and practices of the indigenous peoples (Section IV).

III. AUDITING THE ACCORD FROM 1997 TO 2009: LAND, TERRITORIES AND RESOURCES

Resolution of Land-Related Disputes by the Land Disputes Resolution Commission

Background to formation of the Land Commission

The Chittagong Hill Tracts (CHT) Land Disputes Resolution Commission was established in 1999, in accordance with the CHT Accord of 1997 (Clause 4, Part D), with a small secretariat. Mr. Justice Anwarul Haque Chowdhury was appointed as its first chairperson.⁶ However, the chairperson died soon afterwards. In 2001, parliament passed the Land Disputes Resolution Commission Act, 2001. Subsequent chairpersons were appointed in accordance with the provisions of the Act. The last chairperson, Mr. Justice Mahmudur Rahman, died while in office. After the incumbent Awami League-led Grand Alliance took power in January 2009, it

appointed a new chair, Mr. Justice Khademul Islam, on 19 July 2009.⁷

Structure and Terms of the Commission

Apart from the head of the commission, the other members of the commission include the chairperson of the CHT Regional Council (or her/his representative), the concerned Hill District Council (HDC) chairperson, the concerned circle chief and the Divisional Commissioner/Additional Divisional Commissioner of Chittagong. The commission is to function for three years, but its term of office may be extended by the Government of Bangladesh (GOB) in consultation with the CHT Regional Council (CHTRC).

Functions and Procedure

The commission has been empowered to decide land-related disputes in accordance with “laws, customs and systems prevailing in the CHT.” It can declare land grants illegal and restore possession of those dispossessed illegally. Therefore, although called a commission, its main function is to hear disputes like a court or tribunal, and provide decisions, rather than recommend, as is usually the case for bodies that are called “commissions.” The commission will not be bound by rules of procedure or evidence but its decisions will have the same status as that of civil courts. There are to be no appeals against the decision of the commission, but this does not exclude judicial review of the commission’s decision by the High Court Division of the Supreme Court of Bangladesh.

The Commission and its Functions

Despite the naming of chairpersons of the commission since 1999, the commission has until today been unable to provide a single ruling on land disputes. Sometimes, the chairpersons have been held responsible for the commission’s inaction. At other times the shortage of manpower and logistical shortcomings of the commission’s secretariat were blamed. However, the present writers feel that main reason behind the commission’s inability to start its work in an effective manner is the inconsistency of some of the provisions of the Act with the letter and spirit of the 1997 Accord. The two major inconsistencies are: (i) the excessive authority vested upon the chairperson in cases of disagreement among its mem-

bers; and (ii) uncertainties regarding the nature and extent of the commission's jurisdiction.

Proposed Amendments to the CHT Land Commission Act, 2001

During the tenure of the interim non-party caretaker administration in Bangladesh, the CHT Regional Council sent proposals for amendments of the concerned law to the Ministry of CHT Affairs.⁸ In November, 2008, the then Special Assistant (state minister) of MoCHTA forwarded the proposals, along with the recommendation to accept the proposals as sent, to the Adviser (minister) of the Ministry of Land, requesting him to initiate legislation on the matter.⁹ After the incumbent Awami League-led elected government took office in January 2009, the CHT Regional Council refined their earlier proposals and sent fresh recommendations to the Ministry of CHT Affairs, which in turn were forwarded to the Ministry of Land.¹⁰ Very recently on 26 August 2009, a meeting was held, under the chairpersonship of Rezeaul Karim Heera, State Minister, Ministry of Land, including representatives of the MoCHTA and the CHTRC, and representatives of the district civil administrations of the CHT, to discuss the proposals forwarded by CHTRC.¹¹ It seems that an informal agreement was reached whereby several of the proposed changes were accepted, while others were considered to be unnecessary to bring about the changes sought by the CHTRC on the understanding that the issues concerned—such as on the jurisdiction of the Commission on different categories of land—were already adequately addressed by the existing law.

If the proposed amendments—or at least the most important among them—are accepted and passed into law, the following positive changes would be effected, among others:

- the work methods of the commission would become more inclusive and participatory (by removing the virtual veto powers of the commission's chairperson and by providing him a casting vote only in the event of a tie) and more practicable (the Circle Chiefs could also send their representatives, like the CHTRC and HDC chairpersons);

- the uncertainties over the jurisdiction of the commission would be clarified (for example, by redefining “fringelands” and by clarifying that the commission would hear disputes involving India-returnee Jumma refugees *and* other land-related disputes);
- the workload of the commission would be lightened through delegation of primary investigation and enquiry (except final decision-making) to members or officials of the commission.¹²

Major Challenges for the Commission

The most important challenge with regard to the Land Commission is the proposed law reforms.¹³ In the event that the reforms are delayed, it is difficult to conjecture whether the commission can at all start its work in an effective manner. Even if the members of the commission could resolve some of the uncertainties with regard to jurisdictional matter, the presence of the chairperson’s excessive authority might stand as an obstacle towards the commission’s work. Therefore, questions of bias and political affiliation of the members might well create difficulties. These need to be guarded against.¹⁴

Other challenges for the commission include the absence of class actions under Bangladeshi law, the potential conflict between rights based upon documentary title and rights based upon customary law, time constraints of some of its members (most of the members have regular day-to-day responsibilities conferred upon them by law, quite apart from their role in the commission), logistical and manpower shortages, etc. Unless some of these issues are resolved soon, through dialogue, one of the most crucial part of the 1997 Accord will linger on, unresolved, or only very partially addressed.¹⁵

A disturbing development over the last few months is the growing difference of opinion within the members of the commission concerning the conduct of a land survey. On the one side, the chairperson of the commission, the Divisional Commissioner of Chittagong and the acting chairman of the Khagrachari Hill Dis-

strict Council appear to be in favor of conducting such a survey prior to and/or alongside the hearing of disputes. On the other side, some members, including J. B. Larma, chairman of the CHT Regional Council and president of the JSS, and the Chakma Chief are against it. In a recent press interview, Larma expressed his strong objections to holding the survey and reiterated the provisions of the 1997 Accord, which provides for a land survey only *after* the rehabilitation of the international Jumma refugees and the internally displaced people, *after* the resolution of land disputes and land grants to landless hill people, and in particular, after amending the Land Commission law.¹⁶

Some are of the opinion that the chairperson of the Commission, carrying with him the experience of the plains districts—where all lands have been demarcated and surveyed—feels that a survey would help in the process of resolving the disputes.¹⁷ On the other hand, the CHTRC leaders feel that the survey would not help in resolving the disputes since the contention in most disputes is not about boundaries or physical properties of the land (which a survey would bring forth) but the validity of competing rights, whether based on documentary title or customary law. Moreover, the latter (seem to) hold the view that a survey might lead to the legitimization of unlawful occupation of lands, since land surveys generally provide some form of formal recognition to the occupants of land.¹⁸ It is extremely important that this impasse is resolved in the spirit of the Accord, since it deals with one of the most crucial aspects of the Accord, namely, justice for violated land rights.

Cancellation of Land Leases of Non-Residents

Land Leases to Non-residents and the CHT Regulation, 1900

Until 1971, non-residents were not allowed to acquire title to land in the CHT, whether leasehold (for a lease of a specified period) or free hold (in perpetuity). Through an amendment to the CHT Regulation, 1900 in 1971, commercial leases were allowed for rubber plantations and for the establishment of industrial plants.¹⁹ However, a proviso to the concerned law stated that land grants

to non-residents could be made only with the consent of the Board of Revenue. These provisions on land leases to non-residents are not known to have been invoked to any great extent until 1979, on the eve of the Bengali transmigration programme, when the concerned law (Rule 34 of the Regulation) was amended again, retaining most of the provisions of the 1971 amendment, but without the requirement of the mandatory permission from the Board of Revenue for leases to non-residents.²⁰

Non-residents' Land Leases and the CHT Accord of 1997

On the basis of the 1979 amendment long-term land leases were given to non-resident individuals and companies in all three districts, with the highest number in Bandarban, followed by Khagrachari and Rangamati (which had far fewer than the other districts). Since much of these lands were part of customary commons or otherwise owned or occupied by hill people, the JSS was asked to provide remedies for this in the 1997 Accord.

The 1997 Accord provided that the leases of such lands that were given out on long-term leases to non-residents, and had remained unutilized for more than 10 years would be cancelled.²¹

Government Action on Cancellation of Land Leases of Non-Residents

The Ministry of CHT Affairs is known to have instructed the three DCs of the CHT to cancel these leases, but it seems that nothing of substance has been done in this respect. It is worth mentioning here that in accordance with the concerned lease deeds, where lands have been lying unutilized in violation of the conditions of the lease, the leases may be cancelled even if the lands have been unutilized for less than ten years. Thus in many cases, the leases could have been cancelled even apart from the special provision in the 1997 Accord. This illustrates the weaknesses in local land rights lobbies and the lack of concern on the part of government officials and policymakers.²²

Soon after the incumbent Awami League-led government came into power, the Minister of State of the Ministry of CHT Affairs, Dipankar Talukder, MP, has reportedly said: "Those who have

leased lands in the hilly areas, but did not use those for the purposes will lose their lands. Their leases will be cancelled and initiative has been taken in this regard.”²³ However, the exact details of the initiative are not known.

More recently, after a meeting of the Parliamentary Standing Committee of the CHT Affairs ministry, its then chairperson, Pramode Mankin declared that the leases of non-residents obtained illegally and left unutilized in violation of the conditions of the leases would be cancelled.²⁴ Nevertheless, given the marginalized situation of most of the people whose lands were leased out, and the strong lobbies of the landowners, sustained lobbying may be required to bring forth the promised changes.

Transfer of Land and Land Administration to the Hill District Councils

Provisions of the 1997 Accord

The 1997 Accord provides a number of provisions on Land Administration and Land Management and most of these have been included in the 1998 legislative package, particularly in the Hill District Council (Amendment) Acts of 1998 (Acts IX, X and XI of 1998). According to Schedule I of the Hill District Council Acts of 1989 (Acts XIX, XX and XXI of 1989)—as amended by the aforesaid Acts IX, X and XI of 1998—Land and Land Administration are one of the subjects under the direct jurisdiction of the HDCs. Moreover, according to section 64 of Acts, the HDCs are to exercise direct authority over headmen, chairmen and AC (Land)²⁵ along with the prerogative whereby no lands in the CHT may be “settled, leased out, mortgaged, transferred or compulsorily acquired without the consent of the HDC.”²⁶

Current Land Administration Functions of the Hill District Councils

The aforesaid authority over land administration has not, however, been fully handed over to the HDCs until today. Therefore, in many important respects, Land Administration is still in the hands of the Deputy Commissioners (DC), although according to law, and customs and usages, they generally exercise this pre-

rogative in consultation with the mauza headmen. However, in two important respects the HDCs have authority. Firstly, they now manage the land within the area of the Bazar Fund administration in accordance with the Bazar Fund Manual of 1937.²⁷ The second is the prerogative of providing the mandatory consent before any land transfers are allowed by the DC.²⁸ This was reportedly facilitated by directions from the Ministry of CHT Affairs during the tenure of Deputy Minister Mani Swapan Dewan.²⁹ However, tension between the HDCs and the DCs is still far from over. It has been reported that the Rangamati HDC has asked the DCs to send the entire file on the land transfer issue, to enable it to take informed decisions on the matter—a request not complied so far by the DC's office.

A third way in which one of the Hill District Councils has asserted its lawful authority over land are the resolutions of the Rangamati Hill District Council to recognize the customary law-based rights of village communities to manage forest commons. Acting upon an application of the village karbari, and recommended by the mauza headman, the Rangamati HDC resolved that an 80 acre community forest (in 157 Choto Harina Mauza, Barkal Upazila, Rangamati) (also known as mauza reserve or village common forest), used by the local community in accordance with local laws, customs and usages, would not be settled, leased out, acquisitioned or otherwise transferred to any other than the community concerned.³⁰

Grant of Land Settlements to Landless Indigenous Families

The major provisions on the grants of settlements and leases of land are contained in rule 34 of the CHT Regulation, 1900 which vests the main powers of providing the grants upon the Deputy Commissioner, except when it exceeds a certain quantity (namely, 10 acres), in which case the sanction of either the Divisional Commissioner (up to 100 acres) or the Board of Revenue (over 100 acres) is required. However, since 1989, land grants were subject to the consent of the Hill District Councils (then called Local Government Councils) if it involved non-residents. However, since

the passage of the Hill District Council (Amendment) Acts of 1998 (Acts XIX, XX and XXI of 1998), the prior consent of the Hill District Councils are required before any settlement, lease, transfer or compulsory acquisition of lands (section 64). However, on the basis of executive orders from the Ministry of Land, grants of settlements have been stopped since 1989.³¹ This was supplemented by directions from the Ministry of CHT Affairs in 2001.³² Therefore, the matter of settlements to landless hill people (along with that for others), has not been effected to date.

Share of Royalties on Forest Produce and Mineral Resources for the Hill District Councils

The relevant provisions of the Accord concerning royalties on mineral resources and forest produce³³ were reproduced in the Hill District Councils Acts of 1989 (as amended in 1998).³⁴ However, these provisions are not known to have been acted upon. In the case of mineral resources, no extractive industries are known to have been set up in the CHT in recent years. However, forest produce are being exploited without involving the Hill District Councils despite the fact that forests other than reserved forests are among the subjects under the direct jurisdiction of the Hill District Councils.³⁵

Land Survey

The CHT Accord provides that a land survey will be conducted in the CHT, in consultation with the (then to-be-established CHT Regional Council), with a view to safeguard the land rights of the hill people and to provide documentation. However, it is provided that the survey shall be conducted *after* the signing and execution of the Accord, the rehabilitation of the tribal refugees and internally displaced hill people *and* the resolution of land-related disputes.³⁶

However, the aforesaid provisions of the Accord are not well known and on several occasions in the past and even in recent times the question of a land survey has been suggested, including to help resolve the land disputes. In a statement of the newly-

appointed chairman of the CHT Land Disputes Resolution Commission as reported in the press, the chairman declared that a land survey would be started soon.³⁷

Given usual situations, one might expect that a land survey might assist, rather than hinder, the resolution of disputes over land. However, in the context of the CHT, the hill people have good reason to fear violation of their rights if a survey of the entire CHT would precede the resolution of their land disputes and the rehabilitation of the refugees and internally displaced people. Firstly, land surveys are usually a time-consuming affair, and hence, if the resolution of land disputes were to await the results of a land survey, the primary and fundamental purpose of the CHT Land Commission, to provide expeditious relief on land-related disputes, would be defeated. Secondly, land surveys are expensive affairs and they are usually conducted decennially. Naturally, hill people who have been unfairly dispossessed are suspicious why such an expensive survey would be conducted to obtain, among others, data of the state of possession of lands that might change with the rulings of the Land Commission. Stories of formalization and legalization of unlawful instances of land possession through bribery or undue influence are rife in the CHT, as elsewhere in the country.

Thirdly, in many instances, cases of double settlement or unlawful and forceful acts of land alienation took place not because there was any uncertainty about the physical properties of the land (including the area of the land and the nature of the terrain) or doubts about the identity of the current occupants (information that would be generated by the survey) but on account of fraud, discriminatory patronage of resettlement or bias on the part of the government officials (both civil and military). In such cases—which are not uncommon—a land survey would not be of much assistance in resolving disputes. Of course, if a survey helps in a particular case, it can be done. However, the entire question of dispute resolution by the Land Commission should not be suspended or delayed by an extensive survey of the CHT lands, which may take a long time and in the process add legitimacy to illegal occupation of CHT land.

IV. Auditing the Accord from 1997 to 2009: Customary Law

Status of Customary Law under the Bangladeshi Legal System

Customary law forms an integral part of the CHT legal and administrative system. As in the case of other neighboring indigenous peoples-inhabited areas, such as in Northeast India and upper Myanmar (former Burma), special regulations – such as the CHT Regulation of 1900—expressly³⁸ and implicitly³⁹ recognize the role of customary law.

For our purpose, we may broadly divide customary law into two major types, namely, customary personal law or family law of the different indigenous peoples—governing inheritance, marriage, divorce, child custody, maintenance, etc.—and customary law on land and resources—governing ownership and use of land, forest and water bodies, and the resources thereon. In addition, the competence of the courts of the traditional chiefs and headmen to regulate the practice of customary law, and to hear disputes concerning the same, is recognized by statute.⁴⁰

The status of customary law, as recognized by the CHT Regulation of 1900, the Hill District Council Acts of 1989 and the CHT Regional Council Acts of 1998, has been further reinforced by two laws of a recent origin, which were passed as a consequence of the 1997 Accord. One of these is the land Disputes Resolution Commission Act, 2001 which recognizes that land disputes shall be resolved (by the CHT Land Disputes Resolution Commission) “in accordance with the laws, customs and usages of the district concerned.”⁴¹

The other law is the CHT Regulation (Amendment) Act, 2003. This law provides, among others, that the newly-appointed civil judges in the CHT “shall try all civil cases in accordance with the existing laws, customs and usages of the districts concerned.”⁴² In addition, the law expressly excludes from the jurisdiction of the civil judges “the cases arising out of the family laws and other

customary laws of the tribes of the districts of Rangamati, Khagrachari and Bandarban respectively which shall be triable by the Mauza Headmen and Circle Chiefs.”⁴³

The Constitution of Bangladesh recognizes “custom or usage, having the force of law in Bangladesh” as part of the definition of law,⁴⁴ and further provides that all existing laws (by implication, including laws preexisting the framing of the Constitution in 1972) shall continue to have effect “subject to the provisions of this Constitution.”⁴⁵ Therefore, the body of customary law expressly or implicitly recognized by the CHT Regulation and the post-Accord laws mentioned above, is deemed to be in accordance with the constitution, unless any of its provisions are proven to be inconsistent with the constitution. In a case concerning the customary family law on the succession to the chieftainship of the Bohmong Circle, the Appellate Division of the Supreme Court of Bangladesh (the apex court in Bangladesh) court upheld the formal legal status of the concerned customary law principles, set aside the government’s purported interference with the customary law of the territory and held that neither the government nor the court had the authority to account for “extraneous circumstances” contrary to the prevailing customary law principles.⁴⁶

The above situation concerns customary personal law. The situation of the rights of indigenous peoples over lands and other natural resources based, upon customary law, is however, a totally different matter. In this regard, there are few comparable positive developments in the courts of law. To what extent customary resource rights are ultimately upheld in judicial decisions, or not upheld, as the case might be, remains to be seen when the CHT Land Disputes Resolution Commission provides its ruling on actual land disputes before it, or when a suitable matter reaches the courts of law, including the Supreme Court.

Customary Law and International Human Rights Standards

A detailed analysis of the interface between customary laws of indigenous peoples, including those in the CHT, and statute law,

is complex and multidimensional. It is pertinent to this study, but beyond its narrow scope. However, a brief discussion is provided below with regard to (i) customary resource rights and international human rights law, (ii) customary personal law and international human rights law and (iii) international human rights law and the status of its implementation in Bangladesh.

Customary Resource Rights and International Human Rights Standards

Among the instruments that substantively address the customary resource rights of indigenous peoples, and among the most recent, is the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Declaration reaffirms the right of indigenous peoples over land, territories and natural resources thereon, owned, used or occupied by them, including on the basis of customary law. The Declaration expressly recognizes the principle of Free, Prior and Informed Consent, whereby land belonging to indigenous peoples may not be used without their consent, including for military or commercial uses, except in limited circumstances. The instrument also recognizes indigenous peoples' right to the fair resolution of disputes concerning land, right to restitution of lands unfairly taken away from them, and safeguards against involuntary relocation.⁴⁷

In addition, two international treaties—which have been ratified by Bangladesh—also directly address the issue of customary land and resource rights. One of these is the ILO Convention No. 107 of 1957. In conjunction with its corresponding Recommendation No. 104, the Convention recognizes, among others, the individual and collective land and resource rights of indigenous peoples, including rights based upon customary law, over lands occupied or otherwise used by them, along with safeguards against their alienation on account of ignorance of law or otherwise.⁴⁸ Many of these provisions are compatible with the provisions of the CHT Regulation, 1900 and the Hill District Council Acts, 1989, as mentioned above.⁴⁹

The other relevant treaty is the Convention on Biological Diversity, which recognizes, among others, the right of indigenous and

local communities over natural resources and traditional knowledge systems.⁵⁰

Customary Personal Law and International Human Rights Law

The UNDRIP also contains strong acknowledgment of customary resource rights, in the case of customary personal law. This is true for both the substance of the laws,⁵¹ and their implementation through traditional or other indigenous peoples' institutions.⁵² However, the Declaration makes it clear that the promotion, development and maintenance of the institutional structures and customs of the indigenous peoples must be "in accordance with international human rights standards."⁵³ In any case, the Declaration does not create new principles but merely reiterates existing principles of law that need to be implemented in a truly non-discriminatory manner by taking into account the specific historical and current circumstances of indigenous peoples. Therefore, if customary law provisions fall below international human rights standards on the rights of women and children, for example, those provisions must be understood to be contrary to law.⁵⁴

It is seen that discriminatory practices against women (and children) are not uncommon in the CHT, even though indigenous women of the CHT do usually exercise greater social freedom and mobility than their ethnic Bengali counterparts in the plains regions. The situation of "multiple marginality" of indigenous women in the CHT on account of "gender, ethnicity and class" deserves special attention.⁵⁵ In a recent study on Access to Justice of Indigenous Peoples in Bangladesh, it was seen that indigenous communities had less access to both formal and informal justice than other sectors of society, and that indigenous women suffered disproportionately highly, compared to their men.⁵⁶ Bangladesh has ratified both the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child. Focused studies on the overall situation of women, including in the context of customary law, against the backdrop of rights mentioned in the conventions, would be helpful towards remedying the situation.

International Human Rights Law and Its Implementation in Bangladesh

In addition to the above, Bangladesh has also ratified other international human rights treaties, including the International Convention on the Elimination of All Forms of racial Discrimination (CERD), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Therefore, it would seem that there are ample international law provisions to help promote and protect human rights in Bangladesh, including those of its indigenous peoples. The ground reality, is, however, simply put, far from good.

Vesting of Authority on Customs and Customary Law to the Hill District Councils

As in the case of Land and Land Management, the Hill District Councils seem to have no role on Tribal Custom, Traditions and the Indigenous Justice System, which are included among the subjects under their jurisdiction. Since there is no separate government department or agency directly vested with defined responsibilities on these subjects, apart from the chiefs, headmen and karbaries, the exercise of the Hill District Councils' authority on the same may not require any formal transfer, like in the case of other "transferred" subjects like Agriculture Extension, Public Health Engineering and Primary Education, for example. However, a coordinated and synergized role for these councils may perhaps be facilitated through guidelines from the CHT Regional Council and supplemented with rules and regulations framed under the HDC Acts and the CHTRC Act, as appropriate.

Guidelines to strengthen the customary law system, and to guard against practices that fall below international human rights standards (as espoused by the UNDRIP, for example) are of course most desirable objectives.

Some of the indigenous peoples have documented some of their oral tradition customary law practices in some form or the other.⁵⁷ Some are even treating the documented principles in the manner of a formal code of law.⁵⁸ However, it is important in this regard to

be extremely cautious in any attempts to codify customary law. It is important to guard against the loss of flexibility inherent in customary law systems through formal codification. Full codification could also mean the marginalization of rural indigenous communities in reforming customary law, another risk that a formalized legislation could engender.⁵⁹ Instead of formal codification of the entire body customary law into a document or few documents having the force of law, a wiser alternative may be to record the practices of customary law and to record the major principles of the laws concerned—along with best practices and practice guidelines, where necessary—but to keep the status of any such written records subordinate to the oral customary practices and processes of law-making and law reform. Customary law is one of the few tools that indigenous peoples have in their interface with the outside world,⁶⁰ and it would be extremely unwise for them to render this tool ineffective or weak with the vague idea that documentation with some form of formal recognition would protect customary law.

There are, however, some overlapping areas of jurisdiction between the Hill District Councils and CHT Regional Council on the one hand and the Deputy Commissioners and the Divisional Commissioner on the other. There is, therefore, apparent contradiction between the Hill District Council Acts (Acts XIX, XX and XI of 1989) and the CHT Regulation, 1900 with regard to fees to be levied by the courts of the chiefs and headmen,⁶¹ and with regard to appeal and revision from the aforesaid traditional courts.⁶² These need to be addressed through legal reform, in consultation with all relevant institutions and groups, including the CHT Regional Council, the Hill District Councils and the traditional institutions of Chief, Headman and Karbari.

The Role of the Traditional Institutions of Chief, Headman and Karbari in the Administration of Customary Personal Law

The traditional administrative structure in the CHT consists of three tiers of institutions or authorities, namely, the karbaries at the village level, the headmen at the level of the *mauza* (a mauza

includes several villages or hamlets), and the Circle Chief or raja, at the level of the circles (consisting of several mauzas).⁶³ These leaders have manifold functions, many of which are formally recognized by law.⁶⁴ With regard to the administration of justice—including customary law—their functions are laid down by law, which actually bars the district civil courts from trying customary law cases that may be subjected to trial by the chiefs and headmen.⁶⁵

The village karbaries are the traditional heads of hamlets or villages, generally known as *paras* in the CHT. The karbaries functions include (i) maintenance of law and order, (ii) resolution of disputes (justice administration), (iii) management of land and other natural resources, (iv) collection of revenue (on behalf of the headman, where so advised) and (v) social, cultural and spiritual roles.

The mauza headmen (i) supervise the functions of the karbaries, (ii) resolve disputes, (iii) maintain law and order, (iv) manage land, forests and other natural resources, (v) provision of advice to the Chiefs and Deputy Commissioners (District Officers) on land settlements and leases and on extraction of forest resources, and (vi) issue certificates of residency, among others.⁶⁶

The Rajas or Circle Chiefs in turn (i) supervise the functions of the mauza headmen, (ii) nominate headmen for appointment by the Deputy Commissioner, (iii) appoint karbaries, and (iv) advise the district authorities, Hill District Councils, the CHT Development Board and the Ministry of CHT Affairs on administration and development matters, among others. The role of the traditional institutions was regarded as crucial to the identity and political, social and cultural integrity of the CHT indigenous, so much so that it found a prominent place in the first political “four-point” demands of the late M. N. Larma, legislator and founding leader of JSS.⁶⁷ This has also been reflected in various provisions of the Accord signed by his younger brother, J. B. Larma, the present head of JSS and the CHT Regional Council (see sections 4.1, 4.3 and 4.4, among others).⁶⁸

Other Challenges in Protecting Customary Personal Law

The indigenous peoples of the CHT today face manifold challenges in protecting their customary personal laws. Some of the challenges are related to the importation of ideas and influences from outside indigenous society, while others are more closely related to the internal dynamics of indigenous society. Of course, the two are often interrelated, and in many instances the source of influence cannot be segregated, as all indigenous communities in the CHT have social, economic and political links with the outside world. The section below discusses some of these challenges.

The Growing Dominance of Mainstream Ideas

Among the most important threats to customary law from external sources is the growing strength of the non-indigenous population in indigenous territories, and the direct and indirect pressures on indigenous society to conform to “mainstream” practices of the dominant group. The pressure is highest within the indigenous youth, and among the most conspicuous example is the way in which weddings and other such socio-cultural events are celebrated. Until recently, even in urban settings, indigenous communities would use traditional costumes and jewelry, serve traditional food items, observe the spiritual ceremonies—often through the help of a shaman or elder—and take the blessings, and thereby formal recognition, of society for the newlywed couple.

Nowadays, many of these practices are dying or being eroded. Of course, the picture is not black and white. There are trends in the opposite direction as well, whereby eroded traditions are being revived, some youth are taking pride in rediscovering ancient traditions, and so forth. Some of these are also reflected in music, poetry and drama. However, the instances of the latter phenomenon are probably far smaller. Therefore, the presence, absence or adapted practice of customary traditions may vary among clans and other groups and sub-groups within different indigenous peoples, depending on the setting (rural, urban or peri-urban), occupation (business, job, agriculture, etc.), socio-economic class (small farmer, wealthy farmer, service and commerce) and so forth. It is important to bear in mind that indigenous societies, like other

sections of a state's population, are heterogeneous, and the differences often cut across ethnicity, sex, socio-economic class and other such differences. The internal dynamics of these different groups may determine the relative strengths and weaknesses in the practice of customary law.

In many cases, the indigenous traditions are being swamped by exogenous traditions because indigenous traditions, being largely dependent upon oral traditions, are being lost or are difficult to learn about. In contrast, information on mainstream practices is easily available, and is often "packaged" in an attractive manner that draws the youth more easily than indigenous traditions. Thus indigenous people have to deal with the challenge of how to preserve their traditions by using present-day systems of data storage, retrieval and presentment, while retaining the essence of those traditions (discussed in more detail in Section 5). A similar challenge is how to make the practice of their traditions appeal to indigenous youth, so that these may occasionally be "packaged" in an attractive manner without losing the core values inherent in the practice.

Written versus Oral Traditions: Formal Codification versus Documentation

A number of indigenous peoples in the CHT are documenting their customs and traditions in order to preserve them and to make them more accessible to their communities (who are increasingly using written materials at home, work and in community practices).⁶⁹ Some are even treating the documented principles in the manner of a formal code of law.⁷⁰ On the other hand, there are those who believe that only the major principles of law should be put into a formal code, if at all, while leaving the general body of orally transmitted customary law to continue to evolve in accordance with the genius of successive indigenous generations.⁷¹ This view holds that such documentation could also include best practices and practice guidelines, where necessary, but it should ensure that the formal status of any such written records are subordinate to the customary practices of law-making and law reform.⁷²

Indigenous peoples seldom control the legislative processes of the states in which they live, and hence, giving in to a formal and rigid code, which would be adopted by a non-indigenous legislative body, in lieu of community-made and community-reformed customary law, would be equivalent to surrendering self determination rights in the juridical sphere to a non-indigenous entity.⁷³

Customary law is one of the few tools that indigenous peoples have in their interface with the outside world,⁷⁴ and it would be extremely unwise for them to render this tool ineffective or weak with the vague idea that documentation with some form of formal recognition would protect customary law. Extreme caution is required in any attempt to document, let alone, codify, customary law. Indigenous communities must also guard against the loss of flexibility and democratic traditions inherent in oral tradition customary law systems. For example, codification could also mean the marginalization of rural indigenous communities in reforming customary law, another risk that formalized legislation has.⁷⁵

Oral traditions generally also coincide with non-adversarial and inclusive systems of justice where efforts are made to include representatives of all important sectors of society in dispute resolution mechanisms, and to bring about “win-win” situations—for the different parties to the dispute in question, along with the communities to which they belong—unlike in mainstream systems of justice which have an adversarial orientation that tend to pit unequally matched protagonists to bring about a “winner” (the stronger party) and a “loser” (the weaker party). Thus oral customary traditions generally tend to think of the post-dispute rehabilitative needs of the disputants, in addition to resolving the dispute before the community leaders.

Gender

Gender issues constitute a major challenge for most indigenous peoples in the CHT. Apart from ensuring the representation of women in the hill district councils and in the CHT Regional Council, the CHT Accord of 1997 does not contain any provisions that directly address the problem of gender inequality prevailing within the CHT political, social and cultural institutions. Only one-sixth

of the seats in the CHT Regional Council and in the HDCs are reserved for women. Similarly, women are severely under-represented in the traditional system of chief, headmen and karbari. More importantly, the customary personal laws of most indigenous peoples in the CHT discriminate against women with respect to marriage (such as through the practice of polygyny, although instances are shrinking), child custody (usually men have the authority over the child whereas the women have the responsibility of childcare) and inheritance (only the Marma women in the southern CHT inherit as of right, but still in smaller measures than men), among others.⁷⁶

Indigenous women in the CHT generally have more freedom in the social spheres than non-indigenous Bangladeshi women, but that helps disguise the discrimination that they otherwise suffer. This needs to be addressed through reform, in accordance with the UN Declaration on the Rights of Indigenous Peoples, which declares that customary law must be practiced in accordance with international human rights standards.

Difficulties in Implementing Customary Law Verdicts

Although the judicial authority of the traditional courts—particularly that of the Chiefs and headmen—are formally recognized, these authorities are no longer vested with executive powers, as was the case up to the 1930s, and hence are dependent upon the district officers for the enforcement of their judgments. Moreover, their powers of fine and other related sentencing matters have not been reformed since the British period. The CHT Regional Council sought to have this problem addressed in a law reform package on the reformed justice administration system that was formalized in 2003 (through the CHT Regulation [Amendment] Act, 2003), but the Government of Bangladesh chose to maintain the status quo. Legal practitioners feel that these shortcomings need to be addressed through legal reform.⁷⁷

Conflict of Laws and Traditions

The CHT is a prime example of legal and administrative pluralism. Statute law coexists with customary law, with the latter being acknowledged and protected by the CHT Regulation, 1900

and by several post-Accord laws. Nevertheless, there are instances of tension or conflict between the two legal traditions. The problem is compounded by the lack of documentation on customary law and the relative unfamiliarity of non-indigenous government officials with customary law.

One of the clearest manifestations of the conflict of traditions is seen in the contradictory perspectives of members of the CHT Land Commission, with some seeking to dispense justice through the help of a land survey—largely because of their unfamiliarity with customary law-based land management practices in which the data generated by land surveys has little practical relevance, particularly on the question of ownership—and others supporting dispute resolution without a survey.

There are other areas of contention, including on the matter of procedure to be followed in litigation in the district civil and criminal courts. The CHT Regulation, 1900 clearly lays down that the administration of civil justice “shall be conducted in the most simple and expeditious manner compatible with the equitable disposal of the matter or suits.”⁷⁸ The preferred mode of redress is to provide a “justice award” based upon a *viva voce* examination of the parties, and witnesses are to be called only where necessary.⁷⁹ Unlike in the plains regions of Bangladesh—where the Code of Civil Procedure of 1908 applies—court fees are not required to be paid by indigenous people.

The regulation stipulates that the documentation before the authority dealing with the civil matter need only contain the following information: “the name of the plaintiff, the name of the defendant, the nature of the claim or other matter in litigation, an abstract of the plaintiff’s case and abstract of the defendant’s case, an abstract of the depositions of the witnesses (where witnesses are examined), the ground of the decision, and the order, signed and dated.”⁸⁰ In comparison, in the plains regions, the Code of Civil Procedure is replete with Rules and Orders that insist on specific formats of pleadings, complex rules of discovery (parties sharing information on their respective cases) and other prerequisites that cannot be provided other than by trained legal practitioners. Following the CHT Regulation, except for very compli-

cated matters, parties can conduct their own cases without assistance from legal counsel. Technically, legal practitioners are not supposed to plead in the CHT courts except in the Court of Sessions, and that too, only with the prior permission of the court, and in certain revision and appeal cases in the higher courts.⁸¹ However, this rule has not been followed since the late 1970s (without any repeal or amendment of the concerned rule) and nowadays lawyers represent their clients in all courts except for the courts of the chiefs and headmen.

Recently, however, it has been alleged that civil judges in the CHT, particularly, in the Bandarban district are applying the provisions of the Civil Procedure Court in cases before their courts.⁸² In the interest of the indigenous people, many of whom do not have the resources to hire the services of a legal practitioner, it is important to follow the CHT Regulation, 1900 in letter and spirit, and follow the simple system of litigation, rather than the complicated system espoused by the Civil Procedure Court. For complicated commercial suits involving large sums of money, the matter is otherwise, and future legal reforms can provide for such exceptions.

Challenges in protecting Customary Land and Resource Rights

Forest Laws and Customary Resource Rights

A major source of discontent in the CHT is the conflict between forest laws—primarily the Forest Act of 1927, including subordinate rules—and oral customary resource rights regimes concerning ownership and use of forestlands and their resources, and access thereto. The most difficult areas include the purported creation of new forest reserves,⁸³ prosecution of indigenous farmers for alleged “theft” of forest produce,⁸⁴ and harassment of indigenous farmers in the process of granting permits to them to sell their forest produce.⁸⁵ Although customary resource rights have been formally acknowledged in the Land Commission law of 2001 in the context of dispute resolution, the Forest laws have not been amended to formally acknowledge these rights in areas categorized as “forests.” *This is one area, among others, where legal reforms in the light of the 1997 Accord could help improve matters.*

Customary Land Rights and Non-Indigenous Landholders

Another area of dispute concerning customary law is in cases where non-indigenous individuals government-sponsored migrants were provided with land settlement grants (as in the case of the Bengali transmigrants of the 1980s) and non-resident and non-indigenous individuals and companies were given commercial land leases (to set up rubber plantations or industries). The former issue will have to be dealt with by the CHT Land Commission when it hears disputes on land (see section 3.1. above). Here, *one of the potentially difficult questions will be the relative status accorded to claims based on customary law vis-à-vis claims based upon written title issued by the government.*⁸⁶

Customary Commons versus Individual Rights-holdings within Indigenous Society: The Commons on the Retreat

In addition to the threats to customary resource rights emanating from (outsider) companies, individuals and a section of the non-indigenous migrants, another threat to customary resource rights comes from within indigenous society on account of the growing trend of individual and family-based landholdings—whether titled, otherwise recorded or unrecorded—especially in the case of forest, swidden, grassland and grazing commons.⁸⁷ With closer ties to the market, and the constantly increasing orientation of cultivation towards exchange, rather than subsistence, farmers, particularly the relatively better off among them, are converting large swathes of former commons into family held orchards and plantations. This is perhaps an inevitable consequence of “development” and the market economy. The biggest challenge here is how the access of the most marginalized sections of indigenous society to their common pool resources can be sustained and protected. It is they—who do not have access to private land title, or the benefits of secondary and tertiary education, or even any formal education at all—who require access to these resources on the basis of customary law.

The CHT as an Indigenous Homeland/Territory (“Tribal-Inhabited Area”)⁸⁸

The CHT Accord and the preamble to the post-Accord CHT Regional Council Act of 1998 and the amended HDC Acts refer to the

CHT as a region inhabited by “backward tribal people.”⁸⁹ However, the Constitution of Bangladesh does not directly recognize the tribal area status of the region, as was the case during the British period and the early Pakistani period (up to 1964).⁹⁰

As a consequence of the legislative package of 1998 (CHTRC Act and HDC [Amendment] Acts), we may conclude that *some* steps have been taken to safeguard the special characteristics of the region with its population of indigenous descent. The continuing role of the traditional chiefs and headmen in the CHT administration, including their functions in the administration of justice, may be regarded as an important aspect in maintaining the special characteristics of the region.⁹¹ Post-Accord legislation on the CHT Land Disputes Resolution Commission in 2001 and on the amendment to the CHT Regulation, 1900 to transfer judicial authority from civil servants to judges under the Supreme Court, is another example of strengthening the customary laws of the region.

However, in many other respects, the steps taken so far by the government may be regarded as inadequate at effectively protecting the characteristics of the region as a ‘tribal area.’ Primary education in the mother tongues of the indigenous peoples is yet to be introduced. A senior member of the JSS complained recently that several acts and omissions on the part of the government, particularly with regard to the presence of government-sponsored migrants from the plains districts, continuing in-migration of non-indigenous people from the plains districts of the country, alienation of hill people’s lands at the hands of migrants, and the issuance of permanent residence certificates by Deputy Commissioners (instead of solely by Circle Chiefs) among others, stand in the way of substantial implementation of this provision.⁹²

***Demographic Change, Minoritization and
Marginalization: The Role of Indigenous Peoples
in Self-Governance***

The demographic changes in the CHT, in particular the drastic rise of the non-indigenous population (from 2% in 1872 to nearly 50% in 1991),⁹³ has had complex impacts upon indigenous society

over the years: political, social, cultural and economic.⁹⁴ The rising settler population has of course also meant a commensurate rise in the non-indigenous voters in the region, leading to more and more non-indigenous people being elected to local government bodies (sub-district and union councils), and even to parliament.⁹⁵ In addition, even if the elected leaders belong to indigenous ethnic groups, the non-indigenous electorate obviously has an increasing role, in *who*, among the indigenous leaders, are being elected, and *whether they protect indigenous peoples' interests, after being elected*. In the process, the role of national political parties, and the electoral politics of money, jobs, contracts, etc., has also grown, leading to a clear marginalization of the indigenous electorate.⁹⁶ The problem is confounded by the economic clout of the non-indigenous population, which dominates the business and industry sectors in all the three hill districts.

The weakened electoral strength of the indigenous populations is of course also leading to increased political dominance by the non-indigenous population of the region, which is strengthened further by their social, economic and cultural links with mainstream political parties, social networks and interest groups, including in the capital city (where major decisions on the CHT are made), that the indigenous people cannot match. It is only within the traditional system of chiefs, headmen and karbaries that the indigenous system is at least to an extent averse to these demographic and political developments. The continued vitality and capacity of the traditional leadership to deliver justice to their constituents is therefore a crucial part of the process of implementing the CHT Accord.

In conclusion, it seems clear that in order to give true meaning to the provisions of the Accord in retaining the characteristics of the CHT as an *indigenous people-inhabited area*—as also repeated in the preambles to the CHTRC Act and the HDC Acts—would require full and faithful implementation of the provisions on Land and on Customary Law, as discussed above.

V. Challenges in Implementation

Non-implementation or under-implementation of the CHT Accord has come about due to several factors. Some of these are discussed below.

Political Factors

One major factor behind non-implementation of the Accord has been the absence of political will, particularly during the rule of the BNP-led coalition government. The BNP and its rightist ally, Jamaat-e-Islami Bangladesh, were opposed to the accord when it was signed in 1997, when they were a part of the opposition.⁹⁷

Therefore, during their recent term of office (2001-2007), implementation was stymied.⁹⁸ In fact, researchers suggest that non-implementation due to political considerations is a common phenomenon in different parts of the world.⁹⁹ They suggest that “sustained post-Agreement political activity is required,” because governments often seek to “disregard or renegotiate some provisions in an agreement that they find unpalatable.”¹⁰⁰ In an analysis of the cause of non-implementation of Accords, a Dutch researcher has thus commented about the CHT Accord:

*Taking a populist stand against aspects of an agreement that can be portrayed as hurting the interests of a section of the population or the state as a whole can be a useful tool for politicians to gain votes. This is precisely what has happened in Bangladesh with respect to the Chittagong Hill Tracts peace agreement.*¹⁰¹

Since January 2009, however, the party under whose rule the accord was signed, the Bangladesh Awami League, is once again at helms of government in Bangladesh, and with a substantive majority in parliament. It is on record for voicing support for the full implementation of the Accord.¹⁰² However, one and a half years later, despite some positive developments—including the appointments to key CHT-related offices¹⁰³—and supportive public statements, very little of substance has come about. Leading members of Bangladeshi civil society—including the CHT—have been con-

sistently calling upon the government to declare a “roadmap” on implementation.¹⁰⁴

Demonification

Another major factor behind the non-implementation and under-implementation of the Accord is the demonification of certain provisions of the Accord whereby they have been misinterpreted as discriminatory towards non-indigenous people in Bangladesh, particularly in the CHT. Some sections of the Bengali inhabitants of the CHT have termed the accord as a “black agreement.” Therefore, the parties to the accord—the JSS and the Government of Bangladesh—may be regarded as having failed—at least partially—in dealing with such misinterpretations and negative propaganda. The private press and media have been—on the whole—supportive of the CHT peace process. This needs to be followed up at the government levels, with press and media and other information processes, including educational curricula, which often contain insufficient, inaccurate and disrespectful information on indigenous society.

Legal Challenges

Two writ petitions—Writ Petition No. 2669 of 2000 (Badiuzzaman v. Bangladesh et al.) and Writ Petition No. 6451 of 2000 (Tajul Islam v. Bangladesh et al.)—filed in the High Court Division of the Supreme Court of Bangladesh have together challenged the constitutional validity of the CHT Accord of 1997, the CHT Regional Council Act of 1998 (Act XII of 1998) and certain provisions of the three almost identical Hill District (Local Government) Council (Amendment) Acts of 1998 (Acts IX, X and XI of 1998).

The aforesaid cases are being heard together by a bench of the High Court Division comprising Mr. Justice Syed Refaat Ahmed and Mr. Justice Mainul Islam Chowdhury. The hearing of the petitions started on 22 October 2009, and is expected to continue until January 2010. The provisions under challenge allege, among others, (i) that the Accord was not signed in accordance with the

provisions of the Constitution of Bangladesh; (ii) that the Accord (and or the 1998 laws) violate the “unitary” character of the republic; (iii) that the Accord/laws usurp the power of parliament; and (iv) that the Accord/laws fetter the Executive Authority of the Government.

The decision of the court—however it is provided—will have far-reaching consequences for the implementation of the Accord. The co-authors of this report are both engaged in the case as counsel, and therefore constrained to make any comments on the case as it is a *sub judice* matter.

Other Challenges

Among other challenges in implementation are: (i) lack of information on the Accord and its provisions; (ii) insufficient enabling sub-legislation on the CHT councils (e.g., on Rules & Regulations under the CHTRC and HDC Acts); (iii) insufficient Policy Guidelines to the district and sub-district level government officials serving in the CHT; (iv) lobby and advocacy activities being haphazard, uncoordinated, unsustained, and at insufficiently high levels. Many of these challenges may be met, as suggested below.

VI. Recommendations

Immediate Activities (Short Term)

Roadmap

As demanded by political and civic groups, the Government of Bangladesh should declare a “roadmap,” outlining specific implementation targets within specified timelines, and identifying the focal institution or individuals responsible for the respective responsibilities.

Issue-centric Lobbying

Pro-Accord forces—whether indigenous political parties and other groups, supportive political and civic groups or others—should

divide themselves up into groups based upon specific issues (such as on rehabilitation, de-militarization, human rights, land disputes, devolution and development, education, health, culture, etc.), among others.

Medium Term

Anti-Demonification Campaign

Campaigns should be launched to dispel myths and misconceptions about the Accord and its process of implementation (whether they are the result of absence of information or a result of deliberate “demonification” campaigns by groups opposed to the Accord).

The main parties to the Accord, the Government of Bangladesh and the JSS, bear the main responsibility for this. However, NGOs and other civic groups from within the CHT, in the rest of Bangladesh and elsewhere, should play strong supporting roles because of the many limitations that governmental and political groups might have, but which are not necessarily shared by NGOs and other civic groups.

Vetting of Laws and Policies

Laws and policies that apply to the CHT should be vetted so that they may be amended in conformity with the CHT Accord. The CHT Regional Council is the appropriate body to take the lead role in this, with technical support from legal and other experts. The work of the governmental Law Commission should be taken into account, and its support elicited.

Legislation

Based upon such vetting, and in consultation with the CHT Regional Council, the hill district councils and other institutions in the CHT, as appropriate (such as the traditional institutions of the chiefs, headmen and karbaries), laws should be passed.

In particular, the CHT Regulation, 1900 should be amended to bring it in conformity with the provisions of the Accord, as pro-

vided in the Accord and in the post-Accord CHT Regional Council Act of 1998. Likewise, the CHT Land Disputes Resolution Commission Act, 2001 should be amended in accordance with the recommendations of the CHT Regional Council. The CHT Regional Council can take the lead role, as provided in the Accord and the Regional Council Act, 1998, to identify the provisions that require amendment. The Law Commission can facilitate the required legislation.

Subordinate Legislation and Policy Guidelines

The Government of Bangladesh should pass enabling subordinate laws, including rules under the Regional Council Act, 1998 and the Hill District Council Acts, 1989 to strengthen the roles of the aforesaid councils and to ensure that district and sub-district bureaucratic authorities cooperate with these councils, and with the traditional institutions, and do not interfere in the latter's work.

Independently of the aforesaid rules, or in support of such rules, the Government of Bangladesh (particularly, but not limited to, the Ministry of CHT Affairs) should issue policy advice, guidelines and directives to the district and other authorities.

Devolution and Transfer of Authority

The departments and subjects that are supposed to be transferred to the Hill District Councils, but have not yet been done so, should be transferred immediately.

The Government of Bangladesh should issue instructions to the district and sub-district officials to facilitate the work of the CHT Regional, including their supervisory and coordinating role with regard to general administration and local government bodies, among others.

Capacity-Raising

Capacity-raising needs of the Ministry of CHT Affairs, the CHT Regional Council, the Hill District Councils, the traditional institutions of Chief, Headman and Karbari, the upazila and union councils, and district and sub-district civil administrations, among

others, should be identified, through proposals from the afore-said institutions, or recommendations based upon consultations with them. Based upon these proposals and recommendations, reforms should be carried out to add personnel, provide training, and provide logistics and adequate funds to the institutions, as appropriate.

The present researchers have identified two, among other, major shortcomings. One is the existing organigram of the Ministry of CHT Affairs, the CHT Regional Council and the Hill District Councils, which have no personnel, or have insufficient personnel, to carry out research, planning, monitoring and evaluation, and co-ordination for the departments and subjects for which the respective bodies are responsible. At present, social, humanitarian and cultural issues—which are crucial for the cultural identity and integrity of the indigenous peoples in particular—appear to be grossly neglected, as is clearly borne out by the budgetary allocations in the Annual Development Plans.

Educational Curriculum

The national curricula of primary, secondary and tertiary educational institutions should be reformed to include provisions on the identity and culture of the different indigenous peoples of the CHT (as mentioned in the Adivasi Declaration of 1997 and the Rangamati Declaration of 1998) and about the political and administrative history of the CHT.

Legal and policy changes, as appropriate, should be initiated to provide a role to the CHT Regional Council and Hill District Councils in designing the curricula of primary and secondary education. The Department of Education (at the Secondary School level) should be transferred to the Hill District Councils.

Long Term Measures

Constitutional Entrenchment of CHT Accord

The CHT Accord, or its most crucial provisions, should be entrenched and safeguarded through amendments to the Constitution of Bangladesh.

Other Constitutional Reforms

Other constitutional amendments should include the recognition of the autonomous political and administrative status of the CHT, and important laws, including the CHT Regulation, 1900, the CHT Regional Council Act, 1998, the Hill District Councils Act, 1989 and the CHT Land Disputes Resolution Commission Act, 2001, among others.

The amendments should also include recognition of the identity, culture, language, heritage and history of the indigenous peoples of the CHT (and of other parts of Bangladesh).

All such amendments should be protected by safeguards that guarantee that the same shall not be arbitrarily amended without the prior, informed consent of the indigenous peoples of the CHT.

UPDATE: September 2010

This update highlights some of the major developments with regard to the CHT Accord of 1997 that took place between 2007 to September 2010. During this period, the interim non-party caretaker administration handed over power to an elected government in which the Bangladesh Awami League comprises the major component. It is noteworthy that the Awami League was also the major component in the government in 1997, when the CHT Accord was signed. Of particular importance is the election manifesto of the Bangladesh Awami League in 2008, which contained commitments to fully implementing the 1997 Accord, and respecting the rights of indigenous peoples and minority groups.

The major developments since 2007 include the following: (i) the broad process of implementation; (ii) the resuscitation of the Accord Implementation Committee; (iii) the resuscitation of the CHT Land Disputes Resolution Commission and the disagreements between the new chairperson with some of its members, particularly concerning the process of land dispute resolution; (iv) the process of de-militarization and human rights issues; and (v) proposed constitutional amendments to include CHT and indigenous

peoples' issues. These developments are briefly discussed below, in the order given, except for the overall process of implementation, which will be dealt with lastly.

Resuscitation of the Accord Implementation Committee

The 3-member Accord Implementation Committee—headed by a representative of the prime minister (as a “convenor”) and including the chairperson of the CHT Task Force on Refugees and Displaced People and the president of the JSS—was kept in cold storage throughout rule of the BNP-led Four Party Alliance, from 2001 to 2006. With the appointment of Begum Sajeda Chowdhury as the head of the committee, and thereby the revival of the dormant committee, the government has sent a positive signal.¹⁰⁵ However, the infrequency of the meetings of the committee is a cause for concern. More frequent meetings, with a specific timeline, would help instill a sense of urgency to the process of implementation. It is reported that the chairperson wishes to involve leaders and officials not named in the committee in the meetings, whereas the chairperson of the CHT Regional Council wishes to limit the discussions to the three members of the committee.

Resuscitation of the CHT Land Disputes Resolution Commission
With the coming of the present government, a new chairperson of the CHT Land Disputes Resolution Commission was named, Mr. Justice Khademul Islam, and thereby the commission was revived. However, the work of the commission has been rendered controversial because of disagreements between the chairperson and several other members over the process of dispute settlement, and with regard to inconsistencies between the Land Commission law (the CHT Land Disputes Resolution Commission Act of 2001) and the provisions of the Accord.

The commission is known to have issued notices and summons on hearings without first deciding upon the process of notices and hearings with the other members of the commission. The notices are not known to have accommodated the matter of oral testimony based upon customary law in the notices and summons. The lack of confidence of indigenous people is borne out by the relatively lower number of petitions presented by indigenous

people, in comparison to ethnic Bengali people, particularly from among the government-sponsored migrants of the 1980s.

Apart from the process of hearings, another matter that has caused disagreements between the chairman of the commission and other members, including the traditional chiefs, is the issue of holding a land survey prior to the resolution of disputes. The JSS, the largest political party of the indigenous peoples, as well as its opponent, the UPDF, have both opposed the survey. The traditional chiefs have sent written memoranda to the chair and to the government asking that the survey be suspended until after the disputes are settled, refugees and displaced people rehabilitated and the CHT Regional Council specifically requests the government to conduct a survey, as provided in the 1997 Accord.¹⁰⁶ They have also asked that the concerned law be amended to bring it in conformity with the Accord, including to remove the arbitrary powers of the commission chairperson, to clarify the jurisdiction of the commission and to amend the provisions on the quorum for the commission's decision-making process.¹⁰⁷ Very recently, in a meeting presided over by the CHT Affairs state minister, and attended by the traditional chiefs, the district council chairpersons and a representative of the CHT Regional Council, agreement seems to have been reached with regard to the content of reforms to the Land Commission law, including on the subjects raised by the chiefs.¹⁰⁸ However, the matter of the survey still hangs over the work of the commission.

According to some observers, a survey effectively amounts to a "trial by land administration officials" based upon plains Bangladesh concepts of private ownership that have no application in CHT. The collective memory of people in the CHT—particularly the indigenous peoples—is one of bias, corruption and unfair treatment by survey officials is still fresh. Therefore, the indigenous peoples seem to be determined to resist any attempts to conduct a land survey in the CHT until and unless the terms of reference (TOR) for such survey categorically and unequivocally gives due regard to customary law-based rights of indigenous individuals, communities and peoples. Since no such TOR based upon the concerned laws (including the CHT Regulation, 1900 and the Hill District Council Acts of 1989) have so far been framed, it may be

assumed that the survey would follow plain land concepts of survey, record of rights and so forth, in the process denying proper acknowledgment of custom-based rights of the hill peoples.

If a land survey were conducted before the commission resolves the disputes appearing before it, it would be tantamount to the commission divesting its responsibilities of dispute resolution, because, until and unless evidence to the contrary was available to rebut the findings and other records of the survey, such findings and records would remain unchallenged and established. If the CHT people felt they could get justice at the hands of survey officials there would be no need for a commission to be formed that included a retired Supreme Court judge, chairpersons of the regional and district councils and circle chiefs.

Demilitarization and Human Rights Issues

With regard to de-militarization, there was some positive development after the advent of the present Awami League-led government, when it dismantled 35 military camps from the CHT, estimated to be about 10 percent of the total camps in the region.¹⁰⁹ The dismantling was even challenged by a litigant who sought to prevent the government from removing those camps, on the plea of “security” of CHT inhabitants, but the High Court Division allowed the removal of the camps after hearing the concerned parties. It has been said that the law and order situation in the CHT does not indicate that any security measures are necessary other than normal policing as in other parts of Bangladesh is required in the CHT.¹¹⁰ Moreover, the CHT police could be made more effective by recruiting local personnel—who would have better knowledge and experience about the region and its people—as provided in the Accord and in the District Councils laws of 1989. However, since the dismantling of the aforesaid 35 camps, no further military camps have been removed from the region. More importantly, the military seem to have a role in civilian affairs as well.

In some cases, the military has been implicated in attacks against indigenous people, such as in Baghaihat, Rangamati and in Khagrachari, in February, 2010. Condemning the incidents, leading members of Bangladeshi civil society have asked for the removal of military camps from the CHT.¹¹¹

Constitutional Amendments¹¹²

The recent judgement of the Bangladesh Supreme Court in what has come to be called the 5th amendment case,¹¹³ declared the Constitution (Fifth Amendment) Act, 1979 (Act 1 of 1979) *ultra vires* and illegal and instructed the Government of Bangladesh to take legislative measures to revert to the original Constitution of 1972. This in turn has reignited demands from indigenous peoples from different parts of Bangladesh for inclusion of provisions on their identity and rights in the forthcoming amendments.

The ongoing demands are being articulated and promoted by different groups, in different forums and in different ways. The indigenous members of the Bangladesh Parliament, including Ministers of State Promode Mankin and Dipankar Talukdar, are known to have recently met Prime Minister Sheikh Hasina, who had reportedly agreed to consider the inclusion of indigenous issues in the future Constitution of Bangladesh.

At a meeting in the residence of Minister Talukdar on 7 August 2010, participated in by all the indigenous members of parliament, along with other indigenous leaders, a Constitutional Reform Drafting Committee on Adibashi Issues was formed with Chakma Chief Raja Devasish Roy as the chair and Albert Mankin as the member secretary.¹¹⁴ The members of the committee met among themselves and along with the indigenous MPs and prepared some draft proposals presented to a larger gathering in Dhaka on 23 August 2010, presided over by State Minister Promode Mankin.¹¹⁵ The draft was improved upon and presented at the following meeting on 22 September 2010 at the Dhaka residence of Minister Talukdar (also chaired by him).¹¹⁶ Most of the meetings of the Constitution Committee (headed by this writer) were facilitated by Albert Mankin. The matrix was drafted by this writer, in consultation with Mangal Kumar Chakma, member of the aforesaid committee, and assisted by Advocate Bidhayak Chakma, Ilira Dewan, Muktasree Chakma Shathi and Pradanshu Barman.

The following day, on 23 September, a prominent daily newspaper reported that the Parliamentary Standing Committee on the Ministry of CHT Affairs had decided to support constitutional entrenchment of the CHT Accord of 1997.¹¹⁷ The signs are omi-

nous. However, it remains to be seen whether constitutional amendments to incorporate safeguards for the indigenous peoples, like the implementation of the Accord will only remain in words, as recently complained by the Chakma Chief, with regard to implementation of the Accord.¹¹⁸

Endnotes

¹ A small number of people, descended from indigenous migrants from Nepal and Assam (from the 19th century), known locally as “Ahomia,” “Gurkha,” have also demanded recognition as indigenous people of the CHT, a demand so far denied. A small number of Santal, descendants of migrants of the 19th century, also live in the CHT.

² For a detailed discussion of the administrative system of the CHT, see the following: (i) Raja Devasish Roy, “Administration,” in Philip Gain (ed.), *The Chittagong Hill Tracts: Life and Nature at Risk*, SEHD, Dhaka, 2000, pp. 43-57; (ii) Dr. Borhan Uddin Khan, *CHT Governance Study: An Institutional Review*, CARE-Bangladesh, Dhaka, 2004; (iii) Paul A Martin, *Institutional Capacity Building: A Review of the CHT Institutions of Governance*, Chittagong Hill Tracts Development Facility, UNDP, Rangamati, March 2004.

³ For details, see Suniti Bhushan Qanungo, *Chakma Resistance to British Domination (1772-1798)*, Qanungopara, Chittagong, 1998.

⁴ All three chiefs are indigenous and male (there were a few women chiefs in history). Most of the 380 odd “headmen” are male (except for a dozen or so women headmen and fewer women karbaries). There are less than 10 Bengali headmen, and a slightly larger number of Bengali karbaries (all male).

⁵ See further, Raja Devasish Roy, “Administration,” in Philip Gain, ed., *The Chittagong Hill Tracts: Life and Nature at Risk* (Dhaka: SEHD, 2000), 43-57.

⁶ Borhan Uddin Khan, *CHT Governance Study: An Institutional Review* (Dhaka: CARE-Bangladesh, 2004), 10.

⁷ Mangal Kumar Chakma, “Bhumi Jarip Ghoshona Somoshyake AARO Jotil Korbe (The Declaration of Land Survey will further complicate the CHT Land Issue),” *Daily Pratham Alo*, Dhaka, 24 September 2009.

⁸ In accordance with section 53 of the CHT Regional Council Act, 1998 the CHTRC may propose legislation to the GOB on the CHT for the development of the CHT or when any existing law causes hardships for the tribal people. The above section also states that the GOB must consult the CHTRC before legislating for the CHT.

⁹ The Ministry of Land is the mother body of the CHT Land Commission. The CHTRC's proposals for reform include transfer of the commission to MoCHTA.

¹⁰ Interview of Goutam Kumar Chakma, member, CHT Regional Council, October, 2009 and interview of Sudha Sindhu Khisa, July 2009. See also, Mangal Kumar Chakma, op. cit.

¹¹ Interview of Goutam Kumar Chakma, member, CHT Regional Council, October 2009. See also, Mangal Kumar Chakma, op. cit.

¹² Interview of Goutam Kumar Chakma, member, CHT Regional Council, October 2009.

¹³ J. B. Larma, President, JSS and Chairman, CHT Regional Council, as cited in the daily *Pratham Alo*, 27 September 2009. See also, Raja Devasish Roy, Chakma Chief, in interview published in Josnalepe (ed), *Mukta Prakash* (a Bengali language magazine), Year 2, Issue 7, Dhaka, June 2009, pp. 10-13.

¹⁴ The recent disagreement within the commission concerning the start of a survey shows how the matters of the chairperson's powers, the quorum and procedural matters are important in determining fairness and transparency in the commission's decision-making process. See, Mangal Kumar Chakma, op. cit. See also, "Press Note of prominent civil society members (Justice Golam Rabbani et al.)," dated 07 October 2009, published in several Dhaka dailies of 08 October 2009.

¹⁵ See further, Raja Devasish Roy, "The Land Question and the Chittagong Hill Tracts Accord," in Victoria Tauli Corpuz, et al. (eds.), *The Chittagong Hill Tracts: The Road to a Lasting Peace* (Baguio City: Tebtebba, 2000); Shapan Adnan, *Migration, Land Alienation and Ethnic Conflict: Causes of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

¹⁶ *Daily Pratham Alo*, Dhaka, 27 September 2009.

¹⁷ Interview with Goutam Kumar Chakma, member, October 2009.

¹⁸ Mangal Kumar Chakma, op. cit. See also, "Press Note of prominent civil society members (Justice Golam Rabbani et al.)," dated 07 October 2009, published in several Dhaka dailies of 08 October 2009.

¹⁹ Amended vide R.L Section Notification No. 1L-15/69/216-R.L., dated, 16 September 1971, as published in the Dhaka Gazette, Part I, dated 21 October 1971.

²⁰ Amended vide Ministry of Land Administration and Land Reforms, Section IX, Notification No. S.R.O. 72-L/79 dated 31 March 1979 as published in the Bangladesh Gazette, *Extra*, 31 March 1979, 1178. Another major difference is that the 1979 amendment removed the definition of "non-hillman resident" provided in the 1971 law. A new definition of "non-tribal resident" has been introduced again through the CHT Regional Council Act, 1998 (Act XII of 1998) and the Hill District Council (Amendment) Acts of 1998 (Acts XX,

XX and X of 1998).

²¹ Part “D,” Clause 8, CHT Accord, 1997.

²² Raja Devasish Roy, *Background Study on the Chittagong Hill Tracts Land Situation* (Rangamati: CARE-Bangladesh, 2004).

²³ *The Daily Star*, Dhaka, 2 June 2009.

²⁴ *The Daily Star*, Dhaka, 21 July 2009 and *The News Today*, 21 July 2009.

²⁵ The headman is a traditional leader and a land administration official. The chainman is a junior-level revenue and survey official, while the AC (Land) is the highest revenue and land officer at the level of the upazilas (sub-districts).

²⁶ Common section 64, Local Government Council Acts, 1989 (Acts 19, 20, 21 of 1989).

²⁷ These are lands of the market centers or “bazaars” in the district headquarters and elsewhere. The equivalent of mauza headmen in the Bazaar Fund areas are called Bazaar Chowdhuries.

²⁸ Combined effect of rule 34, CHT Regulation, 1900 and section 64, Hill District Council Acts of 1989 (Acts XIX, XX and XXI of 1989).

²⁹ Ministry of Chittagong Hill Tracts Affairs, Memo No. Misc 12/99-217, dated 26 October 2002. See also, Raja Devasish Roy, “The Chittagong Hill Tracts “Peace” Accord: Whose Peace?” in Danilo Geiger, ed, *Frontier Encounters: Indigenous Communities and Settlers in Asia and Latin America* (Copenhagen: IWGIA), 495, 520.

³⁰ Memo No. Ra:Pa:Je:P/ Bhumi /14 dated 22 December 2008 issued by Land Officer, Rangamati Hill District Council, addressed to the Headman of Choto Harina mauza.

³¹ Telex Message No. BHU:MA:/S/24/89/267(3)/1 dated 29 October 1989 from M. Mokammel Haque, Secretary, Ministry of Land to Deputy Commissioners of Khagrachari, Rangamati and Bandarban). See also, Ministry of Land Memo No. 18-4(3)/89/1560/(Rev) dated 11 September 1989.

³² Memo No. Pachbim (Pa-1)-Paa-Jela/Bibidha/85/2000-280 dated 23 October 2001 from Mohsena Yasmin, Senior Assistant Secretary, Ministry of CHT Affairs. However, limited settlement grants have been made for educational and religious institutions.

³³ Clause 35, part B, CHT Accord, 1997.

³⁴ Clauses 14 and 16, Second Schedule, Hill District Council Acts, 1989 (Acts XIX, XX and XXI of 1989).

³⁵ Clause 6(b) and 6(e), First Schedule, Hill District Council Acts, 1989 (Acts XIX, XX and XXI of 1989).

³⁶ Clause 2, part D, CHT Accord, 1997.

³⁷ Mangal Kumar Chakma, *op. cit.* See also, interview of J. B. Larma in Pratham Alo, 27 September 2009.

³⁸ See, for example, section 4 (which specifies that laws will apply to the CHT only to the extent of their consistency with the CHT Regulation, 1900), section 8(4) (which bars jurisdiction to the District Civil Judge to try cases triable by the Chiefs and Headmen), rule 4 (which exempts members of “indigenous tribes” from the payment of court fees), rule 40 (which defines the administrative authority of the chiefs and headmen), rule 27 (describing the manner of investiture of the chiefs and the appointment and dismissal of headmen), etc.

³⁹ See, for example, section 12 (which implicitly recognizes the practice of using and carrying indigenous weapons while providing for the manner of regulating such use), section 14 (which implicitly recognizes the use of locally produced spirits and fermented liquor while providing for the manner of regulating the use of foreign and local spirits and liquor), rules 41 to 45 (which implicitly recognize the customary rights to practice shifting cultivation, graze cattle, use forest produce, etc. while providing for the manner of the exercise and regulation of these customary land and natural resource rights).

⁴⁰ See, e.g., section 8(4) and rules 38, 39, 40, 41, 41A, 43, 45, 50 of the CHT Regulation, 1900.

⁴¹ Section XX, CHT Land Disputes Resolution Commission Act, 2001.

⁴² Section 8(4), CHT Regulation, 1900.

⁴³ Section 8(4), CHT Regulation, 1900.

⁴⁴ Article 152, Constitution of the People’s Republic of Bangladesh.

⁴⁵ Article 149, Constitution of the People’s Republic of Bangladesh.

⁴⁶ Aung Shwe Prue Chowdhury vs. Kyaw Sain Prue Chowdhury and Others (Civil Appeal No. 8 of 1997), Supreme Court of Bangladesh (Appellate Division), BLD, 1998 (Vol. XVIII), p. 41.

⁴⁷ See, in particular, articles 25-30 of the UN Declaration on the Rights of Indigenous Peoples.

⁴⁸ See, in particular, article 13-15, ILO Convention No. 107.

⁴⁹ For a comparative analysis of the laws of Bangladesh and the provisions of ILO Convention No. 107, see: Raja Devasish Roy, *The ILO Convention on Indigenous and Tribal Populations, 1957 and the Laws of Bangladesh: A Comparative Review*, Project to Promote ILO Policy on Indigenous and Tribal Peoples and ILO Office, Dhaka, Bangladesh, July 2009.

⁵⁰ See, in particular, articles 8(j) and 10 (c). For a critique of the Convention’s provisions concerning indigenous peoples, see International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests (IAITPTF), *Indigenous Peoples, Forest and Biodiversity*

⁵¹ See, in particular, articles 9, 11 and 12.

⁵² See, in particular, articles 5, 13, 33, and 34.

⁵³ Article 34, UN Declaration on the Rights of Indigenous Peoples.

⁵⁴ See, for example, Raja Devasish Roy, *Traditional Customary Laws and Indigenous Peoples in Asia*, Minority Rights Group International, London, March, 2005, p. 23.

⁵⁵ Sadeka Halim, "Violation of Adivasi Women's Rights: Challenges Ahead" in Sanjeeb Drong, ed, *Solidarity* (Dhaka: Bangladesh Indigenous Peoples Forum, 2005), 69. See also, Kapaeeng Foundation, *Indigenous Peoples' Human Rights Report in Bangladesh: 2007-2008* (Dhaka: Bangladesh, 2009), 129, 130.

⁵⁶ Raja Devasish Roy, Sara Hossain and Meghna Guhathakurta, "Access to justice for indigenous peoples: a case study of Bangladesh" in UNDP Regional Centre in Bangkok, *Towards Inclusive Governance: Promoting the Participation of Disadvantaged Groups in Asia-Pacific* (Bangkok, 2007), 28-49.

⁵⁷ The Marma in Bandarban District, for example, follow semi-codified principles of Burmese Buddhist law. See, Susmita Chakma, "Inheritance & Customary Law" in Chittagong Hill Tracts Region Development Plan (1998) (Annexe to Social Dimension Report).

⁵⁸ The Bawm, for example, often use their documented laws in the manner of a formal code of law.

⁵⁹ For a discussion on this, see (i) Raja Devasish Roy, "Challenges for Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh," *Arizona Journal of International and Comparative Law*, 21(2004):113-182; (ii) Raja Devasish Roy, *Traditional Customary Laws and Indigenous Peoples in Asia* (London: Minority Rights Group International, 2005).

⁶⁰ Dr. Khyrim Nongkhynri, Professor of Sociology, North Eastern Hill University, Shillong, Meghalaya, India (in an intervention at a Seminar on Development and Adivasis in New Delhi, India on 27-28 August 2009) emphasized on the use of customary law as a vital tool in their interface with the external world.

⁶¹ According to the CHT Regulation, 1900 (Rule 40) the Deputy Commissioner is to approve the scale of fees in the chiefs' and headmen's courts, while the Hill District Councils Acts of 1989 vest this responsibility upon the Hill District Councils.

⁶² According to the CHT Regulation, 1900 (Rule 40) the Deputy Commissioner is to hear revisions against decisions of the Chiefs, while according to the Hill District Councils Acts of 1989, the Divisional Commissioner is to hear appeals against the decisions of the Chiefs.

⁶³ For an overview of the CHT system of administration including the traditional, bureaucratic and the councils systems, see Raja Devasish Roy,

“Administration,” in Philip Gain (ed.), *The Chittagong Hill Tracts: Life and Nature at Risk* (Dhaka: SEHD, 43-57) and Raja Devasish Roy, “The System of Traditional Administration in the Chittagong Hill Tracts,” September 2009 (unpublished).

⁶⁴ For the role of the mauza headmen, see rules 34(1)(a)(ii), 38, 40, 41A (a)(b)(c)(d), 42, 42A, 43(1)(2), 46, 48 49, 50(1) of the CHT Regulation, 1900. For the role of the circle chiefs, see rules 38, 39, 40, 42(12), 43, 47, 48, 49 of the CHT Regulation, 1900 and section 66(1), Hill District Council Acts, 1989. See also, section 4 (5)(6), 26, 664, 66 of the Hill District Council Acts, 1989 and section 5(8)(9) of the CHT Regional Council Act, 1998.

⁶⁵ Section 8(c), CHT Regulation (Amendment) Act, 2003.

⁶⁶ Raja Devasish Roy, “The System of Traditional Administration in the Chittagong Hill Tracts,” September 2009 (unpublished).

⁶⁷ Amena Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts* (Dhaka: University Press Limited, 1997), 57-58.

⁶⁸ Several clauses of the Accord deal with the role of the chiefs, including on their authority to provide certificates of permanent residence, their advisory roles concerning the work of the hill district councils and the Ministry of CHT Affairs, and their membership of the CHT Land Disputes Resolution Commission, among others.

⁶⁹ The Marma in Bandarban District, for example, follow semi-codified principles of Burmese Buddhist law. See, Susmita Chakma, “Inheritance & Customary Law” in Chittagong Hill Tracts Region Development Plan (1998) (Annexe to Social Dimension Report).

⁷⁰ The Bawm, for example, often use their documented laws in the manner of a formal code of law.

⁷¹ (i) Raja Devasish Roy, “Challenges for Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh” in *Arizona Journal of International and Comparative Law*, 21 (2004):113-182; (ii) Raja Devasish Roy, *Traditional Customary Laws and Indigenous Peoples in Asia* (London: Minority Rights Group International, 2005).

⁷² Raja Devasish Roy, “Challenges for Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh” in *Arizona Journal of International and Comparative Law*, 21(2004):113-182.

⁷³ Ibid.

⁷⁴ Dr. Khyrim Nongkhynri, Professor of Sociology, North Eastern Hill University, Shillong, Meghalaya, India (in an intervention at a Seminar on Development and Adivasis in New Delhi, India on 27-28 August 2009) emphasized on the use of customary law as a vital tool in their interface with the external world.

⁷⁵ For a discussion on this, see (i) Raja Devasish Roy, “Challenges for

Juridical Pluralism and Customary Laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh” in *Arizona Journal of International and Comparative Law*, 21 (2004):113-182; (ii) Raja Devasish Roy, *Traditional Customary Laws and Indigenous Peoples in Asia* (London: Minority Rights Group International, 2005).

⁷⁶ Advocate Susmita Chakma, “Inheritance & Customary Laws,” Annexe to Social Dimension Report, Chittagong Hill Tracts Region Development Plan, Asian Development Bank, Rangamati, February 2001.

⁷⁷ Advocate Susmita Chakma at an Orientation of CHT Lawyers organized by Maleya Foundation and Tebtebba Foundation in Khagachari on 26 September 2009.

⁷⁸ Rule 1, CHT Regulation, 1900.

⁷⁹ Rule 2, CHT Regulation, 1900.

⁸⁰ Rule 3, CHT Regulation, 1900.

⁸¹ Rule 11, CHT Regulation, 1900.

⁸² Opinion of several indigenous lawyers as expressed at an Orientation of CHT Lawyers organized by Maleya Foundation and Tebtebba Foundation in Khagachari, on 26 September 2009, where one of the authors attended as a resource person.

⁸³ Raja Devasish Roy, “Land and Forest Rights in the Chittagong Hill Tracts,” *Talking Points*, 4/02, International Centre for Integrated Mountain Development (ICIMOD), June 2002.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ For a detailed discussion, see (i) Rajkumari Chandra Roy, “Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh,” *IWGIA Document No. 99* (IWGIA, Copenhagen, 2000); (ii) Raja Devasish Roy, “Land and Forest Rights in the Chittagong Hill Tracts,” *Talking Points*, 4/02, International Centre for Integrated Mountain Development (ICIMOD), June 2002; (iii) Shapan Adnan, *Migration, Land Alienation and Ethnic Conflict: Causes of Poverty in the Chittagong Hill Tracts of Bangladesh* (Dhaka: Research and Advisory Services, 2004).

⁸⁷ Raja Devasish Roy, “The Politics of Safeguarding Traditional Resource Rights in the Chittagong Hill Tracts, Bangladesh: An Indigenous Perspective,” paper presented at the Tenth Biennial Conference of the International Association for the Study of Common Property (IASCP), held in Oaxaca, Mexico, on 9-13 August 2004 under the panel discussion on “Challenges of Globalizing Commons and Indigenous Peoples of the Eastern Himalayan Region” (12 August 2004) (unpublished).

⁸⁸ This sub-section includes generous reproductions from the co-author, Raja Devasish Roy’s, “Implementation Status of the Chittagong Hill

Tracts Accord of 1997" (unpublished, Rangamati, 2009).

⁸⁹ The preamble to the CHT Regional Council Act, 1998 reads thus: "Whereas Chittagong Hill Tracts is a region inhabited by backward tribal people and it is necessary to adopt special measures for development of underdeveloped areas; and whereas it is necessary to improve more of the political, social, cultural, educational and economic rights of all people of Chittagong Hill Tracts including the tribal people of the region, and expedite the process of socio-economic development ..." (unofficial English translation). The preamble to the Rangamati Hill District Council Act, 1989 (as amended in 1998) reads thus: "Whereas it is expedient and necessary to enact laws to establish a Council for the overall development of Rangamati Hill District inhabited by different backward tribal people..." (unofficial English translation). (Identical provisions are present in the 1989 laws of the other two hill districts as well).

⁹⁰ Part A, clause 1. In the Constitution of Pakistan of 1962, article 223 recognized the CHT, along with several other places in the then West Pakistan (such as Dir, Chitral, etc.) as "tribal areas." This status was later withdrawn in the context of the CHT in 1964 through the Constitution (First Amendment) Act, 1963. Under the Government of India Act, 1919, the CHT was included within the category of areas called "backward tracts," a classification resulting from the Montague-Chelmsford Reforms. In the Government of India Act, 1935, as a result of the reforms suggested by the Simon Commission, the term "Excluded Areas" replaced the term "backward tracts." After the partition of India in 1947, Government of India Act, 1935 was retained as the provisional constitution of Pakistan until 1956 and the excluded area status remained. Most of the former excluded areas, including the CHT, were re-designated as "tribal areas" in the 1962 Constitution of Pakistan. Then through the Constitution (First Amendment) Act, 1963, the name of the CHT was struck off from the list of tribal areas in violation of the provision that obliged the ascertainment of the wishes of the people of the area concerned by the President, prior to such de-tribalization as mentioned in article 223 of the Constitution.

⁹¹ The Circle Chiefs or Rajas and the Mauza Headmen administer justice in accordance with rule 40 of the CHT Regulation, 1900. Section 8 of the Regulation (as amended in 2003; see following footnote) excludes these matters from the jurisdiction of government civil judges (the civil courts in the CHT "shall try all civil cases in accordance with the existing laws, customs and usages of the districts concerned, except the cases arising out of the family laws and other customary laws of the tribes of the districts of Rangamati, Khagrachari and Bandarban respectively which shall be triable by the Mauza Headmen and Circle Chiefs").

⁹² For a detailed analysis of the 1997 Accord and its crisis of implementation, see Raja Devasish Roy, "The Discordant Accord: Challenges in the Implementation of the Chittagong Hill Tracts Accord of 1997" in Miek Boltjes (ed), *Implementing Negotiated Agreements: The Real Challenge to Intra-State*

Peace, Cambridge T-M-C Asser Press (www.asserpress.nl), Cambridge University Press (UK and USA; www.cambridge.org), 2007, pp. 115-146. See also, Amena Mohsin, "The Chittagong Hill Tracts, Bangladesh: On the Difficult Road to Peace," International Peace Academy Occasional paper Series, Lynne Rienner Publishers, Boulder, London, 2003. See also, Mangal Kumar Chakma, op. cit.

⁹³ See census figures of 1872 to 2001.

⁹⁴ Raja Devasish Roy and Sadeka Halim, "Population Transfer, Minoritization and Ethnic Conflict in Bangladesh: The Case of the Chittagong Hill Tracts" (to be published in 2009).

⁹⁵ In two instances, the parliamentary seat for Khagrachari District (one out of three seats of the CHT region) was held by non-indigenous persons, once in the 1980s and once in the 1990s.

⁹⁶ However, the marginal role of indigenous peoples in their interface with political parties and electoral systems is not a phenomenon peculiar to the CHT, but something that appears to be quite widespread in different parts of the world, even in places with a substantive indigenous population. See: Kathrin Wessendorf (ed), "Challenging Politics: Indigenous Peoples' Experiences with Political Parties and Elections," *Document No. 104* (Copenhagen: IWGIA, 2001).

⁹⁷ Roy, Raja Devasish, 2007. "The Discordant Accord: Challenges in the Implementation of the Chittagong Hill Tracts Accord of 1997" in Miek Boltjes (ed), *Implementing Negotiated Agreements: The Real Challenge to Intra-State Peace*, Cambridge T-M-C Asser Press (www.asserpress.nl), Cambridge University Press (UK and USA; www.cambridge.org), pp. 115-146, at pp. 125, 128-130.

⁹⁸ Ibid.

⁹⁹ John Darby and Roger MacGinty (ed), *The Management of Peace Processes* (Hampshire: Macmillan Press Ltd, 2000).

¹⁰⁰ Darby and MacGinty, op. cit., as cited in Roy, Raja Devasish Roy, "The Discordant Accord: Challenges towards the Implementation of the Chittagong Hill Tracts Accord of 1997," in *The Journal of Social Studies*, 100 (2003):26.

¹⁰¹ Miek Boltjes, "The implementation challenge in intra-state peace processes; an analysis," in Miek Boltjes (ed), *Implementing Negotiated Agreements: The Real Challenge to Intra-State Peace*, Cambridge T-M-C Asser Press (www.asserpress.nl), Cambridge University Press (UK and USA; www.cambridge.org), p. 10.

¹⁰² Raja Devasish Roy, *The ILO Convention on Indigenous and Tribal Populations, 1957 and the Laws of Bangladesh: A Comparative Review*, Project to Promote ILO Policy on Indigenous and Tribal Peoples and ILO Office, Dhaka, Bangladesh, July, 2009, pp. 39, 40.

¹⁰³ These offices include (i) State Minister for Ministry of Environment and Forests, (ii) Chairperson of the CHT Development Board (a statutory development institution), (iii) Chairperson of the CHT Task Force on Refugees and Displaced People, (iv) Chairperson of the CHT Land Disputes Resolution Commission.

¹⁰⁴ Staff Correspondent, "Announce Roadmap to Implement CHT Agreement," *The Daily Star*, Dhaka, 24 November 2003, 3.

¹⁰⁵ Editorial: "CHT peace accord emerging from back burner: fresh approach to implementation on the card," *The Daily Star*, May 22 2009.

¹⁰⁶ Regina Islam, "First Survey, then Dispute Resolution: Chair, [Land] Commission: No Survey before Dispute Resolution: Three Rajas," *Daily Prothom Alo*, Dhaka, 15 July 2010 (<http://www.prothom-alo.com/detail/date/2010-07-15/news/78765>).

¹⁰⁷ Ibid. See also, "Editorial of the *Daily Prothom Alo*," Dhaka, 18 July 2010.

¹⁰⁸ Arun Karmakar, "Parbotto Chukti Shongbidhane Jukto Korar Uddog: Bhumi Commission Ain Shongshodhonei Motoikko" (Initiative to Include CHT Accord in Constitution: Consensus on reform to Land Commission Law), *Daily Prothom Alo*, Dhaka, 23 September 2010, 1.

¹⁰⁹ Naeeme Mohaiemen, "Connecting the visible dots: A post-Accord history," *The Daily Star*, 16 April 2010.

¹¹⁰ Interview of Raja Devasish Roy, Chakma Chief by Hana Shams Ahmed, Himal, June 2010 (http://himalmag.com/Raja-Devasish-Roy_nw4578.html).

¹¹¹ *The New Nation*, Dhaka, 26 February 2010.

¹¹² This section is reproduced from Raja Devasish Roy, "Constitutional Reform and Indigenous Peoples' Rights In Bangladesh – I: Terminology on Identity: 'Indigenous' versus Other Terms," dated September 2010 (unpublished).

¹¹³ *Khondker Delawar Hossain v Bangladesh Italian Marble Works and Others* (Civil Petition for Leave to Appeal Nos. 1044 and 1045 of 2099 arising out of Writ Petition No. 6016 of 2000).

¹¹⁴ Other members include Sanjeeb Drong, Albert Mankin, U Shit Mong and Goutam Kumar Chakma, and through co-option by consent, Mangal Kumar Chakma.

¹¹⁵ The attendees at the 23 August 2010 meeting included Ayne Thein Rakhaing, MP, Sanjeeb Drong, Secretary, Bangladesh Adivasi Forum, Goutam Kumar Chakma, member, CHT Regional Council, Gautam Dewan, Convenor, CHT Citizens Committee, Barman leader and academic, Dr. Dalem Chandra Barman, Garo leader Albert Mankin, Jatiyo Adivasi Parishad leaders Anil Marandi and Rabindranath Soren, Khasi leader Pidison Pradhan

Suchiang and several other prominent indigenous leaders.

¹¹⁶ Most of the meetings of the Constitution Committee (headed by this writer), were facilitated by Albert Mankin. The matrix was drafted by this writer, in consultation with Mangal Kumar Chakma, member of the aforesaid committee, and assisted by Advocate Bidhayak Chakma, Ilira Dewan, Muktasree Chakma Shathi and Pradanshu Barman.

¹¹⁷ Arun Karmakar, “Parbotto Chukti Shongbidhane Jukto Korar Uddog: Bhumi Commission Ain Shongshodhonei Motoikko” (Initiative to Include CHT Accord in Constitution: Consensus on Reform to Land Commission Law), *Daily Prothom Alo*, Dhaka, 23 September 2010, 1.

¹¹⁸ “Implementation of the CHT Accord: Govt gives only assurances: says Raja Devasish,” *The Daily Star*, Dhaka, 26 August 2010.

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Grassroots Impacts of the CHT Accord (1997 to 2009)

By Mamong Thuai Raidang

I. Executive Summary

The Chittagong Hill Tracts is a unique area in many respects from the rest of the country. The geographical terrain, environment, colorful culture and ethnic diversity, governance and administrative structures of the area have characteristics of their own which are dissimilar from the rest of the country. Due to decades of political instability, facilities of development in the area were limited and have been facing a great set back; the area has remained virtually isolated from the rest of the country and the inhabitants were deprived from the benefits of development. The historical CHT Accord of 1997 has opened up opportunities to improve the life and livelihood of the citizens of the Chittagong Hill Tracts. Due to a considerable number of difficulties, however, the accord could not properly fulfill the expectations of the grassroots communities.

This paper intends to provide a snapshot on the impacts of the CHT Accord on the life and livelihoods of the grassroots communities of the Chittagong Hill Tracts region. It also aims to provide perspective from grassroots communities on the ways and means to cope with identified difficulties in order to improve the situation of the region.

The HDCs and CHTRC have not framed any subsidiary laws concerning the customary laws of the indigenous peoples of the CHT.

The Regional Council has not been allowed to function as a legislative body.

The four-party government coalition appointed a Bengali settler as chairman of the CHT Development Board. During the last caretaker government regime, the government appointed the GOC (General Officer Commanding) of Chittagong cantonment to this position. The present government has awarded this position back to the elected indigenous MP of Bandarban district.

There is no indigenization of the administration in the CHT because the provisions on the appointment of Jumma officers and employees have not been implemented. Bengali officers still run the district and sub-district level administration including the executive and chief executive officers' positions.

The DCs of the three hill districts continue to misuse the 1900 CHT Regulation in cases of settlement and transfer of land ownership. They continue to ignore the notification of the Ministry of Land issued on July 19, 1998 and violate the CHT Regional Council and Hill District Council Acts.

The government has made no ordinance, instruction, or notice to be sent to concerned ministries, departments, institutions and local authorities for the implementation of the provision for the CHT Accord Implementation Committee (AIC) and its related clauses.

This matter has not been directly addressed by the Accord although there have been seats in the councils provided for women.

Inheritance laws in the CHT tend to be discriminatory toward women.

The case of Baghaihat was cited where only 40 children attended the government school. The IDPs have established some self-supported schools for their children, but these schools receive no sub-

sidies from the government because schools in the reserved areas are considered illegal. Bandarban also faces similar conditions.

Incidence of dropouts has increased especially among the refugees (as a result of the conflict) because of their meager income.

The Jumma people are given less priority in the formation of the local police force. The PCJSS claims that this leads to the deterioration of peace and order in the CHT. No mixed police force is formed yet as per the CHT Accord.

A Land Disputes Resolution Act was passed in 2001 giving final deciding powers to the chairman of the Land Commission regarding land disputes. This provision, along with some other significant clauses, is criticized by intellectuals and indigenous leaders.

The CHTRC criticized the 2001 Act as giving wide ranging and arbitrary powers to the commissioner and has proposed 18 amendments to the Act.

No legislation has been made to recognize the CHT as a “tribal-inhabited area.”

The HDCs, and CHTRCs have not framed any subsidiary laws for indigenous peoples.

PCJSS also claims that the allocation of the government of Bangladesh to the CHT fund is inadequate for the proposed development projects for the area.

The Jumma people have been deprived of their due shares of development funds.

The Bengali settler-dominated areas get major chunks of the funds allocated for the Chittagong Hill Tracts.

CHTDB is operating its projects, which were designed for the indigenous peoples, in the Bengali settler-inhabited areas. Likewise, all contracts and proposals from Bengali settlers were given priority and approval.

Abuses against women and children are evident and still persist up to this time.

Grabbing of indigenous people's lands and dislocation of indigenous peoples from their own lands persist up until the present term of the government that signed the accord.

The accord was signed with the preamble stating:

Keeping full and answered allegiance in Bangladesh's state sovereignty and territorial integrity in Bangladesh's Chittagong Hill Tracts region under the jurisdiction of the Constitution of the People's Republic of Bangladesh" and the main body of the accord has started with the text "Both the sides recognized the need for protecting the characteristics and attaining overall development of the region considering Chittagong Hill Tracts as a tribal inhabited region (A. General; 1.).

The indigenous peoples are still honoring the preamble commitment, not violating state sovereignty and not opposing territorial integrity. On the other hand, the government has apparently violated the first commitment of the Accord and it has been aggressive on changing the demography of the region.

The government was found insincere in the proper implementation of the Accord. Violations of the Accord by the Bangladesh government have been noticed. The military forces still exercise their power over the overall administration in the CHT. Similarly, grabbing of indigenous peoples' lands by the Bengali settlers and the army continues. Outsiders also infiltrate the area without any barriers.

A significant number of local, national and international development agencies have arrived to assist in development activities in CHT since the signing of the Accord. The programs of these agencies, however, have not gained necessary support from the government which instead created impediments in the development initiatives of these agencies including the activities of CHTDF.

Indigenous activists are also concerned that the Accord is very technical. The implementation plan of the CHT Accord does not include ways of disseminating the contents and making these understood. Many indigenous peoples of the CHT, especially the grassroots communities, therefore, could not know how the accord may be useful in changing the severe situation of indigenous peoples in the CHT.

With this backdrop, a decade assessment of the status of the implementation of the Accord was deemed essential. In general, this assessment is directed toward the promotion of sustainable development and lasting peace in the area. In particular, it aims to identify the constraints in the implementation and compose future strategies for proper implementation of the Accord.

This study is conducted to assess the implementation of the CHT Accord from the perspective of CHT indigenous peoples. This study intends to find the extent of and processes of implementation of the CHT Accord on the development programs, culture, education, human rights situation and ethnic and social equity from the view points of the grassroots communities. Gender issues and concerns are considered as crosscutting issues in the entire study process.

The ultimate aim of the study is to draw out strategies for local, national and international advocacy process to allow for a proactive and effective implementation of the CHT Accord of 1997 including finding ways of educating the Bengali settlers in CHT about the rights and conditions of the CHT indigenous peoples.

II. Introduction

The Chittagong Hill Tracts, situated at the south eastern part of Bangladesh, comprises of three districts—Rangamati, Khagrachari and Bandarban.

The total area of Chittagong Hill Tracts is 13,295 square kilometer. According to the population census of 1991, the total popula-

tion of the area is 974,445. Of the total population, 501,145 are indigenous peoples and the rest are non-indigenous peoples from other areas of the country. The ratio of indigenous and non-indigenous population is 51:49.

The population of indigenous peoples in the three hill districts is divided into as many as 14 indigenous groups, each having its own distinct dialect, culture, custom, practice and rituals. The Chakma, the Marma and the Tripura are the three largest groups. The indigenous peoples, except for the Tripuras, are mostly Buddhist. The Tripuras follow both Hinduism and Christianity. The non-indigenous peoples are predominantly Muslims.

The economy of the area is primarily agriculture-based. Both jum (rotating farming) and plough cultivation are practiced here. Jum cultivation, a traditionally indigenous phenomenon, is practiced at subsistence level and rarely yields marketable surplus. The total arable land is 325,745 acres, of which 108,100 acres are under cultivation. Forests cover 2,423,945 acres, accounting for roughly three-fourth of the total area of the three hill districts. Apart from farming, indigenous peoples earn their living by weaving clothes and making various types of cane and bamboo products.

As a part of drawing out national and local level strategies for advocacy to allow for a proactive and effective implementation of the CHT Accord, this study intends to find out the impact of the Chittagong Hill Tracts Accord on the grassroots communities including means to de-jargonize or de-legalize the Accord to allow for better comprehension; ways to develop and integrate the strategic function of the media and civil society organizations locally and internationally; and approaches to educate the Bengali settlers in CHT about the rights and conditions of the CHT indigenous peoples.

Justification

The signing of the Accord marks its 13th year in 2010. The civil society organizations including the development workers in Bangladesh are very much concerned about the implementation of the

Accord. In the past years, after the signing of the accord, many unexpected incidents like torture, killing, arson, looting, etc. have taken place in the CHT. Notwithstanding a progressive or fundamentalist administration, the government was found insincere in the proper implementation of the Accord. Violations of the Accord by the Bangladesh government have been noticed. The military forces still exercise their power over the overall administration in the CHT. Grabbing of indigenous peoples' lands by the Bengali settlers with direct or indirect backing of the army continues. Outsiders infiltrate the area without any barriers.

Taking these issues into account, an assessment of the status of the implementation of the Accord is deemed essential for the promotion of sustainable development and lasting peace in general and for identification of the constraints in implementing the Accord and future strategies for proper implementation of the Accord in particular.

Objective of the Study

The key objective of this study is to conduct an assessment of the implementation of the CHT Accord from the perspective of CHT indigenous peoples (inclusive of layman-indigenous peoples [non-educated indigenous peoples], women and the minority indigenous groups such as the Khyang, and to find out their views and/or outlook on the implementation of the Accord.

Specific Objectives of the study

1. To find the extent of and processes of implementation of the CHT Accord on the following areas:

- Development programs of national and International agencies;
- Culture and Education;
- Gender and Development;
- Human Rights violations and the oral and implicit agreements related to land grabbing, killing and others);

- Ethnic and Social Equity (including intra-village political conflicts, rivalries, and restrictions of movements of various CHT indigenous peoples).

2. To determine the constraints of the Accord and arrive at policy recommendations for its adaptation.

3. To draw out strategies (national and local/CHT level) to allow for a proactive and effective implementation of the 1997 CHT Accord including means to de-jargonize or de-legalize the Accord to allow for better comprehension; ways to develop and integrate the strategic function of the media and civil society organizations locally and internationally; and approaches to educate or sensitize the Bengali settlers in CHT about the rights and conditions of the CHT indigenous peoples.

Gender issues and concerns are also cross-cutting in all the areas mentioned above.

Limitations of the study

This research is an impact assessment of the CHT Accord from the perspective of CHT indigenous peoples. It is therefore designed to involve indigenous peoples from the Chittagong Hill Tracts. Throughout the development of the concept of the study, indigenous peoples who were/are actively involved in development work as well as in monitoring the implementation of the CHT Accord came together to develop the research concept. After the second meeting, a final draft of the research proposal was produced. However, there was a problem with the implementation plan because many scholars, who committed to be involved, were very busy with a lot of other works and they have finally withdrawn their commitment to conduct the research. As a consequence, there was a need to redesign the implementation plan.

Methodologies Used

Sixteen data collectors from different ethno-linguistic backgrounds were involved in the entire data collection process. They were as-

signed for collecting qualitative data, stocktaking and identifying the present situation of the five study areas. They were given proper orientation by the lead researcher before the commencement of their field activities. There were also some community based volunteers who assisted in the community consultation process.

Necessary data required for the study work was collected both from primary and secondary sources. Written literatures, reports and documents of the Bangladesh government, international commissions and support groups, documents of political parties, newspaper reports, articles and analyses were reviewed to gather a wide range of information on the issues of the Chittagong Hill Tracts Accord and its present implementation status with special focus on the impacts of this accord on the life and livelihoods of the indigenous peoples.

We have collected first hand information from the field through Key Informant Interviews (KII), Community Consultations, Focused Group Discussions (FGDs), Special Tea Party Arrangements with different ethnic, social and interest groups which include the NGOs working in the field of education, micro credit-based NGOs, human rights activists, women's rights activists, political leaders, community leaders, education experts, development experts, government job holders and so on.

Community consultations were conducted with 10 ethnic groups except Lusai to see the impact of the CHT Accord on their life and livelihood. Thirty three Community leaders were commonly interviewed on all five thematic issues. Community consultations were conducted with 10 indigenous groups living in the CHT. The age level of the participants was from 25 to 60. The participants were selected from different levels or classes of the respective indigenous group so that a representative view from each group is reflected.

Fifteen women's rights and human rights activists were interviewed to assess the human rights violation cases. Ten local and national NGO leaders were interviewed individually to see the development activities being undertaken by the actors. Eleven cultural activists were invited to provide their views individually

on the issues of cultural aspects. Six writers and researchers were interviewed to gather expert views on the CHT Accord. Twelve teachers have provided their views on the education situation while six NGO activists have shared their thoughts as they work on cultural issues. Four traditional leaders were interviewed during the course of study.

We have conducted a considerable number of FGDs to collect some specific ideas on the specific issues. The HR activists, NGOs working on education, NGO beneficiaries, cultural activists, UP members, Jumma refugees, NGO field level staff members were the categories of the FGDs. Seven FGDs were conducted within the study period.

We have conducted a review on the available literatures relevant to the Chittagong Hill Tracts Accord of 1997. The reviewed literature include: analysis of PCJSS on the implementation status of the Accord, political view of UPDF on the implementation of the Accord, program document of the UNDP relevant to the promotion of peace in the region, report of Hill Peace Group on the analysis of land grabbing situation of four upazilas in Khagrachari District, analysis of individual experts including Raja Devasish Roy, Bushra Hasina Chowdhury, Eleanor Dictaan Bang-oa, Dr. Salahuddin M. Aminuzzaman, Mr. A.H. Monjurul Kabir, A. K. Zaman, and Eshani Chakraborty.

The reviewed documents provide both political and developmental point of view, and also the point of views of indigenous peoples and lowland people. The most interesting paper we reviewed was one written by women.

The papers provide an analysis of the history of the genesis of the struggle, the responses and reactions to the issue that came to plague the internal politics and security of Bangladesh including the geophysical and demographic setting, the history of the conflict, political responses of the Government of Bangladesh (1972-2001), provisions of the CHT Accord of 1997 and their implementation status, the process of the implementation of the Accord, built-in weaknesses, trends and hypotheses.

Some papers provide an analysis on the status and challenges of implementing the Accord, the subjective perspective particularly of the indigenous peoples in the CHT, causative factors of the Accord's weaknesses, and the functional and textual approach in assessing the progress of implementation of the major provisions of the Accord.

We have also analyzed some exceptional documents which provide the exclusive point of views of lowlanders on the CHT Accord. Mr. A. K. Zaman, among others, provided an analysis on the CHT Accord from a lowland person point of view.

Eshani Chakraborty, a PhD candidate in one of the renowned Universities of Australia, has provided an analysis of the CHT movement from the eye of womenfolk. She traced the track of women's involvement in the entire struggle of the Jana Samhati Samiti (JSS) and tried to show the position of women politicians within the CHT society where she identified a patriarchal treatment to the womenfolk in the struggle. This treatment, she said, is a usual fact in almost every guerilla movement.

There are also some experts who gave the primary data on the views and recommendations of a person who played and continues to play a key role in the Accord. Like the other authors, Mr. Larma takes effort in explaining the historical foundations of the roots of the CHT problem. In their study, which includes a considerable number of statistical data and primary information from the field, Sourav Sikder and Mathura Tripura cited the challenges and directions of the educational system in the Chittagong Hill Tracts. We have also reviewed some important government documents to have a snapshot of the government's point of view on the issues of the rights of indigenous peoples especially the rights to education.

We have likewise looked into the daily newspapers to make a quick search for significant human rights violation cases. Some of the representative cases are cited in this paper.

The PCJSS gave their insights a decade after the signing of the Accord and an initial look at their paper obviously shows they

were not very impressed. According to them, the non-implementation and violations of the Accord as well as the continuous harassment of the indigenous populations have made the situation in the CHT even worse. The publication was meant to respond to the seeming lack of transparency of the government of Bangladesh in reporting the actual status of the Accord within and outside the country. It also aimed to raise support for the proper implementation of the Accord.

Most of the literatures reviewed in this study tackled: rehabilitation status of the refugees, activities of the task force, role of CHTDB and UNDP in the development of the Chittagong Hill Tracts, cultural integrity of indigenous peoples, among others.

We have also reviewed some documents of local, national and international development actors to look at the mandates and processes of their development efforts with an ultimate aim of assessing the relevance of the development initiatives to the CHT Accord.

III. Brief Political History of the Chittagong Hill Tracts

Written history of the Chittagong Hill Tracts before the 15th century is rarely found. Prior to the beginning of the British colonial rule, no clear written history of the region is known to people. It is assumed that before the introduction of formal administrative system by the British colonial rule, the region was under the control of different clusters of indigenous chieftainships, and most of the indigenous peoples used to be clustered under their own chiefs. By nature their life was dependent on jum and other land and forest-based livelihood activities. In the Rajmala, the Bengali Ballad on the chronological history of Tripura Kingdom, it is stated that in 1661, the King of Tripura Kingdom, Raja Govinda Manikya, came to Dighinala of Khagrachari District, together with his subjects and followers, and established temporary settlement.

After staying for three to four years in this area, he went to Arakan Rajya to meet Arakan raj; he stayed there for some years up to the time when he got his throne back. A famous historian, Ramesh Chandra Majumder, cited in his History of Indian Subcontinent that “the Tripura Kingdom was established starting from the bank of the Bay of Bengal in the South up to the bank of the Ganges River in the North, when the name Bengal has not even emerged” (Majumder 1960).

In 1715, Chakma King Jallal Khan established a treaty with the Mughal Nawab and kept the CHT as an independent kingdom up to 1760, paying revenue in the form of karpas (cotton) to the Mughal Nawab. Hence the name of CHT was widely known as “Karpas mahal.”

In 1760, the then Nawab of the Bengal Province, Mir Kasim, in a secret treaty, ceded the three districts of Burdwan, Midnapore and Chittagong to the British. Consequently, the British ruler entered the Chittagong Hill Tracts. The then Chakma chief Jan Bakhsh Khan agreed to pay a yearly tribute in cotton amounting to nine *maunds* (about 350 kg) in lieu of which he and his subjects got access to trade with the plains. The jurisdiction of the Chakma Raja was recognized by the representative of the East India Company at Chittagong, Mr. Henry Vereleest over “All the hills from the Pheni River to the Sangu, and from Nizampur Road (Dhaka-Chittagong Road) to the hills of the Kuki Raja (State of Mizoram, India)” (Majumder, 1960).

In 1777, a general war broke out between the CHT ruler and the East India Company as Ronu Khan, the general of the Chakma King, formally declared war against the British ruler. The war ended in 1787 when the British imposed an economic blockade and forced the Chakma Raja Jan Bakhsh Khan to a negotiated settlement.

In 1787, Chakma King Jan Bakhsh Khan pledged allegiance to the East India Company. The Chittagong Hill Tracts came under complete control of the British East India Company although the British pledged not to intervene in administrative affairs of the region. Hunter (1876) cites, “In 1829, Mr. Halhed, the Commissioner

stated that the hill tribes were not British subjects but merely tributaries and that we recognized no right on our part to interfere with their internal arrangement” (Hunter 1876).

On June 20, 1860, Notification No 3302 separated the hill area of Chittagong from Chittagong district and created an independent district called Parbattya Chattagram or Chittagong Hill Tracts (CHT).

In 1861, Parliament passed the Indian Council Law which recognized the regulations passed by the Governor General or local authorities with regard to areas outside the law’s jurisdiction.

In 1870, the Government of India Act was passed and this allowed the Governor General to amend laws related to “special areas.”

In 1881, Chittagong Hill Tracts Police Regulation 1881 allowed Hill Tracts people to form their own independent police force.

On May 1, 1900, the Chittagong Hill Tracts Manual or CHT Regulation was passed. The area was given exemption from administration as an “Excluded Area” to help preserve minority “indigenous peoples” culture and heritage. CHT was divided into Chakma, Bohmang and Mong Circle. Headmen and Karbari were to act as local administrators. The Manual’s Regulation 34 banned non-hill people from buying or acquiring land in the area.

In 1920 and 1925, the Manual was revised to further enhance the safety of indigenous peoples in the region.

In 1935, the India Rule Law ratified and recognized the validity of the CHT Regulation 1900.

On August 17, 1947 when partition approached, Lord Mountbatten pressured Sir Cyril Radcliffe to redraw his lines over the Chittagong Hill Tracts and several Punjab districts. In the end, Radcliffe assigned CHT to the new state of Pakistan.

On August 15-20, 1947, members of the Chittagong Hill Tracts People’s Association expressed their doubt whether their rights

would be preserved if they were assigned to Pakistan. The Association raised the Indian flag in Rangamati District Administrator's Office. Some leaders of the Bohmang Royal family also protested by raising the Burmese flag in Bandarban.

On August 21, 1947, the Baluch Regiment arrived in Chittagong Hill Tracts and forced protesters to lower Indian and Burmese flags. The regiment then raised the Pakistan flag.

In 1948, the new Pakistan government expressed suspicion over allegiance of Hill Tracts people so it removed the Chittagong Hill Tracts Police Regulation 1881. In fear of their safety, several thousand indigenous peoples sought refuge in India and Burma. Later, when the Indian and Burmese governments attempted to bring international pressure to take back the refugees, the Pakistan government agreed to abide by the 1900 Chittagong Hill Tracts Manual.

In 1950, the Pakistan government settled several hundred Muslim families in Naniarchar, Longdu and Bandarban thereby violating the Chittagong Hill Tracts Manual.

In 1956, the Chittagong Hill Tracts Manual 1900 was ratified in the first constitution.

In 1962, the Pakistan government began to take away the control of indigenous peoples on their area by replacing the phrase "separate ruled area" with "Tribal (Upajati) Area" and making major changes to the regulation.

Pakistan government started building the Kaptai Hydroelectric Dam in 1957 which was completed in 1962. This project destroyed 40 percent of the agricultural land in the region. Thousands of indigenous peoples lost their only source of income.

In 1964, indigenous peoples who lost their lands in the Kaptai Dam project moved to rehabilitation areas of other hill districts. Dissatisfied with the rehabilitation efforts, 50,000 families took refuge in India. Twenty thousand of these refugees were later settled

by the Indian government in Arunachal area. The remaining families settled in Tripura and other Indian states.

In 1971, the Bangladesh liberation war began. Major Ziaur Rahman and his troops escaped to India via CHT with help from indigenous peoples in the CHT area. Hundreds of Indigenous young people including many indigenous leaders like Mong Circle Chief Mongprue Sain, government official Hemada Ranjon Tripura, young leaders Rana Bikram Tripura, Goutam Dewan, Subodh Bikash Tripura, Sanjib Chakma, Aungkyaw Marma, Ranjit Debbarman, Nila Mohan Tripura, Bhuvan Tripura, Priya Jyoti Roaza, Kalachan Debbarman, Gana Chandra Tripura, Bijoy Tripura, Lokonath Tripura, Brajendra Kumar Tripura, and others took part in the guerilla war in favor of the freedom of Bangladesh.

On December 5, 1971, after Pakistani soldiers vacated CHT's Panchari area, non-indigenous freedom fighters killed 14 indigenous peoples. Authorities forbid indigenous freedom fighters when they attempted to intervene.

On January 29, 1972, the newly-independent Bangladesh leader, Sheikh Mujibur Rahman, assured indigenous representatives that they would get their due share of government jobs. On February 15, 1972, representatives of the CHT handed over a 4-point manifesto to Sheikh Mujib asking for autonomy for Chittagong Hill Tracts region.

On April 24, 1972, Manobendra Narayan Larma, member of the parliament, presented the 4-point manifesto to the committee drafting the Bangladesh constitution.

On June 24, 1972, Larma formed a regional political party, the Parbattya Chattagram Jana Samhati Samiti (PCJSS), to champion the cause of regional autonomy.

On February 13, 1973, during a tour to the Chittagong Hill Tracts, Sheikh Mujib declared, "from today, there are no tribal sub-groups in Bangladesh; everyone is a Bengali. I promoted you from tribal/

sub-national (Upojati) to Bengali national identity (Bangali Jati).” Dissatisfaction erupted in the region after this declaration.

In the general elections of 1973, the PCJSS won two seats in the Parliament for Manobendra Narayan Larma and Chai Thowai Rowaza.

In August 1975, the political landscape shifted radically after Sheikh Mujib’s assassination on August 15. Larma went into hiding and the PCJSS formed an armed wing which people started calling as the “Shanti Bahini.”

In 1976, under the leadership of Major Ziaur Rahman, the Chittagong Hill Tracts Development Board was created with the Area Commander of Chittagong Cantonment as chairman. The Board set up a plan to rehabilitate the resettled poor Bengali people in the Chittagong Hill Tracts. Indigenous land was distributed among Bengali settlers, and they also received financial and grain support from the government to cover their basic food expenses.

On May 29, 1977, the Army and Navy in the area were fortified to the extent that the ratio of armed forces to CHT residents is 1:5 with an aim to control the indigenous peoples of the region.

On December 26, 1977, in a direct warning to Shanti Bahini and indigenous peoples, Chittagong Cantonment Area Commander Major General Manzur announced, “We don’t want you. You can go off wherever you please. We just want your land.”

On July 29, 1980, following an earlier closed-door meeting with indigenous leaders, President Zia was quoted in the Guardian (London) as saying “We are doing some wrong there. We are being unfair to the tribes. It is a political problem that is being dealt with by Police and Army action. Yet it can be settled politically very easily. We have no basis for taking over these lands and pushing these people into a corner. We should at least call a meeting of these tribal leaders and ask them their demands.”

In December 1980, the Zia government, after receiving light criticism due to the Kalampati massacre, passed the Disturbed Area

Bill which bestowed upon the Chittagong Police Sub-Inspector and any Non-Commissioned Army Officer the right to shoot individuals suspected of illegal activities and the right to raid any home suspected of storing weapons.

On May 30, 1981, President Zia was assassinated in Chittagong in a coup led by Major General Manzur.

On February 5, 1982, a group of indigenous and non-indigenous representatives led by the President's Advisor on Tribal Affairs, Subimol Dewan, met with President Abdus Sattar. The Sattar regime did not see any further resolution of the CHT problem; the few educational and occupational quotas created under the Zia administration were gradually eliminated.

On July 27, 1982, after coming to power, General Ershad met with three indigenous leaders. He sent Chittagong Cantonment Area Commander Major General Mannaf as his representative to Rangamati.

On October 3, 1983, General Ershad proposed a package deal to resolve the Hill Tracts crisis. Meanwhile, a rift within the PCJSS led to the assassination of Manabendra Narayan Larma in the hands of supporters of rival Priti Kumar Chakma.

In 1984, in their report to the UN Working Group on Indigenous Populations (WGIP), the Anti-Slavery Society of London criticized the Bangladesh delegation's report in the previous year's session. In particular the Bangladesh delegation's claim that "Bangladesh has no indigenous population" was attacked.

In May 1985, the Asian Conference on Religion and Peace held in South Korea presented a report on "The crisis of the Chittagong Hill Tracts" which accused Bangladesh of violating ILO Convention 107 on Tribal and Indigenous Populations.

On October 21, 1985, the first negotiation meeting between the PCJSS and the government took place with promise of further resolution at a second summit scheduled for Christmas. The sec-

ond summit pushed through and rehabilitation of Bengali settlers continued.

In 1986, the first International Conference on the Chittagong Hill Tracts was held in Amsterdam.

On September 19, 1987, some indigenous leaders, in an effort to restore peace to the area, met with General Ershad and resolved to find a political solution to the CHT problem because they opposed the Shanti Bahini's search for a solution through violence. Ershad formulated a National Committee headed by the Planning Minister A. K. Khondokar.

On December 17, 1987 and June 19, 1988, negotiation meetings were held between the government and the PCJSS but these were concluded without any resolution. A 5-point manifesto for regional autonomy was rejected on the grounds that it was unattainable under a one-party government.

In December 1987, the CHT Commission was formed in Netherlands by the UN International Working Group on Indigenous Affairs. The Commission later produced the influential "Life Is Not Ours" report which criticized the Bangladesh government for failing to enter into Peace Talks with indigenous leaders.

On December 14-15, 1988, the sixth summit meeting broke down in spite of the PCJSS's compromise in changing the terminology from "regional" to "local" autonomy.

On February 28, 1989, a bill was passed in Parliament to allow the creation of a local government council in each of the three hill districts with the leadership of a "tribal" chairperson.

On May 4, 1989, the Shanti Bahini launched an armed attack to sabotage the local governments and their electoral process. In retaliation, settlers attacked local indigenous villages, reducing them to infernos. This incident is known as the Longadu Massacre. The martial law government took over the electoral process and it installed its own representatives.

In July-August 1990, the UN Economic and Social Council's Commission on Human Rights (Working Group on Indigenous Populations) reviewed the state of the Chittagong Hill Tracts. The number of Hill Tracts refugees in India was reported to be 70,000.

On December 6, 1990, General Ershad was toppled from power by a popular uprising. In the ensuing melee, a committee of indigenous students staged a press conference demanding the removal of the local governments.

On April 22, 1992, Finance Minister Saifur Rahman, who was at the Bangladesh Aid Consortium meeting in Paris, was greeted by members of European human rights organizations protesting against the Logang massacre.

In May 1992, Amnesty International issued a report on the Logang killings and sent a letter to the Bangladesh government asking for full inquiry into indigenous peoples' deaths.

On May 20, 1992, Gautam Dewan, Chairman of the Rangamati Local Government Council handed in his resignation because he was frustrated over the government's inaction on local violence.

On July 8, 1992, the BNP government presented a bill in Parliament to increase the term of local governments. Despite vehement opposition from indigenous members of the Awami League Party, the bill was passed.

On July 10, 1992, the BNP government, led by Communications Minister Oli Ahmed, formed a committee to resolve the CHT problem. Leaders of the three local governments questioned the legitimacy of the committee because it did not include elected MPs.

On November 5, 1992, the first summit meeting under the democratic government between the PCJSS and the committee ended with no issues resolved.

On December 10, 1992, the International Year of World's Indigenous People began. The event was a catalyst for controversy in Bangladesh as a government Minister declared "Bangladesh has

no indigenous peoples.” The statement was condemned by NGO’s, activists and Jumma leaders. Faced by government inaction, NGOs and civil society organizations in Bangladesh started organizing and celebrating “Indigenous Peoples’ Day.”

In March 1995, the US State Department’s “1994 Human Rights Report” stated that government settlement programs increased the number of Bengalis in CHT from three percent in 1947 to 45 percent in 1994.

In 1996, the Jumma People’s Network of Asia Pacific Australia (JUMNAPA) published a paper reporting on militarization in the Hill Tracts. The report accounted that in 1994 there was one army officer for every 15 indigenous peoples (or “Jumma” peoples).

On June 12, 1996, Kalpana Chakma, a 23-year old human rights activist, was abducted from her home at Lallyaghona village by the members of the Bangladesh Army led by Lieutenant Ferdous.

On June 23, 1996, the Awami League (AL), led by Sheikh Hasina, was elected to power. In the Chittagong Hill Tracts constituencies, AL members won parliament seats through repeated promises of working toward a solution to the CHT crisis.

On September 30, 1996, the PCJSS called a one-month cease-fire to promote discussion with the government. Belatedly, the government formed a National Committee with the aim of resolving the CHT crisis.

In 1997, in the third update of the “Life Is Not Ours” report, the CHT Commission in the Netherlands said “negotiations can be successful only if the traditional systems of land rights in CHT are acknowledged.”

From March to November 1997, Some 12,000 refugees returned to the CHT from the Tripura State of India.

On September 14, 1997, PCJSS Chairman Jyotirindriyo Bodhipriya Larma, alias Shantu Larma, went to Dhaka for the first time since

the beginning of his group's insurgency to begin talks with the government.

On September 18, 1997, after four days of talks, Shantu Larma announced a draft agreement to end the insurgency. Ceasefire was extended until Dec 31. A focal point of the agreement was resolution of disputes over land ownership.

On October 14, 1997, at a rally in Bogra, BNP leader Khaleda Zia accused the government of conspiring to hand CHT over to India.

On October 17, 1997, PM Sheikh Hasina assured the country that the army would not be withdrawn from CHT. She also said "We don't want our people, the citizens of a sovereign country, to stay as refugees in other countries."

On November 1, 1997, in response to calls for making the draft Peace Treaty public, Sheikh Hasina said full disclosure prior to signing may cause complications.

On November 26, 1997, Parbattya Chattagram Jana Samhati Samiti (PCJSS) landed in Dhaka to hold the seventh round of talks with the National Committee on CHT in Dhaka in order to finalize the Peace Accord.

On December 2, 1997, the most awaited CHT Accord was signed between the Government of Bangladesh and the PCJSS in front of the Prime Minister Sheikh Hasina. It was expected that the Accord would finally put an end to the hostilities and conflicts and provide certain specific guarantees on the status and legal safeguards for the region and its indigenous populations while paving the way for future socio-economic development.

In 1998, steps were taken to implement the peace accord reached by the government and tribal representatives. Throughout February, members of the armed opposition group Shanti Bahini (Peace Force) surrendered their weapons in exchange for an amnesty and rehabilitation. In May, parliament passed legislation for the establishment of a regional council granting more political

autonomy to the area. By the end of the year, the last of some 50,000 refugees living in camps in India were repatriated to the CHT.

IV. Ethnic and Social Justice

It was found through the research that there is still a continuous process of population migration from the plains. Due to the continued settlement process, the demographic condition of the region has changed and the process is still continues. It is reported that the people who have come here were brought from rail line, urban slums and coastal areas with many promises of providing them land, shelter, regular food grains, etc. They are used as human shield for cultural genocide in this region. Transport services are regularly provided by the government transport corporation, Bangladesh Road and Transport Corporation (BRTC), to prompt the migration from plain land. As an instance, there are transport services from the hill districts to Kurigram, Bogra, Mymnsigh and other plain districts, which do not have business link or any direct link with the people of the Chittagong Hill Tracts. The current migration process has added many new dimensions to the problems of this region such as the communal clash and mistrust between the Bengali and indigenous peoples starting from the bargaining on rickshaw fare up to the ministerial and other political positions. It should be noted that most of the rickshaw pullers in CHT come from the lowland and they mistreat passengers especially indigenous peoples, and more specifically, indigenous women. There is a movement of Bengali settlers called “Equal or Similar Rights Movement” which was started in the last four-party coalition government with the demands of providing the Bengali settlers similar positions at the ministry, CHTRC and HDC as indigenous peoples enjoy.

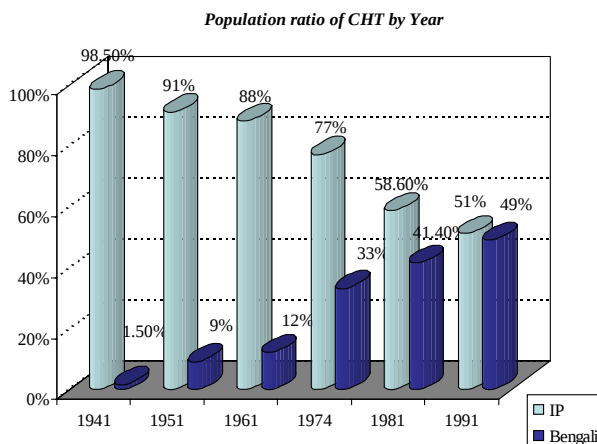
The CHTs Accord urges the government to “give preference to the eligible tribal candidates” in appointing the Chairman of the CHT Development Board (CHTDB). The BNP government however appointed Abdul Wadud Bhuiyan, a Member of Parliament from Khagrachari, as chairman of the Board. Under Bhuinyan’s leadership, the CHTDB has been undertaking settler-oriented develop-

ment programs and the flow of illegal settlers into the CHTs has multiplied. In fact, Bhuiyan reportedly sought to issue orders to provide free rations only to the settlers. When the Deputy Minister for the CHTs Affairs, Mani Swapan Dewan, refused to toe the line on the issue of providing free rations only to the settlers, he was divested of his portfolio although he remained minister. As Prime Minister Khaleda Zia decided to keep CHTs Affairs Ministry under the Prime Minister's Office, which is a clear violation of the CHT Accord, the Deputy Minister for the CHTs Affairs has become a show piece meant for international donors. The present government led by the Awami League, the most liberal political party in Bangladesh, also continued following the footsteps of Khaleda Zia. The present Prime Minister Sheikh Hasina also decided to keep the CHTs Affairs Ministry under the Prime Minister's Office and assigned one indigenous MP as the State Minister under her direct control up until the time when this report was being prepared.

[Both the parties, having considered the Chittagong Hill Tracts region as a tribe-inhabited region, recognized the need of preserving the characteristics of this region and attaining the overall development thereof. ... CHT Accord 1997-(A)1.]

Although the accord (A.1. General) has recognized the Chittagong Hill Tracts region as the "tribal-inhabited area" there is no legislation made to ensure this recognition.

Rather, there is still a process of population transfer to transform indigenous peoples into minority in their homeland. PCJSS has provided statistics of gradual population transfer process in its report to the UN Permanent Forum as follows:



Natural migration of Bengali population in CHT was accepted by the indigenous peoples which took place up to 1974. During the Ziaur Rahman's regime Bengali people were taken in to CHT with the support of state mechanism after 1979. As a result, in 1981 the population structure was suddenly changed. Their population became 41 percent. The Bengali population, which was only 1.5 percent of the total population of the CHT in 1947, has swung to a high 49 percent by now; whereas the population of indigenous peoples during the same period constituted 98.5 percent of the total population has now dwindled to a low 51 percent. It is crystal clear that indigenous peoples are going to be a minority in their own homeland very soon. Following this trend we can easily assume that in the recent census (2001) it must have been the ugliest picture. Perhaps for this reason, the government did not show separate proportion of population of CHTs in the recent census.

In general CHT does not have sufficient amount of land to produce food. Jum is the only and widely used livelihood strategy of indigenous peoples of the region. Jum is also no longer considered as a profitable cultivation system at present and population also increases abnormally. For this reason the socio-economic condition of the local people are becoming vulnerable. All these are negatively affecting the culture and livelihood of indigenous peoples. Land for jum is becoming limited because of demography change.

The Deputy Commissioner of Khagrachari District published a booklet in April 2006 and distributed copies to the ministers, secretaries and donor agencies enclosed in a letter. Both the booklet and forwarded letter treated indigenous peoples of CHT as intruders, terrorists, anti-Bengalis and anti-state culprits. He mentioned in the letter, "In Khagrachari there are mainly three tribes. They are Chakma (28%), Tripura (13%) and Marma (11%). There are some insignificant numbers of Manipuri and Santal here. History says that they all are outsiders. The tribes Kukis found at that time went against the British and were driven away with the help of new intruder tribes. In fact, we are nourishing these intruders with a lot of facilities by depriving the mainstream people." Moreover he quoted in his booklet, "Chakma tribe speaks ill of establishment, dislikes the mainstream people or the Bengali, even takes arms against them. Last of all in 1997 they surrendered arms after signing a controversial pact with the Government of Bangladesh."

The above statements and information of the DC are misinformed, misleading, and ill-motivated.

[...and the tribal officers shall be given preference for appointment to this post...CHT Accord-13]

[...The Government shall maintain the quota system for the tribals in respect of government service...CHT Accord-10]

Quota for indigenous peoples in government services is not maintained properly. According to the quota system of the government, indigenous peoples are supposed to be provided with five percent quota. This provision is yet to be implemented in the Civil Service (BCS) recruitment process.

In clause 34 (b), the CHT Accord provided the responsibility of recruitment and management of local police force as part of functions and responsibilities of the HDCs among others. It is ironic that the Jumma people are not even given priority or special quota system in the recruitment of the central police force. The PCJSS claims that this leads to the deterioration of the peace and order situation in the CHT. The recent incidents in Baghaichari and

Khagrachari prove that there is now an alternative of forming a mixed police force in the CHT region as the Bengali-dominated police and military forces could not remain neutral during communal attacks committed by Bengali settlers on indigenous villagers.

Since the 1980s, the communal harmony in the area has been destroyed when the extreme Bengali communalism was raised under the direct support of the state mechanisms for grabbing indigenous peoples' lands and making them microscopic minority groups on their own homeland. There were no reports of major conflicts between the permanent Bengali residents and indigenous peoples in the past because they have lived here since the British period. But since the 1980s when the state supported communalism started, the permanent residents have started to join the Bengali settlers. There was a good day in the past when we enjoyed the social harmony between the Bengali permanent residents and the indigenous communities. We used to enjoy both the festivals of the Bengali and the festivals of the indigenous peoples together. But at present, we always need to take special measures before celebrating any festival because there were many incidents of genocide in the CHT which were conducted by the Bengali settlers with the direct support of military forces during or close to the BwiSaBi festivals, i.e., the Logang Genocide, Maischari Incident, Mahalchari Incident, etc.

All the genocides and the incidents of other human rights violations occurred with the ultimate aim of grabbing the land of indigenous peoples and make them minority in their own homeland. The incidents usually start from very minor issues. It can be started from the issue of rickshaw fare or issue of collecting fire wood or issue of harvesting jack fruit. These issues resemble dramas written by one specific stylish drama writer. The incidents start from a minor issue and end with a tragedy like killing people and raping women, and eventually some Indigenous men must be arrested with an accusation of being involved in all the entire incidents. And after all these sequential events, the hired media personnel go to the incident areas and broadcast news saying "the indigenous peoples tried to grab the land of the Bengali people who hold legal documents of the land and consequently the Bengali

people protested. For this reason, communal clash occurred and the military forces controlled the situation. In this case, there is no other way but to keep the presence of the military in the Chittagong Hill Tracts to keep the peace and harmony among the CHT peoples.”

It is perceived by the respondents that the crisis of the CHT can be minimized if the government has real commitment to establish peace in the Chittagong Hill Tracts. If the government shows its commitment in the process of establishing peace in this region, then the indigenous peoples will also come forward to participate in the process. Only the sincere implementation of the CHT Accord can pave the way toward a solution of the increasing crisis in the region.

The Chieftainship or Kingship is the traditional institutional structure of the Chittagong Hill Tracts. After the Accord of 1997, the indigenous peoples of the region became hopeful to strengthen their traditional administrative system and other social institutions. They hoped that these institutions will regain the dignity of the golden age and will be able to play vital roles in the social development as they did in the past. It was also expected that only the Rajas (Circle Chiefs) will be the authority regarding the issuance of Permanent Residents Certificate in this region as they are very much relevant with the issues of permanent residence. It should be noted that the Circle Chiefs are the only authorities in land allocation and land revenue issues at the grassroots level and their authority is also acknowledged by the Acts and Regulations of the government.

The General Secretary of a community-based organization in Khagrachari said that the Deputy Commissioners come in the Chittagong Hill Tracts as government employees. Since they are not permanent residents in this region, they misused the authority of issuing certificates to the permanent residents. They continuously misuse the rules and regulations relevant to the land allocation, land transfer and certificate of permanent residents. In doing these, they ignore the CHT Manual 1900, the CHT Accord 1997 and other relevant acts and regulations.

All the respondents agreed that the Circle Chief should be the authority to issue certificate of permanent residents.

There have been no major incidents of conflict between indigenous peoples, but there is some mistrust in terms of leadership delegations or seat distribution at the local councils. All ethnic groups should have proper representation at the councils. Distribution can be done in terms of selection of leadership and/or number of representative. Representatives should be selected by the respective community not by the powerful people or ruling parties or ruling class people.

The small ethnic groups have some allegations against the Chakma indigenous peoples because they hold most of the political and other important positions. The respondents both from small ethnic groups and Chakma scholars agreed that the leading positions of CHT institutions like the MoCHTA, CHTRC and HDCs should be distributed among the indigenous groups as much as possible. The system established in these institutions is perceived as “numerical democracy” as the seats are distributed according to the number of population of the Indigenous groups of the region. The respondents suggested all ethnic groups even with two thousand population should also be given opportunity to send their representative to the local institutions. There are some dissatisfactions observed from the responses of the small ethnic groups’ leaders. One respondent from the Chak indigenous peoples said “only a representative from a specific indigenous peoples can raise the issues of her/his community properly because s/he is familiar with her/his own issues. Present seat distribution of CHTRC and HDCs has created mistrust among the indigenous peoples.” They urged the Chakma scholars to come forward and promote the rights of the small ethnic groups.

Most of the communities consulted are not satisfied with the present status of the implementation of the CHT Accord. Most of the respondents are not aware about the clauses of the Accord. Their expectations from the accord are not fulfilled up to this time. Some of the smallest ethnic groups like the Khumi do not even know about the leadership of HDCs and CHTRC. They said that

sometimes they heard that the Chairman and members of the HDC were changed, but they have never seen them physically. Mro indigenous peoples are not satisfied with the clauses of CHT Accord on the shared membership system. They share one seat with Tanchangya at the CHTRC, where one Tanchangya leader is representing them. Mro indigenous peoples are victims of land grabbing. Their lands are occupied by the military authority for the establishment of a military training center. They are struggling to protect their land. Khyang indigenous peoples has one independent seat in Rangamati Hill District Council, but they share this with the Marma in Bandarban Hill District Council. In CHTRC, they share one seat with four other indigenous groups. The small indigenous groups are generally not satisfied with the sharing system of membership seats at HDC and CHTRC.

Chak indigenous peoples, who are now fully dependent on wetland cultivation, are only 3,000 in population. They are also not aware of the contents of the CHT Accord. They are satisfied with the decision on the chairman position of CHTRC and HDC as these positions are kept for indigenous peoples, but not satisfied on the shared system of seats of membership where the most minority groups are always deprived. Pangkhua indigenous peoples living in Bangladesh are about 2,000 in number. Migration of this ethnic group to India is very high. They shared in the consultation that before the CHT Accord (1972-1997), they used to pay subscriptions to one party only, now they are compelled to pay many parties (JSS, UPDF, HWF and their student and youth wings, and some outlawed arm groups). They are even compelled to pay taxes for their domestic animals and goods like goats, cows, solar plants, etc.

People are becoming individualistic; they do not care about collectivism any more. Everyone in the society is busy with her/his own business. Younger generations are forgetting to honor their parents and elders. Collective dances are not performed anymore. Relationships between the Jummas living in rural and urban areas are no longer kept strong. Literate people are not going back to their communities.

In response to the question on inter-ethnic group conflicts, all of the consulted ethnic groups said that there are no major conflicts between the ethnic groups. Sometimes, some minor conflicts are raised on the issues of natural resources and jum-land. Most of such conflicts are mitigated by arbitrary mechanism at the local level. Local traditional and people's representatives like Karbari, Headman and UP (Union Parishad) leaders play vital roles in mitigating the local level conflicts.

The major portion of land of CHT is at present occupied by Bengali settlers; the second largest portion is in the hands of the Chakma; third with the Marma; and the others are in the hands of other smaller indigenous groups.

The HDCs are very much politicized as they are politically appointed. Development projects of HDCs are not equally distributed. The appointed leaders are perceived as corrupt; and they are accused of abusing their position and misusing government resources.

According to article 68 and 69 of the CHTRC Act, CHTRC can formulate special rules and regulations as required. Customary laws need to be codified in this process by the CHTRC. The codification of the customary system could be the entry point of realizing the social integrity of the indigenous peoples in the CHT.

The list of voters is not properly prepared according to the provisions of the CHT Accord. Non-permanent residents including men in the army are also included in the voters list. This inappropriate measure causes vulnerability among the indigenous peoples in their own homeland. For all these reasons, the government is also not able to conduct the election of the HDCs.

The CHTDB is not able to play its role properly. Its activities are conducted communally. The coalition government has appointed a Bengali settler as the Chairman of the Board who misused the resources of the Board for his own political gain.

The CHTRC is also not able to play its role. This council does not have any subsidiary laws concerning the customary laws of the

indigenous peoples of the CHT. This council has not been allowed to function as a legislative body.

Indigenous leaders can not play their roles. They are also somehow controlled by the military authority. If any leader does not follow the instructions of the military authority s/he faces difficulties in playing her/his role at the respective institution. The CHT Accord is also not implemented because of the same cause.

There is a clear discrimination between the Bengali settlers and indigenous peoples. The government is providing food ration and other facilities to the Bengali settlers but not providing any such physical support to indigenous peoples. For this reason, the Bengali settlers are taking control over the business and other economic and political positions of the region while indigenous peoples are becoming poorer. The indigenous peoples have also suffered economic and political discrimination. Almost all of the indigenous families are internally displaced during the period of political instability. They should have the support of the government to recuperate their displacement. But ironically, only Bengali settlers are being provided with regular food ration.

The respondents were asked about the food rationing system of the government. All the respondents except one Tripura scholar said that the food rationing system is one of the most significant reasons which encourage the Bengali settlers to enter the CHT. While they remain in the area for the food rations, these settlers also engage in grabbing lands and commercially extracting forest resources for their own profits. In their pursuit of these ends, they oftentimes violate the human rights of indigenous communities. The food rationing, which has been regularly given since 1981, has also attracted vulnerable Bengali families in the plain lands to move to the CHT. They even bring their relatives from the plains to this region and enlist them under the ration facilities.

On the other hand, the internally displaced indigenous families are not provided with any support. Among the indigenous peoples, only repatriated refugee families and ex-combatant families are getting regular rations although the agreed package is not yet

fully implemented. Similarly, the land and homestead of returning Jumma refugee families are not returned. Some of them are rehabilitated in other indigenous peoples' land.

The Bengali families themselves are also victimized by the state mechanism. They were motivated to come to the CHT with a package proposal which includes five acres of hilly land with entitlement and regular food ration. During the last mission of the CHT commission, most of the Bengali families who grabbed lands at Baghaihat expressed interest to go back to their home district if they were provided with proper support. One respondent who is also one of the leaders of the Forest and Land Right Protection Movement provided one example of the general thoughts of the Bengali lay persons living in CHT. Once they organized one workshop with the Bengali settlers to harvest their thoughts on the issues of relationship between Bengali settlers and the indigenous peoples. He said "most of the Bengali settlers like to live together with indigenous peoples in peace and harmony. They even like to go back to their home districts if it would be proven that the lands they got are the property of indigenous peoples. But when they were sharing these thoughts, they requested the organizers to put the record off." This statement implies that they are restricted to express their thoughts to others.

[The following sub-section shall be added to section 4: "Whether a person is a non-tribal or not and, if so, which community he is a member of, shall be determined, subject to his producing a certificate from the concerned Mouza Headman/Union Council Chairman/Municipality Chairman, by the concerned Circle Chief and without a certificate in this connection being received from the Circle Chief, no person shall be eligible as a non-tribal to be candidate for the post of a non-tribal member".... CHT Accord- B. 4. (d)]

Certificates of permanent residents should be provided by the circles because the circles are the proper authority for the issuance of certificates of permanent residents. Headmen are victimized by the government departments by providing land registration to the Bengali settlers. According to the CHT Regulation 1900 and the HDC Acts, headmen are the recognized authority to recommend all land registration processes in the Chittagong Hill Tracts. But headmen are prohibited by the government to provide rec-

ommendations for land registration. On the other hand, they are compelled to provide recommendations to the Bengali settlers.

Indigenous peoples do not hide their age during the listing of voters, but the Bengali settlers do. All non-permanent Bengali residents including military soldiers and policemen of the Chittagong Hill Tracts are included at the voters list.

There are many implications of the clashes between the Bengali settlers and indigenous peoples. The most significant implications are as follows:

The most significant human rights violation committed by the Bengali settlers who are backed by the military is land grabbing. Most of the clashes in the region started from land disputes.

Bengali intruders are not familiar with the culture of collectiveness and social values of the indigenous peoples. When they find women as active citizens in socio-economic affairs, they encounter cultural shock and this causes them to misunderstand and mistreat women's presence in these situations. As a result, they commit abuses that endanger the lives of indigenous women. Abduction, rape, and forced marriage are the most significant forms of crimes committed by Bengali settlers and military personnel against indigenous women.

The life of indigenous peoples is not secure everywhere in the region. Even the life of a popular leader can become vulnerable in the CHT. Ranglai Mro and Shakti Pada Tripura are some of the most remembered victims of such a precarious situation. Both indigenous men and women are not safe in the CHT. Mr. Jatindralal Tripura, ex-chairman of Hill District Council of Khagrachari and present MP, for instance, was attacked by a young Muslim activist at the market place in Khagrachari.

All types of businesses are controlled by the outsiders. Indigenous peoples do not get fair prices on their products. Business centers run by indigenous peoples are always the target points of Bengali settlers. In any incident of conflict, the settlers directly attack these businesses.

There are many implications of demography change. One respondent cited a case of misuse of power by the military authority. A military soldier dared to forcefully marry a married indigenous woman. Her husband went to court to file a case against the soldier, but he did not win as he did not have any paper of marriage registration. On the other hand, the military soldier had a paper prepared by a Muslim mullah called “kabin-nama.”

The following implications of demography changes were identified as the most significant ones:

1. Indigenous peoples became marginalized in their own homeland;
2. Biodiversity is decreased as land use pattern, nature of extraction of forest resources and distribution of land for each citizen is decreased;
3. Mistrust between Bengali people and indigenous peoples has increased;
4. Pollution of water and other natural resources became alarmingly high;
5. Cultural practices and livelihood of indigenous peoples are endangered.

Misuse of Certificates provided by the DC

The General Secretary (who did not want to disclose his name) of one community-based organization in CHT had some practical experiences in dealing with a case of fake certification of a Bengali settler which was issued by DC. As he described:

once I followed a case of false certificate of a non-resident. Say his name is Yasin, son of Md. Iajuddin. He is not a permanent resident in CHT, but he has a certificate issued from the DC office because he used the name and address of one of his relatives with the same name (Iajuddin) who has stayed in the CHT for some years. This person from the plains, who is a son of Iajuddin, therefore used the name of another Iajuddin to receive a certificate from the DC. He simply misused the links of relatives who reside here. In this process, this man hid

information from the local administrators and received a certificate by showing false evidence.

In addition, he said that this system of deceit is somewhat easy to do because “Bengali people have very little number of names so their names are similar to each other.” He said further that “as the bureaucrats come from the plain land they do not know the local people. If they thoroughly investigated the cases, they would have identified the real story of hiding real information. Compared to the outsider administrators, local traditional leaders like the headman and the Circle Chief know everyone in the area. For this reason they are able to identify the real residents of the region.”

Citing this example, the General Secretary validated the provision in the CHT Accord which recognizes that only Circle Chiefs will provide the certificate of permanent residents. However, the Deputy Commissioners are also providing certificates to the residents. We should understand the difference of these two types of certificates. DCs are not able to identify the permanent residents without the help of the headmen and Circle Chiefs. As Circle Chiefs have the mechanism of identifying local people, they should be the only authority to provide certificates.

Sometimes the district and upazila administrations are also involved in this type of illegal activities. They support the Bengali settlers in cheating the indigenous peoples. Eventually, indigenous peoples are deprived of job and education opportunities given by the government.

The General Secretary urged that traditional administration systems be strengthened and indigenous leaders be empowered to provide the certificates so that the indigenous peoples can avail of the opportunities entitled to them. Rajas should provide the certificate as they know the number of villagers and their land ownership. It should be noted that the headmen are responsible for the revenue of land and the social affairs of the Mouza.

Hla Aongshu Marma, a Headman with Nightmares of His Future Generation

Hla Aongshu Marma, S/o Late Labrachy Marma, aged 60 is a headman of Choungrachari Mouza of Mahalchari. He accounted that:

under the rules of law especially according to the Chittagong Hill Tracts Regulation 1900, I was empowered to supervise all the land related affairs as a Headman. Besides I collect the revenue of land once in a year from the land owners. Among the affairs I am to supervise in any area, the affairs pertaining to land property are the most important among them. My livelihood is wet-land cultivation. I have been living in this area for many years with my relatives and hereditary properties that have an everlasting bond with our own culture. In this area, it seems that we and nature are made for each other, but the people of this region have been ruined due to misfortunes suffered by the land and culture. The social environment of the village has been largely changed compared to any other time. I am really disappointed with this present situation. The poor villagers are far from proper education because there is only one government primary school.

A cluster village of Bengali settlers was placed in 1980 by the Bangladesh government in a location which is only two kilometers far away from our village. We had many arable and hilly lands near this cluster village. We cultivated these lands and got plenty of harvest. The basic needs of our families were sustained well by these harvests, but the settler Bengalis often damaged our harvests of the cultivated lands by tending their domestic animals and birds during the cultivation period. Any sort of solution has not been possible in spite of our requests to them on those matters in various occasions. Instead, they attacked us and the army has backed them all the time.

Though I am a Headman, I am unable to find any solution to land disputes because I am not given any sort of assistance and authority from the government. Besides, the villagers were attacked by settler Bengalis in 1995 and I was also physically injured.

Since their settlement, the settler Bengalis have tortured us mentally in addition to damaging our harvests. Thus, many inhabitants of the village have been compelled to rent out their lands to the Bengalis due to inability to cultivate these lands which were cordoned by the Bengali settlers' huts. The Bengalis started to think themselves as the owners of the land and they did not want to return the land to the indigenous peoples. In this way the lands have become the cause of discords between the indigenous peoples and the Bengalis. There are a number of instances when the indigenous peoples were compelled to sell their lands to the Bengalis at a cheap price. I, for one, was compelled to sell some acres of arable land at Tk.22,000 in 2002-2003 to Md. Badsha and Md. Joynul who took advantage of me with their deceitful contrivances. It was beyond our imagination in the past that we have to sell our lands to the settler Bengalis because of having no other means. I am now an aged person and at this age I fear what awaits our future generations.

The Chittagong Hill Tracts Accord

What follows are the views of the different ethnic groups on the implementation of the Peace Accord.

The Bawm

The Bawm have been living in this region for a long time. They were directly affected in the armed movement in the CHT because their homes are located at international border areas (Mizoram and Chin Hill-Arakan). Most of the Bawm engage in jum cultivation and other related agriculture. These people have unanimously supported the CHT Accord, but after 10 years, they regret having signed it because they claim to have not seen a significant implementation of the provisions. As a consequence of unmitigated poverty and looming threats, many of these people are illegally migrating to Mizoram State of India every year.

In the consultation meeting with the Bawm which was conducted in Bandarban with eight male and two female participants, we gathered that discrimination of their group is one among several issues which underlie their objection to the CHT Accord. For one, they noted that there is unequal representation in the CHT institutions. In the process of forming the hill district councils to rep-

resent six indigenous communities, only one member came from the Bawm. The Bawm participants are also frustrated with the seat distribution at the Regional Council. They said that it will not be wrong if they call it “Chakma Council” because majority of the positions are held by Chakma people. The Bawm consider the Regional Council as a symbolic institution which is supposed to play a special role in protecting the rights of all hill people. Following this rationale, the Bawm claimed that the interests and rights of specific communities cannot be protected if these do not have representation in the Regional Council. The frustration of these participants swelled even more when they cited that the existence of Bawm people in Rangamati was denied. As a result, no seat for a Bawm representative was given at the hill district council in Rangamati District. In addition, the Bawm, Pankhua and Lusai communities at Bandarban Hill District got only one seat to represent all these three ethnic communities. They also cited that majority of Headmen are from the Marma community in Bandarban, Chakma in Rangamati and Tripura in Khagrachari. A small portion of Headmanship is also occupied by permanent Bengali residents. As a result of their underrepresentation, the Bawm participants said that they have not been able to fully know about the activities and pursuits, if any, of the CHT institutions. Bawm leader Zuam Lian Amlai also added that “as the representatives of local government institutions, traditional leaders, headmen and circle chiefs are from other communities, we see partialities in favor of their own community people most of the time so conflict arises for this reason.”

In addition to unequal representation, the Bawm also noted inequality in the distribution of resources and employment opportunities among the indigenous peoples in the CHT. They pointed out that majority of the land area in the CHT is occupied by Chakma people and they similarly hold the majority number of seats in government jobs just because they are more advanced than other communities in terms of literacy rate. For the same reason, most of the indigenous leaders are from the Chakma community too. The Bawm participants think that the receipt of majority positions and benefits because of advancement in literacy and population by a single community is unfair. They complained that their community will not be able to advance if they are not

given the same opportunities. In this regard, they suggested that the CHT Accord should have provisions which will ensure that big groups do not monopolize affairs in the CHT. In relation to this, the Bawm participants indicated ill favor toward the “numerical democratic legislation” which is the system used in the selection of chairmen in the HDCs and CHT Regional Council. They think that this system is prejudiced against a small indigenous group like theirs.

With regard to traditional leadership, the Bawm find this as the symbol of tradition and heritage. They consider this as having many traditional and customary values, but they sense that in real life, most of the traditional leaders are corrupt. They then consider that the leaders should be elected by the people in order to ensure accountability and to make all the local institutions public-centered. According to the CHT Manual; however, there is no scope of election for the Circle Chief and other traditional positions; the Manual provides that these are lifelong positions. The Bawm participants wish to modify this system. They complained that the Circle Chief of Bandarban is completely detached from the people due to physical illness. He has been conducting administrative activities through his representative/s so it seemed to the Bawm respondents that he has little possibility to properly supervise or monitor concerns and activities.

One other serious issue which the Bawm raised as ground for their objection to the CHT Accord has to do with its failure to address unstable law and order situation in their area. They said that their community suffers from attacks, looting of homes, abductions, extortions and many other human rights violations in addition to big conflicts that usually arise from disputes on land ownership. The participants said that in cases of quarrels on land ownership with the neighboring indigenous groups, steps are taken according to traditional systems. Particular areas are identified through the headman who determines Tengkhong or occupied land which is still found in areas inhabited by the Bawm. The participants pointed out, however, that these traditional systems are ignored, for instance, by the forest department of the government which has occupied the land owned by Bawm communities for planting trees.

Also, the Bawm community has been dispossessed of their lands by the construction of many army camps. They recounted that in 1980, Kersatsnang para, Uipum para (now Model para), 343 No. Alekhyong Mouza, Lunglei para, Rikhiyang Ral para (now Munrem para), Pandong Khamtang para and 341 No. Paikhyong Mouza villages were evicted by the army. Similarly, the villages of Tangchangya and Tripura people who were living at the adjacent areas of the Bawm community were evicted by army personnel in 1978 and 1980. Villages of Tangchangya communities such as Ramna Para, Mahendra Para, Alekhyang Aga Para, Tarachha Aga Para, Agara Para, Bil Para, Sukru Moni Para, Suranga Para, and Khyang Tangchangya Karbari Para and villages of Tripura community people such as Sadhu Chandra Headman Para, Narai Para, Thongkhiyong Para, and Rai Chandra Tripura Para were also evicted.

The participants recalled that up to the 1980s, the indigenous peoples were the owners of the lands. This time, however, they are living at the condensed areas of the forest department. They are yet to see significant changes in alleviating this situation. Because they see the controversies in land ownership, the Bawm elders are worried that they will not be able to ensure land ownership to their descendants. The Bawm people follow traditional rules in terms of land ownership so they face some difficulties in applying the old rules under the process of land registration in the present modern system of land ownership. By virtue of its registration systems, the government may also give ownership of supposedly Bawm land to any person or organization at any time. In such case, the Bawm community's traditional land management system will be lost forever.

They therefore consider the traditional ownership system as an effective process for the well being and survival of the Bawm people because they have their own social code of conduct on natural resource management. They also have social policy on the utilization of the natural resources surrounding the villages. According to the policy, nobody can cut bamboo, wood or any sort of trees at certain periods of time. If any one violates this policy, there is a system for punishment like exclusion of the person or family from

social affairs. Villagers can use the resources of this community's forest reserve only for household needs.

In the perception of the Bawm participants, the land-related problems are usually created by the government's mechanisms which ignore traditional customary laws. In traditional jurisdiction, judgment is based on the ground reality and equity. But in government legal process, the problems are resolved based on hearing of statements and showing of objects by the witnesses. This process wastes a huge amount of money and time and in many cases, people do not get justice. Due to the tedious and unreliable legal process, the Bawm people, oftentimes to their disadvantage, have been generally avoiding the government legal courts until the present and yet the CHT Accord or its institutions have not been able to look into this problem as with the others already enumerated.

Despite their general disappointment with the CHT institutions, the Bawm participants did mention that there have been some services from the HDC, albeit inadequate, which were helpful to the villagers. Among these was the provision of one Gazi tank with a capacity of 1,000 liters by the Bandarban HDC. They also noted some employment and development activities of the same HDC like recruitment of teacher positions and construction of churches, roads and culverts.

The Chak

The Chak, whose population is around 3,000 live only in Nakhyangchhari upazila. They have been living in their paras for about 300 years. They share similar characteristics with other indigenous communities but they differ in some respects. For instance, some traditional practices like land management system is absent in this community. Though most of the families are dependent on land-centered livelihood and forest product collection like the other groups, there are only a few jum cultivators among them because they have been dependent on plough-land cultivation for years.

The Chak participants said they know about the CHT Accord, but they do not have a clear concept on its consequences because

they do not know the exact provisions included. They claimed that no one went to them to explain the clauses of the Accord. As a result, they somehow think that the clauses may be discriminative otherwise the regional political parties would have come to explain the clauses to them. They observed that after the Accord was signed, the regional political parties, in fact, became inactive and this, for them, was not a sign of triumph for the indigenous peoples.

As a general impression on the Accord, the Chak stated that they have not seen any significant change in the overall situation of the CHT because of the CHT Accord. But despite this pessimistic opinion, they nevertheless said that they are happy to see that the positions of chairmen in CHTRC, HDCs, CHTDB and the minister in MoCHTA are reserved for indigenous peoples. They also noted that the (HDCs have conducted some development activities for the community like construction of roads and religious structures even if there are no such visible activities undertaken by the Regional Council.

During the open discussions on the issues regarding seat distribution at the HDC and Regional Council, their resentment about this matter was notable. They did not agree to accept any other provisions except for the concern of making the position of the chairman exclusive to an able person from the indigenous community. It was further observed by the Chak that among the three institutions in CHT (HDC, CHTRC, Circle Chief), the HDC is more active than others, but these three do not coordinate or cooperate in the development activities in the region. The institutions in the CHT, the Chak said, should work together to address the dissatisfactions of small indigenous groups in the region. They should know the socio-economic conditions of all indigenous groups so that they can properly plan for appropriate actions.

Like the Bawm participants, the Chak participants reacted strongly against unequal distribution of seats in the institutions of the CHT. They observed that the Chakma keep higher positions in the CHTRC and in the HDCs compared to representatives of other communities and they suspect that this is perhaps because the precursors of the Accord were Chakma leaders. In addition to

government jobs that are occupied by many Chakma individuals, they noticed that there is also a separate seat for Chakma women in the CHTRC and this arrangement is not acceptable because the privilege is not given to all groups. They therefore urged the Chakma leaders to rethink the apparent exclusiveness of positions in governance. They request the Chakma leaders to revisit the Accord and make more space for participation and representation of all indigenous groups regardless of population size.

In relation to proper representation, the Chak leaders criticized the present election process of the HDCs. They indicated that the election of HDCs should be conducted as ethnic based voting. They want that an individual indigenous group will vote only for its own representative; the members of a particular group should not vote for a councilor from another indigenous group. They believe that if all indigenous groups vote for all indigenous representatives, then the candidate may not take specific care for the interests of her/his own people.

Aside from representation, the Chak participants also raised that the protection of their human rights and property rights is a very important provision which the CHT Accord should emphasize. They said that their land at the Nakhyangchhari area is being illegally occupied by outsider Bengali settlers every day. These settlers set up rubber plantations and horticulture activities that displace the Chak people whose complaints against the infiltrators are often disregarded by administrators who favor the Bengali settlers. To avoid such unfair treatments, the Chak participants said that provisions of the CHT Accord should underscore good governance and positive political will in the implementation of the CHT Accord.

Pursuing the subject of good governance, the Chak respondents added that administrators should be sensitive to cultural practices like those which relate to resolution of conflicts through traditional arbitration system. For the Chak villagers, they bring their cases to the Karbari and Headmen and these cases are solved by these traditional leaders. Aside from conflict resolution, the Chak people also used to practice many traditional cultural rituals. Previously they observed “village closing” or work-free days

three times in a year to give time to the earth to rest. They also practiced a ritual called “Arma” which is a thanks giving ceremony to the goddess of wealth and food while they harvest. All these practices are now on the verge of extinction because the Chak cannot keep their village closed due to regular visits from outsiders like the Bengali settlers and the BDR.

As a final note, the Chak respondents mentioned that, compared to other small groups, the rate of literacy in their community is quite remarkable. Having said this, however, they admit that many children still suffer from difficulties in having themselves educated due to poverty, distance, unawareness, and linguistic barrier, among other reasons. The schools in Chak inhabited areas also have insufficient number of teachers and facilities. They hope that with the proper implementation of the Accord together with the initiatives of NGOs like Hopebridge, Asha, BRAC, Padakkhep, Grameen Bank and IDF which are working in the area, this concern on education and other such pressing needs of the Chak people be addressed.

The Chakma

The Chakma is the largest indigenous group in the CHT in terms of population. The Chakmas are mostly dependent on Jum cultivation, but some also engage in wetland cultivation. Some work as day laborers in rural areas but a significant number of them are involved in government and non-government institutions. The Chakmas are the most educated people in the Chittagong Hill Tracts and for this reason; they hold the most important positions in the region.

The consultation with the Chakma was attended by NGO activists, civil society members, retired government officials, karbari, headman, UP members and chairman, teachers, and researchers. These Chakma participants have mixed opinions on the effectiveness of the CHT Accord. Most of the participants opined that the Accord has provided a basis for the resolution of the political crisis in the Chittagong Hill Tracts, but some said that the clauses of the Accord were not that strong so the government is reluctant in implementing of the Accord.

The Chakma leaders are not satisfied with the progress of the implementation of the CHT Accord. They think that the HDCs and the CHTRC have failed to fulfill their mandates and to assert their authority as per the provisions of the CHT Accord. The Chakma leaders criticized the CHT Accord especially for its failure to address the issues of women and not providing enough space for women in the CHTRC and HDCs. The Chakma leaders also agreed with the sentiments of other groups that all indigenous groups should be provided with equal representations in the CHT institutions. They pointed out that they have one Circle Chief in Chakma circle which is constituted with Rangamati district and part of Khagrachari district.

In their further assessment of the CHT Accord, the Chakma leaders disapproved the present practice of selecting the leaders of the HDCs from the government. They believe that this system jeopardizes the welfare of indigenous peoples because the leaders, being outsiders, are inclined to pay no attention to the people's well being. The Chakma leaders demand for the immediate election of the HDCs according to the respective clauses of the CHT Accord. After having the HDCs elected the CHTRC can also be reorganized.

Since the start of the movement for the Chittagong Hill Tracts, the Chakmas have been active leaders. Because of this, they were at the forefront of suffering when the state-backed population migration started. From 1978 until the present, whenever any chaos or conflict emerges in CHT, the Chakma villages are always the initial targets. The leaders therefore hope that the provisions of the CHT Accord provide more emphasis on the safety of their community.

The Khumi

The Khumi have the least number of population in the CH T. According to the 1991 census, their population is only 2,000. The Khumi people are dependent on Jum cultivation, fruit gardening and other forest-based activities. When they were informed that they will be asked some questions on the issues of the Chittagong Hill Tracts Accord, they wondered if their response will have any value because theirs is only a small community. The Khumi par-

ticipants further showed pessimism when they said that in the past, one HDC member was selected from their community, but from then on, they only heard that new Chairmen and Members were selected because these officials have not gone to see them. They do recall that the Chakma Circle Chief came to their village once. He said that a building for the development of the Khumi will be built. That building is now being constructed with the support of HDC, but the Khumi said they do not know exactly what development will come to their lives through this building.

As minority group in the CHT, the Khumi feel that they are vulnerable to discrimination from the bigger groups. They observed that the leadership positions in the area are occupied by Marma individuals. They also said that due to general lack of literacy in their community, they are not able to express their thoughts and demands to the authorities so they simply proceed with their own individual affairs. In view of this, the Khumi people want amendment of provisions in the CHT Accord to give equal representation and opportunities to all CHT indigenous communities despite population size. They think that the unequal distribution of seats in the CHT positions will lead to bitter rivalry among the indigenous peoples and the settler Bengalis may take advantage of the situation to illegally gain more properties or the government may use this as basis to cancel indigenous peoples' rights.

The Khyang

The Khyangs have been living in Rangamati and Bandarban since time immemorial. The Khyangs, who number around 3,000, still use their own language which is not known to any other indigenous group in the region. Because of the influence of neighboring majority indigenous groups, the Khyangs are losing their cultural practices. The names of Khyang individuals, for example, imitate Marma patterns; only their last names are distinctly Khyang.

Like the other indigenous groups, the Khyangs are not happy about sharing the CHTRC councilor seat with five other indigenous groups. Likewise, they think that their group may never hold Chairmanship of the CHTRC and the HDC. They also pointed out that the Circle Chief is a Marma whom they call "Raja" but

they, his subjects, are from many indigenous groups like Khyang, Khumi, Marma, Chakma and many others. They wondered why indigenous groups do not have their own Raja. They want all the indigenous groups to have their own representatives in various levels of political and traditional institutions otherwise; they think their voice will always remain unheard. They also want the chieftainship to be democratized so that they can elect the Raja by direct participation of all citizens. In addition, they do not want the government to nominate or appoint council leaders based on political background because they perceive this practice as the cause of these official's inaccessibility to their constituents.

In contrast to their disappointment about unequal representation, the Khyangs are pleased with certain provisions of the CHT Accord. They said that they do not need to report to the military authority anymore as they used to be required before the CHT Accord. They also received some development projects like support on pig and goat rearing in 2006. Although they think that no one from their group will ever get to the high positions in the CHT, they think it is a positive sign that Bengalis cannot occupy these positions.

The Marma

The Marma group has the second highest number of population in the Chittagong Hill Tracts. Marma people have been living in their present areas for 200 to 300 years.

Their main livelihood activities are lowland agriculture, jum cultivation, and gardening. Compared to the other groups, the Marma are particular about protecting their culture and tradition and they believe that Buddhism, their religion, enables them to do so. Two Circle Chiefs among three in the CHT are led by Marma representatives. Likewise, Marma individuals hold the biggest number of Headmen position in CHT.

The Marma participants are happy about clauses of the CHT Accord which recognize the CHT as the domain of indigenous peoples and ensure indigenous representation in the local government institutions like the CHTRC and HDCs. But similar to other groups, they also have issues about the selection of leaders in

these institutions. They remarked that the HDCs are being run by selected or appointed chairman and members. As a result, the present HDC leaders are implementing the agenda of the government instead of promoting the interests of indigenous peoples. The HDC leaders do not seem to be responsible to their constituents probably because they were not elected by the people. The Marma participants want this system changed and they suggested that election may bring an effective pro-people council in the CHT. Election should be conducted as community representation system, i.e., respective indigenous peoples will vote for their own representatives. The Marma participants believe that aside from making leaders accountable to the voting public, an election will also arrest the possibility that the government or the Bengali settlers may misuse majority votes to elect representatives who are their allies.

Still pertaining to accountability of leaders, the Marma participants commented that the Circle Chiefs need to be more democratic and just. They said that the processing of certification to permanent residents by the Circle Chiefs is a good practice because it protects the rights of indigenous peoples in the region, but some Circle Chiefs abuse their authority by according favors to illegitimate individuals seeking for this document. They cited further that in cases of land ownership claims, some Headmen do not even know the pertinent processes involved although they are supposed to recommend all relevant documents of land registration. The ignorance of these Headmen, over and above the corrupt tendencies of government bureaucrats, enables some enterprising outsiders to secure fake documents of land ownership. All these deficiencies in the part of leaders in the CHT are considered by the Marma participants as significant causes of unmitigated land grabbing by Bengalis in their area like in the villages of Lama, Alikadam, Naikhyonchari. To illustrate the severity of the situation, they exclaimed that in some areas, the measurement of land awarded to Bengali outsiders in official documents (supposed to have been secured through dubious means) is more than the actual physical size of the land area. They further said that before the signing of the Accord in 1997, the Bengali settlers grabbed land discreetly, but thereafter, their cheating and assaults have become outright. In addition to taking lands, the Bengali settlers

even call a hartal or blockade during religious and cultural festivals of the Marma.

While at this issue of violence from outsiders, the Marma participants also pointed out that their community suffers from unreasonable military restrictions aside from the fact that no military camp in the area was withdrawn. In most of the areas in Bandarban, any type of vehicle is forbidden to run after 10 p.m. Even in emergency cases, permission is still needed from the military authority. Moreover, permission is also required from the government and military authorities to establish a temple, to organize a festival or to hold cultural programs thus the religious, cultural and social affairs of the community are hampered. The Marma participants are disappointed because the CHT Accord has not been instrumental in preventing situations like these.

The Mro

The Mros belong to the second majority indigenous group in Bandarban District. They claim that their population is 60,000 although the statistics of the national population census shows less than this. The Mros have been living in their present villages for around 200 years. They are mostly dependent on jum cultivation and gathering of forest resources. For about 20 years, some Mros have engaged in fruit gardening because they no longer consider jum cultivation as a profitable livelihood.

The remarks of the Mro participants echo the sentiments of the other indigenous groups, especially the minority ones, on the apparent inequality in representation of indigenous groups in CHT institutions. They are not satisfied with the seat distribution system at the CHTRC because in this regional institution, they share seat with the Tanchangyas and at present, the representative comes from the Tanchangya group. They also made the same observation about the dominance of Chakma and Marma individuals in higher level leadership positions and even in government and non-government jobs. They share the same supposition with the other groups that the Chakmas currently enjoy certain privileges because their group led the armed movement prior to the signing of the CHT Accord. They reiterated the others' call for an evenly balanced representation and distribution of opportunities.

Admitting that the literacy rate in their community is low, the Mro participants are wary that their lack of knowledge about the provisions of the CHT Accord and the government's legal procedures and processes especially in land registration, may be exploited by dishonest parties. Their fear is intensified by their dissatisfaction with the attitude of the government which they claimed to have occupied their land for the establishment of cantonment and training centers for military forces. They also accounted that some government officials and Headmen have decided against the Mro's interest in some arguments on land ownership. Some NGOs too, they said, have taken some Mro lands for commercial gardening. They said they want to demand for the return of their lands, but they do not know what measures to undertake. They said that it is in this matter, in addition to the alleviation of their poverty and the protection of their human rights, that they want much help from the CHT Accord.

The Pangkhua

The Pangkhua, having a population of 2,000, according to the government census in 1991, is one among the minority indigenous groups in the CHT. They have lived in Rangamati District since time immemorial. The Pangkhuas are dependent on Jum cultivation, fruit gardening, turmeric and ginger cultivation and other land and forest based activities. During the independence movement of Bangladesh, the Pangkhuas took refuge in Mizoram State of India. Some of them also left Bangladesh during the Shantibahini movement.

Having suffered the harsh consequences of political conflict, the Pangkhua participants' overall assessment of the CHT Accord as an unsuccessful piece of legislation is hardly surprising. The participants recalled that during the movement of the PCJSS, the Pangkhuas left their villages and settled in other places as internally displaced families. Because of the Accord, the Pangkhuas thought that they will be able to go back to their original villages and get proper support from the government. But the relevant task force is still not able to provide support to them.

Contrary to a peaceful and nurturing community which they expected as a result of the CHT Accord, the Pangkhua partici-

pants said that the political situation in their community is worse than how it was. They consider the internal political conflict as a major hindrance to the development of the Pangkhua grassroots communities. A community leader Mr. Kiplal Pangkhua cited a particular case of the conflict. He said that during the Shantibahini movement, the Pangkhuas paid contribution to one party and there was opportunity to discuss the amount due. After the CHT Accord was signed, however, the Pangkhuas have become uncertain of what to expect from political parties. He said they are now compelled to pay tax to more than two political parties for rearing even one cow or goat or for making a solar plant. Adding up to his discontent is his observation that there seems to be a conflict between the CHTRC and Circle Chief. He noticed that if the Circle Chief initiates one activity, the CHTRC, through its political party PCJSS, mobilizes people to move against this activity.

Although war time is over, the Pangkhua said that they still suffer restlessness due to widespread looting and grabbing of lands. They are also subjected to heavy restraints which are not negotiable. There are many routes where people can not move after 6 p.m. In Kaptai and Bilaichari, people can not move even on foot after 6 p.m. The military authority imposed this rule in 2008. In any case of emergency, moving from one place to another still requires proper permission from the military authority.

The Pangkhuas are trying to get hold of some initial papers of land registration through the Karbari and Headmen of their areas to protect their land rights. They hope that they can ensure the property rights of their descendants through this but they may move to India and reside there permanently if the authorities and the CHT Accord completely fail to address their urgent needs.

The Tanchangya

The Tanchangya people have been living in their present localities for more than 50 years. Their livelihood is mostly jum cultivation, but around 10 percent of their population do plough land cultivation and fruit gardening.

Not different from the other groups that were consulted, the Tanchangya participants to this study said that, on the whole,

the CHT Accord has not brought any significant effect for their welfare. They too spoke of the common observation on unequal representation among the groups besides the apparently undemocratic system of choosing leaders and the non-coordination of the CHTRC, HDCs and Circle Chief in some development initiatives which are minimal compared to actual needs.

The notable sentiment of the Tanchangya had to do with their struggle against the forest department and military authorities aside from the Bengali settlers. In the recollection of the participants, the villages of the Tanchangya such as: Debachhara, Ruru Para, Mahendra Khyang Para, Protik Karbari Para, Chamukchhara villages and others were evicted by military forces from 1978 to 1980 supposedly to curb the Shantibahini movement. In 1980, the army evicted more villages in the name of rooting out terrorism. The lands lost to these military operations, however, were not returned to the Tanchangya owners and instead were later occupied by Bengali settlers. Even more families lost their lands with the construction of the Kaptai Hydroelectric project without getting proper compensation.

Wishing to emphasize their tale of distress, the participants continued that about three fourths of the Tanchangya population lives near forest reserve areas. They have been living there for a long time even before the areas were declared as forest reserves, but this time, they are being made to appear as villains who take advantage of forest resources. There are many cases filed against innocent villagers accusing them for cutting trees and bamboos from the forest reserves. To the Tanchangya then, the check posts of the forest department do not seem to be there to protect forest resources but to serve as surveillance units which, more often than not, disable a peaceful day to day conduct of affairs by the community members. In the name of protecting forest resources, the forest department harasses the local villagers by prohibiting access to private owned tree planted areas and making obstacles in jum cultivation. For example, a Tanchayanga man named Binoy Chandra Tanchangya has been jailed due to preparing land for jum cultivation adjacent to the forest reserve area. With candid emotions, the Tanchangya participants exclaimed that if indeed the CHT Accord were intended for the protection of the CHT in-

digenous peoples, then they should not be suffering from these misfortunes anymore.

The Tripura

In terms of population size, the Tripura is the third majority group among the indigenous peoples of the CHT. The Tripuras have lived in Khagrachari since the 12th century and in Bandarban since the 18th century. Some subscribe to Hinduism while some follow Christianity and Islam. Because of their newly found religion, the Christian and Islam converts have stopped performing their cultural practices and they have changed their names according to the patterns of the new religion.

When the participants of the consultation were asked about their general opinion on the CHT Accord, they said that “Tripuras are hundred percent supporters of the CHT Accord, but the PCJSS leaders never recognized the role of Tripura people in the movement of the CHT. They are called to join only during election or political events.” By saying thus, the Tripuras again identify with the recurring sentiment of most indigenous groups that power sharing (and all its inbuilt consequences) in the CHTRC and HDCs is inclined to privilege big groups do the small ones will likely remain marginalized. They cited that they currently experience such marginalization because the HDC Chairmen of Khagrachari and Bandarban are Marmas. There is no Tripura representative at the HDCs at present even if the Tripura is the third majority group in the region. It was pointed out as well that the positions of the Chief Executive Officers in CHTRC and HDCs were supposed to be fulfilled by indigenous individuals, but no example has been set so far in any of the three HDCs because the government has always appointed Bengalis to these positions.

To diffuse what they perceive as concentration of power, the Tripura respondents who also want democratic elections suggested the following ways to distribute works among the local institutions:

1. The Circle Chief will work for the establishment of social equity through enforcement of customary law;

2. The HDCs will provide support to the grassroots communities on education, health and other important issues;
3. The CHTRC will provide policy direction to the implementing agencies and coordinate their works through directing them towards specific goal through establishing proper relationship with all the relevant actors.

The Tripura people are also not alien to issues of displacement by Bengali settlers and exploitation by local civil and military bureaucrats who accept bribes from the former in exchange for all necessary (but unlawful) favors for the acquisition of properties in the CHT despite the detriment of the Tripura residents. In 1981, many villages in Gomati union of Matiranga upazila and in Panchari and Latiban union of Panchari upazila of Khagrachari District, and from 1984 to 1985 in Sona Chandra Para, Lengdong Para, Hasram Para, Ziramong Para, Satram para, Chandramoni Para, Siret Para, Milang Para, Uttorong Para, Manikchandra Para, Mongbaiya Para, Rungjoyang Para, Rangsing Para of Bandarban District were evicted by the Bengali settlers and military forces.

Some Tripura families filed cases of land grabbing, but they were not able to pursue these due to insufficient money to pay official fees and bribes to the respective officials. Though some families have been able to sustain the hearings of their cases, they are presently in dire need of resources to push through with their legal battle.

V. Gender and Development

Women in the CHT are prey to multi-dimensional marginalization in terms of ethnicity, religion, class and gender. The indigenous women of the CHT belong to the poorest section of the country. Being female members of such a vulnerable group, the CHT women stand out as the most marginalized in the society especially because their gender contributes to further marginalization. All the 13 different ethnic groups residing in the CHT are by and large patriarchal. Even though the public-private dichotomy is not very

sharp in these societies as women usually take part in outside economic activities alongside men, they have very little access to decision-making roles especially in the formal political arena. The formation of Parbattya Chattagram Mahila Samiti was the first political involvement of Indigenous women in the formal political movement. The organization became the agent of politicizing women and giving them a voice through their participation in the national movement.

[There shall be 3 (three) seats for women in every Hill District Council. One third (1/3) third (1/3) of these seats shall be for the non-tribals... CHT Accord- B. 4. (a)]

Women in CHT do not have any remarkable position in political, social or economic fields. They are ignored in the structures of special local government systems such as in the Hill District Councils (HDC) and in the Chittagong Hill Tracts Regional Council (CHTRC). The provision of women representation in the HDCs has not been fulfilled since its establishment. Information on the allocations for the development of women under the programs of HDCs and CHTRC are not properly disseminated among the women rights activists and their organizations. Grassroots women rarely have the opportunity to receive the allocations. We can only expect some positive actions from the government if any good government takes the roles in the country. Good government does not mean that the government played positive role only at the national level but also at the upazila and union level. Establishment of good governance is only possible if there are progressive people at all levels of public serving bodies in the country.

Seats for women in the councils are also not sufficient. There should be clear opportunities for women representation in the councils. As the HDCs are presently formed and reformed by the government as "Interim Council" women rarely get any opportunity for a seat. The commitment level of the HDC leaders is also very low as they are not elected. Being devoid of social commitment, they engage in grabbing state resources and corruption.

This matter has not been directly addressed by the Peace Accord although there have been seats in the councils provided for women.

The government has not assigned any woman councilor at the HDCs though this chance is provided by the CHT Accord.

Inheritance laws in the CHT tend to be discriminatory towards women. The HDCs could not come up with concrete decisions on the customary laws of indigenous peoples.

In the last decade, the governments rarely played positive roles for the women of the CHT. The last government even reviewed the Women Development Policy in 2004, a legal document which does not reflect the expectations of women in the country. Indigenous women did not have any position in this policy so we demand special provisions for the women of CHT in this legislation.

NGOs are trying to support the women's rights activists and their organizations. Some government officials also support advocacies for women's welfare. Indigenous women should have specific spaces in the national policies and programs.

In the reserved seats for women parliamentarians, there is no specific provision for the CHT women. The CHT region is always collapsed with one of the plain districts and as practice one representative from the plain land district is always nominated for this seat for a female parliamentarian. Sometimes, politically nominated representatives can not fulfill the role in favor of the local communities and the rights of indigenous peoples.

Cases of violence against women are rarely disclosed to the media because the voice of women's rights workers is not valued by the wider society. If the roles of activist women are recognized in the society, they will be able to stand for the oppressed and deprived women.

Women have the capability to be leaders so their potential should be recognized. They should be valued and empowered to lead independently. No political pressures should be placed on women leadership. Women should be included in the HDCs, CHTRC and MoCHTA.

Because of limited opportunities, the women councilors of the CHTRC are not able to play properly the function for the realization of women's rights. In the HDCs, since the start of the nomination system, women have not been selected or involved in the council. For these reasons, both of these councils do not have any example of favoring women in their activities. Issues of women are not regarded properly by these councils although they have legal obligations to address the issues of women's rights.

Women have peculiar ways of thinking and a man can never think as a woman does on issues of women. For this reason, women should be provided with special space in every stage of governance. Fortunately, the government has taken a significant decision to include one position for women as Vice Chairman in the Upazila Parishad.

Women are coming ahead in the field of education. In the last decade, the rate of literacy of women has increased. Parents are more aware now about providing education opportunities to girls. Women are pursuing higher studies in the capital and in other mega cities. Women are also gradually being valued in the society. Women are usually pushed to wear traditional clothes so men should also do the same.

The number of early marriage among indigenous girls in the rural areas is high. In some areas domestic violence occur regularly. Women rarely get inheritance rights. In the CHT, only Marma women have some inheritance rights. Most of other ethnic groups do not have these rights because they are usually considered as non-permanent family members. The respondents had varied responses on the issue of women's rights to parents' property. Seventy one per cent of the respondents think women should have inheritance rights fully; twenty nine per cent said the inheritance rights should be partial. Another group of respondents thinks that women should not have the right to property inheritance property or that this right should be withdrawn if she gets married to a non-indigenous person.

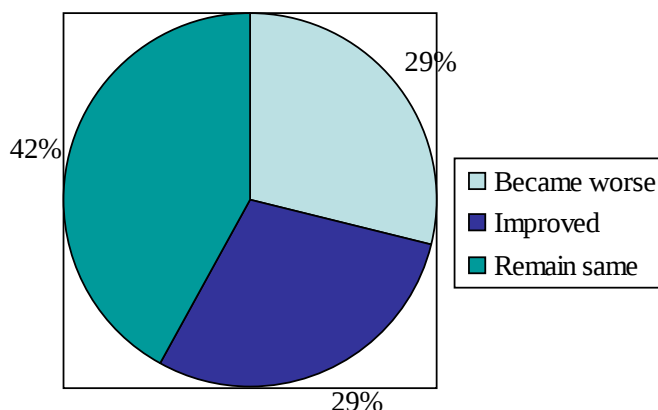
NGOs are trying to empower women in the region. Women have become more aware because of the works of NGOs. Women are now claiming for inheritance rights.

Unfortunately, women are not safe or secure in the CHT. Women are victims of eve teasing, verbal abuse, physical harassment and sexual violence from policemen, military soldiers and Bengali settlers. Sometimes, they are also harassed by their Bengali colleagues in their workplaces at NGO and government offices. One Marma girl was raped by her Bengali boss at her office in Padakhep, a national NGO mainly operating a micro credit program. The perpetrator was immediately arrested by the villagers but he got a bail out from jail within a very short time.

It was reported by a respondent that indigenous women are not safe in any place, at any moment where Bengali settlers are neighbors. He reported that in Baisari Union of Bandarban District, one indigenous woman who was crossing a rubber garden on her way home, was gang-raped, brutally killed and disposed by Bengali garden works. This case is a proof that women's security in the presence of Bengalis in the CHT or perhaps even elsewhere is not certain. On the other hand, respondents who come from rural communities where no Bengalis reside said that they have not experienced any security problem with women.

Some cases of human rights violation on women were brought to court but these were not properly handled. Decisions on most of the cases were influenced by military authority and communal political parties. For instance, the rape case of Maischari was brought to court and the rapist was immediately arrested by policemen. He was sent to jail but he likewise got bail within a short time and thereafter the case had no further progress. Medical tests on this rape case were also controlled by the military authority. Earlier, the doctors mentioned that they found all symptoms of rape in their tests, but in the end, they said no such indications were found. Apparently, the doctors were threatened to retract their prior statements.

Perception on VAW situation after the CHT Accord



Forty three percent of the respondents believe that after the CHT Accord, the cases of violence against women increased. Military soldiers and Bengali settlers are involved in these types of violence. On the other hand, 29 percent of the respondents think that after the Accord, cases of violence against women decreased because the media became more active in covering and advocating against this crime. Still 29 percent of the respondents strongly believe that the situation became worse. One Bawm activist shared that in the recent past, three Bawm girls were gang-raped by the military soldiers in Bandarban; one of the girls died because of excessive bleeding. The villagers could not report this incident because the village is located in a remote area where residents do not have means of communication with the town center and they live in the village next to the military camp.

The respondents said that Durber Network, the national women's rights activists' network is actively working for the rights of indigenous and non-indigenous women who are victims of any type of violence. Some local political parties and human rights activists are also actively supporting the movement of women against violence. The women's rights based organizations usually organize workshops, seminars and other information dissemination activities in response to violence against women. NGOs

are not involved or not allowed to engage in rights-based activities.

To report any type of violence against women, victims and their supporters usually go to the local administration and the police station. The police stations usually do not accept cases against military personnel and BNP or Sama Adhikar Andolan (similar rights movement) activists. Cases of domestic violence are mitigated at the local customary courts.

Some indigenous peoples like the Mros do not allow disclosing any case of violence or sexual abuses against women because they perceive that disclosing these types of cases may destroy their social values and unity; the victim may also become labeled in the community.

During the Freedom Movement of Bangladesh, indigenous women were scared of both the *pathans* (the Pakistani force) and the *muktibahini* (freedom fighters) because pathans used to come in search for muktibahini members while the muktibahini came to find traitors. In general, women's roles and sacrifices in the liberation struggle are neglected. Not surprisingly, hill women's sacrifices and sufferings are completely ignored even if about 400-500 hill women are known to have been violated during that period (Mohsin 2003). Mohini Tripura recounted her story of rape by the Pakistani army for the first time in public more than three decades after the incident. Although many people were aware of her rape, she publicly revealed her plight alone without mental or material support. (For details of this case see Mohsin 2003, 62-64). The silencing of Mohini's sad story is typical of the patriarchal social construct where raped women are usually stigmatized and silenced.

In every incidence of ethnic violence, women likewise become victims of rape and other physical harassment. In 2003, during the Mahalchari incident, eight indigenous women were raped by Bengali settlers who were backed by the military. In 2006, during the Maischari incident, two minor girls were raped by Bengali settlers. In 2009, just before the celebration of World Women's Day, a 3-year old Chakma girl was raped by another Bengali perpetrator. Most rape cases are not disclosed to the media. Those that

make it to the media and taken to legal procedures are nevertheless not properly handled.

Despite serious offenses taken against some of them, indigenous women have had significant contributions in the Jumma People's Movement. Through the PCMS, and later through the Hill Women Federation, the indigenous women have played vital roles in the movement. After the Accord, women have also increasingly participated in social mediation even if the mediations are still influenced or dominated by men. They, however, are not properly valued and recognized for their work in the society.

During the guerilla movement, the women were not enlisted as combatants nor were they provided with arms for self-protection in the face of army raids or any unwanted attacks by the army or Bengalis. They were instead prepared as reserve personnel in case of necessity during the struggle. This very nature of training evokes the recurrent concern of discussions on women's role in armed guerrilla struggle; they are mostly accommodated in such groups in auxiliary or secondary roles (Goldstein 1993). Contrary to the popular discourse of war that considers true heroism in fighting and martyrdom, the treatment of women in armed movements reflect the notion of women as weak, passive and peaceful.

Candid Comments of Women on CHT Accord

The data collection team has organized a consultation meeting with female government job holders to collect their opinions on the impact of the CHT Accord. When they were asked about their expectations from the Accord, they enumerated the following:

- Allocation of sufficient funds for overall development and improvement of communications systems that consider the special characteristics of the CHT region;
- Provision of adequate public services, especially education and health services, for all indigenous communities;
- Production of enough number of skilled human resources (like medical and engineering practitioners) among indigenous peoples;

- Execution of all public services with the active participation of local level public leaders;
- Decrease in child and maternal mortality rate;
- Education for all people of the region;
- Building of hospitals in every union;
- Availability of pure and safe drinking water to all citizens of the CHT.

The respondents identified the increase of NGO initiatives in the CHT as a result of the CHT Accord. At present, there are many NGOs working in the remote villages of the CHT. These NGOs were rarely found in these areas before the CHT Accord. Because of the NGO initiatives, a good number of job opportunities are created and the livelihood status of residents is improved. NGOs mainly operate programs in line with capacity development and awareness raising in the communities. NGOs can now move from one place to another to interact with grassroots communities.

Asked about negative impacts of the CHT Accord, the respondents said that “NGOs make people dependant on them. Because of their activities, distinctions are created in the community. This happens because some NGOs are not sensitive to the genuine participation of the most deprived members of the community during the planning and implementation of their projects. Voices of this vulnerable group are not heard or not taken care of in the planning process because NGOs exercise a numerical democratic process which means that the decision of the majority is carried; in this process, the sentiments of poor people who belong to the minority are not considered.” In addition to their negative comments on some NGOs, the participants also opined that public services in the CHT are still inaccessible to the people as these were before the CHT Accord.

The participants were also asked about what they thought were impediments in the implementation process of the CHT Accord. They said that the government does not have a proper plan of implementing the Accord in different sectors. The existing plans of the government are not applicable to the CHT region because

these plans do not recognize the special needs of the region. Communications, for instance, cannot reach the grassroots communities because some villages are still not accessible by road, but this situation is not factored in the implementation plans.

Women workers, particularly the health and family planning workers, and school teachers who need to travel to remote areas are not secure. Those who need to cross Bengali villages are always anxious of possible danger. Women who work in offices with Bengali colleagues are not secure in their work places as well. For instance, one Marma girl was raped by her Bengali colleague at her Padakhep office. There are many similar cases filed in local offices and national NGOs. Despite these cases that indicate lack of safety among workers, there are no visible government plans to address security concerns.

In addition to risks in their security, lower level workers are always deprived of proper facilities and incentives. The health and family planning workers and schools teachers are hired by the government during national camps on health and other important issues, but they do not get any benefit from participating in these camps. The allocated amount as TADA for this type of event is distributed among the higher level officials at the upazila and district level.

The participants further cited that poor communities are not able to avail of public services because they cannot afford to go to the service centers. Though there are satellite visits or mobile clinic services, the poor people do not get the services just the same because they have no money to travel to the venues.

Government services too, in addition to being inaccessible to the poor, are run with outdated systems and equipment. The office systems, for example, are done manually. As a consequence, people do not get efficient and effective services through modern facilities and technologies.

The participants suggested that the government take immediate actions on the following issues in order for it to prompt the implementation of the CHT Accord:

1. Consolidate local institutes and provide these with authority to plan for their own activities;
2. Give training to the service providers on the modern technologies of development fields;
3. Provide public services to the grassroots communities and ensure proper participation of grassroots communities in the planning and implementation process of relevant programs;
4. Develop infrastructures especially road connections to every village of the region;
5. Implement NGO activities in coordination with local administration and communities;
6. Strengthen traditional administration in facilitating the entire service providing interventions in respective areas.

VI. Education and Cultural Integrity

According to a recent study by ADB, only 56.8 percent of CHT indigenous children aged 6-10 years are enrolled. Among these enrolled children, 60 percent drop out in early primary years (ADB 2001). This dropout rate is almost double the national dropout rate. The respondents have identified several causes behind the high dropout rate and other education related problems in the CHT. These are: poverty, illiteracy of parents, difficult geographical terrains, language barriers, irrelevant curriculum, insufficient number of skilled and committed teachers, rigid government guidelines in establishment of schools, lack of necessary support from the government and political instability.

In relation to poverty as cause of dropout cases, the participants said that many families cannot afford to send their children to school. Given limited and usually less profitable livelihood like jum cultivation, these parents cannot even meet the basic needs of their family. Oftentimes, they require help in the collection of daily food for family members so they bring their children along in this task. As a result, the children miss class meetings and their ir-

regular attendance often lead to loss in momentum and concentration to proceed because of being left behind in the lessons tackled. It does not help that most parents in the CHT, especially in the remote areas, have not gone through formal education. For this reason, they are not aware about the importance of education including their responsibility to have their children educated.

To make matters worse for school children, the peculiar geographical terrain of the CHT poses some difficulty to their access to schools. In hilly areas, for instance, children may take well over one hour to negotiate a two-mile distance on foot. They cannot be helped by vehicular transport because these are not available; besides passable road networks are not in place.

Another important cause of dropout cases in the CHT is language barrier. According to national practice, the national language, Bangla, is used as medium of instruction in basic education. Because the CHT communities speak languages that are distinct from Bangla, this language is foreign to them. Because the students are alienated by the medium of instruction, they can hardly comprehend lessons in school. As a result, they gradually lose interest and choose to drop out from school. By not developing literacy skills in their mother tongue first, Adivasi children have greater difficulty in learning Bangla. When a child enters school, she or he must struggle to learn to understand, read and write in Bangla. A child takes two to three years to learn enough Bangla so that he or she can advance academically in school. The lack of fluency in Bangla of Adivasi children in class and “their lack of understanding due to language difference [are falsely] interpreted as evidence of their limited academic abilities and achievements (by teachers and schools)” (ICEF 2006,16).

Because of language barriers too, students sometimes fall in difficult situations. They cannot express their problems to their teachers like asking permission to respond to natural calls while in the classroom. Because they cannot adequately speak their thoughts in Bangla, they use their own languages and when they do their statements become laughing stock to their classmates. With these embarrassing situations, the students’ self confidence and interest are weighed down. They then make absences and eventually stay

out of school permanently. To illustrate the strict imposition of the use of Bangla in schools by the government, a participant related that once a government official went to visit a school where more than 90 percent of the students and teachers are from the same language community. When he observed that the teachers talked in their own language among themselves and among the students, the visiting official immediately instructed them to speak Bangla.

Still in relation to language barrier, the participants further said that there are problems when teachers from one indigenous community are posted to a school in another community. Because these teachers do not have facility in the local language, they cannot accommodate their students and vice versa so communication in the classroom is hampered. With some effort, some teachers try to use the children's mother tongue in the classroom. "Though teachers feel obligated to use Bangla in the classroom since it is the official language, they do use the children's mother tongue to explain ideas or instructions" (Islam 2006, 25).

The participants believe that the lack of mother tongue instruction is one indication of the inappropriateness of the primary education curriculum as it relates to Adivasi children. The indigenous communities want their language, stories, and lives reflected in their education. As the research by ICEF (2006) states, "[f]ailure to engage indigenous students in meaningful ways results in classroom experiences that are incomprehensible and culturally invalidating. The result is that indigenous children often lose interest, underperform and drop out, and remain trapped in conditions of deprivation and marginalization." (ICEF 2006, 22). As the government schools and their curriculum do not reflect Adivasi cultural values and livelihood practices, parents do not find it relevant to their communities or livelihoods. This was identified in the recent government strategy for Adivasi children (MoPME 2006). Reports often state that parents are not aware of the importance of education; but in reality, parents simply lack confidence in the educational system and the quality and value of its lessons. International evidence has shown that parents are less likely to feel that sending their children to school is important if instruction is conducted in a language that the child and the parents do not

understand and curriculum contents are not relevant to their life and livelihood.

Providing education in the mother tongue of children and taking integrative measures in the rural communities to address poverty issues are considered by the respondents as coping strategies for quality education. Almost all the respondents have supported mother tongue education as the entry point of a child to his/her educational life. Only one participant, who does not speak his own mother tongue, strongly opposed mother tongue based education because he believes that this may cause a setback in the progress of the children as they will still need to learn the national language.

Closely related to language barrier as hindrance to continuing education among children is a school calendar that is neither flexible nor reflective of local conditions of the host communities. The existing school calendar does not consider the local environment, culture and livelihood practices. During the jum season, for instance, children stay away from the schools because they accompany their parents in the jum fields while their classmates continue their studies in schools. During the normal school vacations such the Ramadan or summer vacations, the Jumma children stay at the village doing nothing but play with dust. About 78 percent of children stay out of school during their social and religious festivals, and jum cultivation period. For this reason, most of the respondents said that the school calendar should be flexible and relevant to the local social, cultural and livelihood practices. But local communities do not have any opportunity to contribute to the process of formulating the calendar. For this reason, there are discrepancies between the period of vacation at school and the livelihood activities of the localities.

The formulation of local specific school calendar should be accomplished with leadership of the Hill District Councils, but the members are always out of the loop. They are even not aware about their role in the implementation process of the PEDPII. Similarly, National Education Policy is not supportive to the education of indigenous peoples so it does not mind the discrepancies in the context of indigenous learners. The Ministry of Primary and Mass

Education (MoPME) released a circular to the DPEOs to introduce area-specific school calendar, but the district education departments in CHT make decisions without any consultation with the local communities.

Another cause of students' discontinued education, according to the participants, is the lack of sufficient number of teachers who are skilled and committed enough to foster quality education. Adding injury to the low ratio between teachers and students is the observation that most of the teachers use one method of teaching where students do not have opportunity to participate in class activities; they simply listen to tedious lectures of the teachers. Usually this manner of teaching bores some students so they refuse to go to school. Recently, the government started a training course for teachers under the PEDPII. This is a positive initiative from the government to upgrade the skills of teachers. However, this action does not address the more urgent need which is to increase the number of teachers handling classes.

The participants understand that the teachers can hardly be blamed because they are overworked yet underpaid. Even if the teachers have gained more competence due to the training, their time is spent elsewhere because they are required to do other activities of the government such as election duties, house visit during sanitation week, motivation and information dissemination on iodized salt use, population census, deworming program and so on. Because of these extra tasks for teachers the direct contact hours between them and their students are not sufficient to achieve minimum academic competencies. Sometimes the teachers are not able to cover all the items listed in the annual syllabus. In addition to absences of teachers due to government tasks, some of them miss classes to work as tutor at the village to earn extra money. It also does not help that teachers recruited for the CHT villages reside in town centers because they are not from the area of their school. Because of the distance they need to travel, they sometimes neglect their classes. The competent ones who do not want to be posted in remote areas sometimes rent out their teaching position to an unqualified person who may or may not show up in school. The irregularity of school meetings because of these causes lessen the interest of children to go to school.

When the SMCs (School Management Committees) were responsible for recruiting teachers, they used to recruit teachers from local communities, but when the responsibility went to the government authority, the practice was changed to recruitment of teachers from outside the community. The recruitment process has become politicized so much so that qualifications are not ensured; monitoring and supervision of teacher service and performances are not enforced; decisions on assignments of teachers are arbitrary and bribes are accepted in exchange for teaching posts. To closely look into these concerns, the SMCs should be empowered in the management of their own schools including teachers' recruitment and other relevant decision making processes.

Moving on to another cause of education problems in the CHT, the participants pointed out that the process of establishing schools poses certain difficulties in the context of the CHT. According to the national education system, all schools are run under the education department of the MoPME. Following the CHT Accord of 1997, however, all relevant activities of primary education were transferred to the HDCs. In the CHT, therefore, the HDCs are responsible for all aspects of primary education according to respective acts, rules and regulations, but these are not directly authorized to supervise and support the establishment and registration process of schools.

Normally, a primary school has a two-mile area as domain. This means that within two miles, only one school is given permission to operate. In town areas where density of population is higher, this provision may be relaxed to one mile. However, this rule is not applicable to private schools which have their own finances. The head teachers of the government primary schools have the responsibility to survey the area of their schools and to submit the number of children within the age group of 6+ and 10+. It is also their responsibility to find out how many of the school age children are enrolled in the school, and to know how many children are attending the schools outside the area. The said policy restricts the CHT in headcount of students. Due to the aforementioned geographical peculiarities in the hilly areas which causes more time for travel especially on foot, there is a low threshold of participation in education in the CHT.

The criteria of the government on school establishment and registration such as land entitlement, area coverage, and number of children required are very rigid. In many remote areas in the CHT, these criteria cannot be met. As a result, there is insufficient number of schools in the CHT. In some areas, as per the information of the respondents, one school's catchments are consisted of four mouzas. Many of the existing infrastructures for education purposes are also in dismal conditions.

The establishment of schools in these areas is therefore initiated by the communities with the help of NGOs but they still meet some problems. Land issue is one factor that hinders the registration of a school. For instance at Madhupara of Latiban union under Panchari upazila, the villagers could not establish a school as they did not have registered community property. Eventually, they registered the school allocating a land from individual property. In other villages, the community members work on the registration process but they are sometimes required to provide remuneration to the teachers before they can get government support.

The participants moved to another issue causing education problems and this is the instability of peace and order situation. Some schools could not hold classes because of insurgency and counter insurgency activities up to 1997. As a result, some schools which were displaced were transferred to other places. Though these schools retained their original names they were rarely reinstalled at their original places. There are also a considerable number of schools which were dislocated during the insurgency period and not installed back after the Accord. Mongjai Karbari Para Primary School was transferred to a Bengali village in 1995 but the students of Mongjai Para still get school facilities. Tindukchari Government Primary School was located at Joutha Khamar village which was transferred to another village. Sudhanya Karbari Para Government Primary School was transferred to other village and it still remains there. The school located at Gouranga Para was transferred from the Tabalchari Bazaar in 1996. Recently, the government has released a circular to close some primary schools where the number of students is below 50. According to official documents, there was supposed to be one school at Ramsing

Dewan Para but this is physically not there. Students from Dewan Para of Matiranga upazila usually have to cross a Bengali settler village. Parents of students especially girls hesitate to send their children to school due to fear of violence.

In 1983-84, 20 schools were burned down by settlers and military authority in Rangamati. Among these, two in Barkal upazila were relocated at the original place. Three from the same upazila were transferred to Rangamati sadar upazila. Moanoghar Residential School was established at Dighinala upazila of Khagrachari District, but in 1980, it was burned down by settlers. Later, this school was reestablished by its initiators in Rangamati Sadar upazila.

Despite all the problems they enumerated, the participants noted that the admission rate of indigenous children in schools is increasing day by day. In some areas the rate is about 90 percent. The participants also observed that after the accord, the education department was transferred to the HDC and they think that it became more effective. Protests can be raised if residents see any misappropriation. The participants suggested that it would also be useful if the high schools too are transferred under the HDC. Both the primary and secondary school teachers should be recruited by the HDC and their jobs should be secured by this institution. The CHTRC should also have a direct involvement in the entire process. The School Management Committees should likewise be provided with necessary support to build their capabilities in managing school affairs. Most of the SMCs are controlled by the Headmaster. Structurally, the SMC members are responsible for all affairs of the respective schools starting from student enrolment up to teacher's salary, but because of their ignorance on their roles and responsibilities, they are not able to look after all affairs of the school. Concerned authority should support the SMCs in building their management capacity. There should be a common understanding and mutual respect between the SMC and teachers so that they can run the school activities promptly. During the consultation, representatives of NGOs concerned on education said that some of them are supporting SMCs in building their management capacity.

Although they cited isolated positive developments in CHT education, the participants still think that there is no clear evidence of improvement in the educational system because of the CHT Accord. Most of what happened was the transfer of business authority of primary education especially the recruitment and transfer of teachers. Teacher's salary is still very low so it can not attract young brilliant students to take teaching as profession. Livelihood issues are not reflected by the education. There is no means of teaching and learning in the schools on the local culture, livelihood and life. Actors are also not implementing a sufficient number of adult education.

In response to the question on hindrances in cultural practices, 48 percent of the respondents said they do not have any problem in observing their cultural events and rituals, but they said that there are some restrictions, for instance, in using loud speakers during prayer time of Muslims; requirement of permission from local military camps for any religious event especially in rural communities and so on. Thirty five percent of the total respondents said they do not feel comfortable in observing their cultural events and rituals as they are always controlled by many factors directly and indirectly. Thirteen percent straightly said they do not have any problem at all. Four percent did not comment on this question.

The respondents said that indigenous women are discouraged by the mainstream communities to use their own dresses. Food habit, traditional costumes, use of languages and other cultural practices are being changed rapidly because of external influences. Wedding parties are now arranged at the community centre, where community people have less opportunity to participate in the entire ceremony as they did before. Collective social efforts and values are not valued now. The national curriculum does not teach the children any positive aspects of the indigenous peoples. Cultural values of indigenous peoples are not included in the curriculum rather their culture is negatively introduced in the curriculum. Songs are now composed with the so-called modern values so these do not address the roots of the indigenous culture. The educated people do not practice their culture. Some of them are forgetting their language rapidly as they consciously use

Bangla with their children at home. Culture is highly commercialized at present too. Dances and songs are used for entertaining high government officials and foreign delegates.

The HDCs are the local authority to address all socio-economic, political and cultural aspects of the region, but because these are being run by selected people, they are not able to address all these crucial issues. In response to the question on the roles of local authorities in the development of culture and education, the respondents said that the HDCs are not run by the chairman or councilors; these are run by a hidden authority. They are even sometimes compelled to follow the instructions of the bureaucrats of the council to implement the mandates of government which do not address the issues of the citizens. The respondents further said that the Tribal Cultural Institutes (TCI) are transferred to the Hill District Councils, but these district based institutes are not able to represent indigenous peoples properly. Instead these are used for the interest of the government authority not for the interest of indigenous peoples' culture. Their activities are very much town-centric. They should go to the grassroots level to bring forward the issues of local communities properly.

Sometimes, the HDCs play a vital role in cultural promotions through observing important cultural festivals. UNDP (UN Development Programme) is also supporting the cultural activists for the organization of festivals. UNDP should continue this process. TCI has very limited role in the cultural promotion activities although this organization is responsible for the promotion of indigenous culture. NGOs are trying to support TCI in their activities.

The destruction of Jumma peoples' religious and cultural life in the CHT has been a marked feature of the CHT conflict since the early 1970s. The indigenous peoples of the CHT are Buddhists, Hindus, Christians and Animists. These religious groupings reflect ethnic differences. The Chakma, Tangchanya and Marma are mainly Buddhists, the Tripuras are Hindus, Mrus are the followers of Krahma (a newly invented indigenous religion) and some smaller groups such as the Bawm and Pankhuas are Christians. Khumi and some other groups practice what is known as Ani-

mism. Religious tolerance has been a long tradition of the Jumma people.

The main Islamic missionary organization is Al Rabita, funded by Saudi Arabia and Kuwait. This NGO has been working since 1980 to convert the Jumma people. It has a main office in Dhaka and offices in Rangamati, Langadu where it also has a hospital, Barkal, Alikadam of the CHT. At Alikadam, in 1990 the Al Rabita missionary center converted 17 Marma people to Islam.

Throughout the CHT, mosque construction continues to take place. Amplified calls to prayer frequently punctuate the lives of the indigenous peoples but other religious practices are prohibited during their *azaan* (prayer to Allah).

Perceptions of NGOs on Education Situation in CHT

The consultation meeting was conducted based on two types of questions: 1) Subjective questions and 2) open questions.

NGOs are implementing a considerable number of education projects. The activities are as follows:

- Mother Tongue Based Multilingual Education;
- Non-formal Primary Education;
- Policy research and policy advocacy;
- Strengthening School Management Committee (SMC) and communities;
- Teachers' trainings;
- Community mobilization;
- Adult education.

The NGO representatives observed that some teachers do not go to school regularly instead of going to school, these teachers take part time employments to augment their meager salaries. The further noted that poverty is a major factor that causes dropout cases of children especially at early primary stage.

Though they recognized that there are many actors working on education in the CHT, there are some evidences of lack of coordination and cooperation among these actors. There are also some cases of overlapping in activities undertaken so some areas of concern are given excess attention while others are ignored.

In relation to their advocacy for Mother Tongue Based Multilingual Education, some of the NGO representatives pointed out that though the government agreed to mother tongue primary education in the 1997 Peace Accord (Article 33 b) it has made no efforts to implement such education in the CHT to date. This could have been done easily especially because the Peace Accord (1997) transferred primary education as a department of the HDC. A joint UN-GoB mission was also fielded to prepare and finalize operational modalities on intervention in basic education. This project was to assess the current status of primary education in the CHT, but in the meantime, the government is still not implementing mother tongue education in the public primary schools.

Generally, literacy rate in this region is increased because of the development of infrastructure like the road and other communication modality. But still the quality of education is not achieved properly. On the other hand, it is observed that the television and mobile network brought positive changes in CHT. The gap between urban and rural areas is becoming narrow in terms of facilities and communication infrastructure. Even in some remote villages, communities are using television, solar and mobile phones. Awareness level of the grassroots communities is also increased. Despite these positive developments, the participants noted that the most remote communities are always deprived from development interventions so there are still many villages in the CHT where no development activities are undertaken and so no generation get a chance to go to school.

Perceptions of Cultural Activists on the Implementation of CHT Accord

When asked about their expectations from the CHT Accord, the cultural activists said that they had such expectations from the CHT Accord which are not implemented. Because of the Accord,

they expected that the indigenous peoples of CHT will enjoy all sorts of political rights including rights to establish self-ruled government. They also expected that the politicians in the CHT will be more dynamic and pro-people and that they will take care of the Indigenous values in political activities like collective leadership. They also thought that if the Accord were implemented properly, they will be able to exchange cultural knowledge and best practices with the indigenous peoples of other countries so that the future generations will be able carry forward cultural values and traditions. Indigenous dances and songs will be preserved for future generations and cultural professionalism will be developed among the younger generations. Education system will be developed considering the cultural and livelihood context of indigenous peoples. Government departments will be sensitized on the cultural values and knowledge of indigenous peoples. There will be sectoral institutions to promote and preserve the language, tradition, and overall cultural heritage of indigenous peoples. As the politicians are leading the people, they are always expected to take care of the issues of their people. Likewise, the cultural activists thought that their leaders will also value the roles of cultural activists in the overall movement of indigenous peoples. They also expected that the government will create such environment where all indigenous peoples will be able to exercise their cultural practices without any discrimination.

The participants opined that the progress of the implementation of the CHT Accord is not satisfactory. The bureaucratic mechanism, political conflicts, mistrust between the Bengali settlers and indigenous peoples, suspicious attitude of the government officials to the indigenous peoples, discriminatory approach of the government officials and many other malpractices made the implementation process difficult. Because of the delay in the implementation of CHT Accord, the CHT people are becoming frustrated. It is positive, the cultural activists thought, that all indigenous peoples' rights are somehow recognized by government documents like national policies and laws, but the irony is, these are not materialized. There are very nominal activities done by the government which are almost similar to eye-washing approach of the implementation of the CHT Accord.

The positive impacts of the CHT Accord identified by the participants are:

- Increase of opportunity to maintain indigenous cultural practices at the national level;
- Increase of freedom of opinion and freedom of writing;
- Increase of freedom of access to information as mobile network and internet system is allowed in the CHT now;
- Presence of international agencies, especially UN agencies, prevents the rights of indigenous peoples from being directly violated by the government;
- Increase of inter-community relationship and communication;
- Increase of positive attitude of mainstream people on indigenous peoples;
- Initiative of NGOs on the introduction of indigenous languages in the education system.

The negative impacts they identified are:

- Militarization remains high in the region and this hinders the full implementation of the Accord;
- Development activities are not implemented according to local contexts. Every donor or NGO has its own agenda and manner of works which it wants to be implemented in the field. This scheme sometimes disrupts the social values of the region;
- Some corporate companies organize cultural activities based on contracts without active participation of the communities. Commercialization of indigenous culture is harming the cultural values of the region;
- Because of new communication technologies, young generations adopt western culture and values

While the data collectors asked the participants about the hindrances in the implementation of the CHT Accord, one partici-

pant said, “the CHT Accord is like a pretty packet of birthday gift for children; it is nicely wrapped so from the outside it seems that something worthy is inside, but it actually has nothing there.” They opined that the CHT people are misguided by the government and the government will never implement this Accord. Nevertheless they said that if the Accord is implemented fully, then the CHT people may enjoy some extent of rights.

They also mentioned that communal mentality is still high in the region. Bengali and indigenous peoples do not trust each other. Sometimes, the indigenous groups themselves also do not trust each other. Bengali people think that they are at the top level of administration so everything should be controlled by them. On the same vein, some intellectuals in majority groups of indigenous peoples like the Chakma and the Marma, who hold the highest positions at the local institutions, also think that they should control all decisions made in the region. Sometimes, this type of mentality increases mistrust among indigenous peoples and as a result, the most minority groups of indigenous peoples keep themselves away from the development and political interventions undertaken by the actors in the region. This also hinders the process of implementation of the CHT Accord.

In the same way, the political parties and politicians are not sensitive to the culture and socio-economic conditions of the region. For this reason, they do not take up the socio-economic and cultural conditions of the CHT people when they engage in political issues.

The HDCs and the CHTRC are also not empowered to carry out their activities independently according to the Accord. The members of these bodies are controlled by the central government.

The Accord will not bring any fruitful result if it is not implemented fully and properly. For this reason, the cultural activists suggested the following:

- NGOs and CBOs should establish a strong network to facilitate the government in the entire implementation process of the CHT Accord;

- Indigenous peoples should form a network among them to raise a common voice for the implementation of the Accord;
- Civil society should be more active in the social mobilization process to raise the voice of the people.

VII. Development Programs of the Government and Non-Governmental Agencies

The CHT Accord of 1997 is the milestone of development activities in the region. It is true that the local people of the region were not aware about the government and non governmental development initiatives before the Accord. For this reason, the grassroots communities were not able to communicate with the service providing agencies. Because of the Accord, a positive atmosphere was created for the development interventions and the local communities to also become aware of the development interventions. After the CHT Accord, donor agencies also came forward to work in this region with their own programs and mandates. To some extent, government agencies also started working with the NGOs so people knew where to go. The presence of the UN agencies in this region has also had a positive impact on the overall situation of the CHT. By such measures, it may be said that there is indeed a clear difference in the situation of the CHT before and after the Accord was signed.

Most of the local NGOs in the CHT were organized after the CHT Accord. The national NGOs such as BRAC, Grameen Bank, Proshika, Padakhep, CODEC, ASA and IDF also came to this region after the Accord. UNDP, MSF, WFP, CARE, World Vision, Caritas, ADB, Kainonia and CCDB are the international development agencies which are active in this region. Local NGOs are mainly working on agriculture, animal husbandry, women empowerment, community empowerment, health and education sectors. The United Nations World Food Program (WFP) is the pioneer organization which started supporting the local development in the Chittagong Hill Tracts. Just after the CHT Accord this UN

organization came to CHT and started supporting local NGOs through a series of capacity building activities and through partnering with them in the implementation of their project. UNICEF is also supporting the CHT communities with their education and health programs.

Although most of the NGOs have started their activities just after the CHT Accord, they have started their development activities as NGOs in 2000. Most of the national NGOs also started working here in 2000. NGOs established forum among themselves to carry their activities collectively. They conduct self-capacity assessment. In the beginning of 1998, local NGOs of Khagrachari established Khagrachari Development Forum (KDF). Following their collective action, all local NGOs of the Chittagong Hill Tracts organized the Hill Tracts NGOs Forum (HTNF) to lead the local NGOs to the same direction of development. The Forum even supported small local NGOs to receive micro grant from donors.

Some NGOs started their programs in the early 90s. Women organizations began their programs before the CHT Accord, but most of them started their actual programs after the CHT Accord when donor agencies come forward to support them. The NGOs do not have equal funding; some NGOs have huge funding while some do not have money even for running their regular activities. Most of the CHT NGOs are highly donor dependent. They commence their development activities when they get donor funding. Some NGOs that try to work for the rights of local communities are often put under close surveillance by government agencies.

The programs of national NGOs are mainly focused on micro credit activities in this region. However, the operating strategy of the microcredit is not decided according to the context of culture, economic and geographical situation of a community. The conventional model is being used in the CHT. This model is considered not suitable for the CHT because it benefits the operating organization not the local communities.

Most of the local NGOs are working on social awareness raising activities. This effort is perceived as a positive initiative for the CHT. Some local NGOs are also involved in Income Generating

Activities of the grassroots communities. But the local NGOs have received very few projects or funds since 1997. They are also working as the partners of national and international NGOs. It means that the achievements of local NGOs are sometimes merged in the achievements of the national and international NGOs.

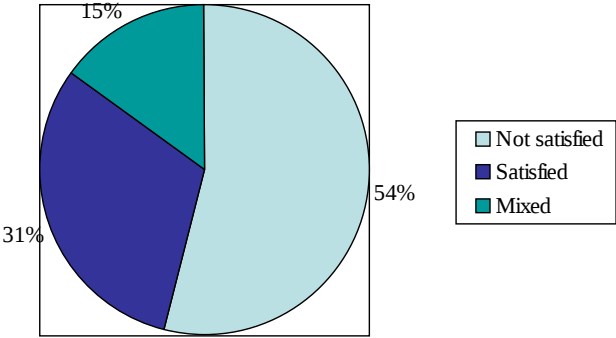
Traditional leaders are participating in the activities of NGOs. Because of involvement with NGO works, local level leaders are improving their leadership style. Women and children too are involved in creative activities of NGOs.

The assessment of the respondents indicates that among the local, national and international NGOs in the CHT, UNDP has a strong existence because of its large programs. ADB is also another active international development actor in the CHT but it operates its program through government structure. Care Bangladesh was active after the CHT Accord with its education program all over the region. Danida is also supporting development projects in this region through local NGOs and some programs through the government departments. WFP has been working in this region with its focus mandates. UNDP and WFP have direct role in improving the livelihood status of the local communities. Government agencies too have crucial involvements in these socio-economic development programs.

None of the respondents support micro credit operations. According to their perception, this offering is the other name of feudalism. Micro credit activities are only feasible for business people and people with proper market access. Most of the communities living in the Chittagong Hill Tracts do not have these capacities because they have limited earning opportunities. For this reason, the model tested at the plain land of the country is not feasible in the Chittagong Hill Tracts. The system is also contradictory with the local culture, context and economic conditions of the region. The NGOs operating micro credit activities are limited at providing loan and recovering installments. No social ideology or social commitment exists in this program. It rather strengthens the poverty cycle. People get a loan from one organization to pay their loan dues in another organization and this circle can go around forever. According to the respondents, the CHT communities are

now mostly head over heels in debt. The respondents further shared, in relation to the case of micro credit based NGOs, that just after the CHT Accord, the micro credit based national NGOs have organized district based consultations. In the consultations, local communities raised their concerns on the interest and modality of the conventional micro credit because the socio-economic and cultural situation of plain lands and the CHT is not the same. This concern was not considered and the national NGOs started their micro credit activities which, according to the perception of the respondents, have created development hazards in the region.

Perception on NGO initiatives



Fifty four percent of the respondents are not satisfied with the activities of NGOs. According to them, some NGOs are doing their job to address the issues of local communities which is positive but not sufficient. They even perceive that the initiatives of some NGOs have created some visible capitals but along with these, mistrust and division within the community are now strongly visible almost in all the communities involved with NGOs. The conflict usually emerges from the resources provided by the NGOs. Some NGOs take advantage of the communities and earn money; on the other hand, these do not implement project activities accurately. Thirty one percent of the respondents said that they are satisfied with the initiatives of NGOs as they are providing alternative ways of survival for the grassroots communities. The other 15 percent believe there are mixed effects of the development interventions. Some conflicts may emerge in the development inter-

ventions as the NGOs deal with resources. But it is also the responsibility of NGOs to find alternative ways of community development where they can avoid or mitigate the conflicts.

Although the project proposals of NGOs are not written with direct involvement of grassroots communities at the field, some projects of local NGOs are designed in a participatory way especially at the data gathering stage. They go to the people and collect the issues and analyze the context accordingly. Danida is a pioneer in participatory program designing in the CHT. This group directly went to the local administration and community leaders, conducted workshop with cross-section stakeholders and designed program with the participants of the events. They also have an Indigenous Peoples Policy to operate development programs at indigenous peoples' areas. They started their activities with capacity building of the local small NGOs who can be the development facilitators at the local level. Many new NGOs got the chance to receive registration from the NGO Affairs Bureau with the support of Danida, which was a milestone for the development of the Chittagong Hill Tracts.

It is another positive sign that UNDP has also conducted series of meeting, seminar and workshop before they design the project proposal for the Chittagong Hill Tracts. They did the situation analysis and assessment with the grassroots communities. Taking in to account of the analyzed issues, they designed their program. At present UNDP has the biggest program in CHT, which promote the empowerment of local communities of the region. Compared to the bigger groups such as UNDP, some NGOs though have very limited coverage as they do not have proper funding. With limited resources, they are trying to reach to the grassroots communities of the remote villages.

There are conflicting views in the local communities on development opportunities. Bengali communities allege that all development interventions undertaken in the Chittagong Hill Tracts do not benefit the Bengali communities and only benefit the indigenous communities. Among indigenous peoples, all other small ethnic groups complain that only the Chakma people get the development facilities. The truth is most of the remote communities

are deprived from the GoB-NGO services including the development interventions. The poorest families of the communities are always excluded from any sort of development intervention although they live at such community where NGOs are operating. There is also some misconception about the development activities.

There are also differences between the community demand and the mandate and program of donor organizations. National NGOs rarely consult the communities before they implement any program in the Chittagong Hill Tracts. Sometimes their programs are implemented for a cosmetic change, not for real change. They are following the relevant circular of the government for their development activities in the region. According to the circular of Prime Minister's Office 2001, any NGO coming from outside CHT must implement their activities partnering with the locally established NGOs. But national NGOs rarely follow this clause. Most of the national NGOs operate micro credit activities in the urban areas; they rarely go to the remote villages as they know that their micro credit business will not be successful in the villages where there is no scope of income generating activities.

After all the foregoing observations and assessments on NGO work, the participants came up with conclusions and recommendations that might work in addressing the issues they raised. First they said that protecting indigenous peoples' rights to forest and land resources is very crucial issue in the Chittagong Hill Tracts, but it is not possible for the local NGOs to conduct extreme rights based activities like those which pertain to land and forest rights. There is an allegation, for instance, that during the BNP-led Four Party Alliance government, some indigenous staff members of UNDP were suspended because of being partial to the rights of indigenous peoples. Given this limitation, they can only motivate the grassroots communities to protect the environment. They can also encourage the communities to receive the services from government through linkage building processes. This can be one of the effective processes to protect the rights to land and forest resources. The second task can be the advocacy work which can be conducted at different levels.

Union Parishads (UP) should take the responsibility to collect data on the development facilities and opportunities available for the local communities. NGOs can provide technical support to them. UPs know the situation and condition of local communities so they can suggest the needs of the communities. They can also identify the deprived communities.

The NGOs, including BRAC, ASA and IDF, that operate micro credit should review their operational rules according to the socio-economic and cultural context of the region. They need to provide proper training to the micro credit receivers on the use of cash money and income generating activities. They should create local specific mechanisms on collective actions in loan use, savings management, business investment, market linkage, etc.

After reviewing the efforts of NGOs, the participants focused on the part of the government in development work. They identified that the development actors from the government are: the Ministry of Chittagong Hill Tracts Affairs, Chittagong Hill Tracts Regional Council, Hill District Councils, Chittagong Hill Tracts Development Board, Government Line Departments, etc.

The respondents explained the roles of the government actors as follows:

The Ministry of Chittagong Hill Tracts Affairs (MoCHTA) is a specialized ministry which is not an implementing agency. This ministry is the representing body of the Chittagong Hill Tracts to Dhaka; it is responsible in representing the CHT in the processes of policy decision and law making. In these processes, this body advocates for the Chittagong Hill Tracts. This ministry is also expected to play a vital role in the sensitization of other ministries and donor agencies on the issues of the Chittagong Hill Tracts.

The role of the Chittagong Hill Tracts Regional Council (CHTRC) council is clearly defined by the CHT Accord of 1997. This institute is also not an implementing agency. It is a coordinating and supervising body. According to the Accord, this council can also play some roles in law making processes. The members are expected to gather and review all relevant policies and acts of the

country and provide suggestions or recommendations to the government for a favorable policy on the CHT. It is perceived by the participants, however, that in reality the participation of this council in law-making processes is rarely valued and this happens because the members lack sufficient skill, efficiency and collective work. The participants pointed out, for example, that this council failed to contribute in the formulation of national policies such as the National Agriculture Policy and the National Women Development Policy. Because the CHT has its distinct characteristics compared to the other parts of the country, the council members should have fought for provisions that will address such peculiarities. This council too is still not able to define the strategy of the CHTDB although this development institute is supposed to be operated directly under the CHTRC.

The three hill district councils are also not fully implementing agencies. They can also play a vital role in the policy-making process. The HDCs were supposed to receive 33 subjects of government line departments under them. As of the present, 19 subjects were transferred to them. The HDCs do not have any clear operating strategy or guidelines for the transferred departments. It is their responsibility to decide on the priority of the transferred departments, but it seemed the HDCs are not ware about their part in this process. For instance the HDCs are responsible for recruiting, training and determining necessary transfer of primary school teachers, but because they do not have specific mechanisms of compiling information and conducting assessment on the positions and vacant of positions of teachers, they are not able to recruit teachers according to needs. For this reason, teachers are recruited from outside the communities and consequently become irregular in school and eventually grassroots communities are deprived from quality services. HDCs also do not have proper development plan and as a result the line departments do not get proper directions in implementing their programs. HDCs are not also able to coordinate NGO activities and their services are limited to the urban and roadside communities.

The mandate of the Chittagong Hill Tracts Development Board (CHTDB) is to carry out development activities in the region for the betterment of the local communities. There are some specific

operational procedures of the board which are collective in approach, but because of isolated thoughts of the people involved, this board became a tool for communal discrimination. The consultative council of this board is no longer consulted, programs are implemented with the interest of political gain and the officials, from top to bottom, are overwhelmed by corruption. The activities of the CHTDB do not invite participation. People do not know who is in charge of the board and it is also not known to whom this board is responsible to. This board implements many projects with huge amounts of budget, but the decision making procedure is not followed properly. During the last Four Party Alliance government, the CHTDB was used for the settlement of Bengali settlers. Many *Palli*¹ were established with the direct fund of the board as the rehabilitation of plain land Bengali settlers to the CHT. Before, the board has initiated a rubber plantation project which did not benefit the local communities because the board did not fulfill its commitments to the planters. Land that was supposed to be allocated for the planters according to the design of the project was not given.

In 1989, three separate Hill District Local Government Councils, which became the hill district councils, each with five-year tenures, were established for Rangamati, Khagrachari and Bandarban. However elections for membership to these councils have not been held within the 18 years since their formation. They have continued to function with government appointed “interim” council heads by permission of the courts.

The Chief Election Commissioner ATM Samsul Huda agreed that according to the CHT peace treaty and laws related to it, the elections in those areas were to be held according to a voter list prepared separately for the permanent residents of those areas. “But the voter list currently being prepared with photographs in the CHT was for the national election,” he added. The CEC, in reply to a question, said that no decision had been taken whether a separate voter list for permanent residents of the regional and council areas would be made following preparation of voter lists for the national election.

Most of the respondents perceived that the government institutions are mainly concentrated on infrastructure development like construction of roads, school houses, club houses, mosques, temples, bridges and culverts.

Health and family planning departments of the Chittagong Hill Tracts are transferred subjects to the Hill District Councils. Respective HDCs are responsible for the relevant activities of health and family planning departments of the respective district. While we were discussing with the health and family planning workers in Rangamati, they have shared that because of the CHT Accord they have a common dream that the citizens of the CHTs will get access to health services easily. No one will die due to malaria, diarrhea and other difficult diseases. Every union of the CHT will be under the safety net of health services, one health care center or community clinic with modern tools and sufficient manpower will be established in each union. All villagers will get access to pure drinking water and sanitation facilities. But, as they have stated none of these dreams was fulfilled in the last one decade after the Accord was signed. The only positive change in the health services because of the peace Accord, as considered by the respondents, is the initiative of NGOs like MSF-Holland and UNDP health program. Trainings to raise health awareness done by NGOs up to the rural areas contributed to the villagers' knowledge on health services of the government and the NGOs. UNDP is trying to make the HDCs active in providing health services through involving them in their activities. The respondents perceive that the implementation of the peace Accord can solve certain problems in health services.

The military authorities are also involved in development activities even if they oftentimes control development projects like road constructions and gardening projects of HDCs, LGED and others. Concrete examples of military projects are the Fish pond and fruit gardening of Mahalchari Army Camp which were implemented under the HDC. The Bandarban HDC recently implemented a project spending multimillion taka on the construction of road and boundary wall for the BDR camp.

The projects of the forest department, on the other hand, have purely debilitating effects on the CHT indigenous peoples because these occupied the land of indigenous peoples. These projects often create conflicts so they hinder the peaceful life of indigenous peoples. In cases of conflicts, it is absurd enough that the officers of the forest department file cases against the indigenous villagers even against the dead.

Despite the many organizations that have worked in the area, the major lay persons are still living within the poverty circle. Because of the development of rural infrastructure, the natural resources are destroyed. Road communication in the rural areas, change of demography, and unplanned and uncoordinated development activities of the government agencies are the main causes, among others, for this environmental destruction and negative impact of development.

The ministries usually design their projects at the secretariat hiring national and foreign consultants who are not familiar with the issues of the Chittagong Hill Tracts. The direct stakeholders of the respective projects do not know what the design of the project is. They just receive services as delivered by the line agencies. Sometimes, the projects of government agencies do not match with the local context and needs. Still top down planning method is used by the government agencies. Sometimes, the respective communities are involved in some process but not at the designing stage.

Having made all the above observations on the development work of the government, the participants suggested that the government should take special initiative to protect the forest and land rights of the permanent residents of the region. There should be a clear linkage between the government and the traditional institutions in land and forest management. Every village should also create a development model where the communities will take the role in implementing all development interventions in their respective village. For this to be done, GO-NGO coordination is essential.

IX. Human Rights Situation

The respondents opined that in terms of human rights protection, there are some positive changes because of the Accord. Before the Accord, people experienced various painful violations and restrictions. They were not able to move freely in the remote areas; communal clash was prevalent; grabbing of lands, burning of houses, killing of innocent people and other related crimes were regular incidents. With the signing of the Accord, the incidence of these offenses decreased. In communication, there was no scope for CHT people to talk to foreign visitors, but now people can interact with foreigners although there is still an extremely restricted procedure required for foreign visitors in this region.

Despite the general peaceful situation in the region, there are still some major incidents of human rights violation observed after the Accord. There are also remaining informal and secret processes of population migration. For example, there is an open transition camp of Bengali settlers at the Shanti Niketon² play ground near the Khagrachari Government College. Some families from the plains regularly come to this camp and after some days they disappear from the tent-like huts. After some days there will be other families and they will also disappear after some days. It is reported that the families are brought to one settler inhabited village then from there they slowly get opportunities to occupy land.

In relation to practice of cultural and religious rituals, the participants recalled that before, they had freedom to organize any religious and cultural festivals, but this freedom is now becoming limited. When they organize two-day long chanting for God Krishna as part of our religious practice, they are told to stop using a mike during the time of prayer of the Muslim people. During the BwiSaBi festivals there is always chaos created by the settlers and military authority. Almost all the genocides and communal attacks were done just before the festivals so that the Jumma people cannot observe the festival properly.

In addition to such frustrations, permission from the military authority is also required if they want to establish a temple.

There is no restriction on the movement of citizens in the urban areas but almost all the rural villages of CHT are under a strict curfew system. In the entire CHT, movement is not allowed after 10 p.m. The villages, especially those with road networks, are compelled to follow this restriction. No vehicle is allowed to pass at night time. Movement of the villagers is allowed in cases of emergency but still the permission of the local military camp is necessary. In the areas of Khiyan, no movement, even on foot, is allowed after 10 p.m. In Kaptai and Bilaichari areas, no movement is allowed after 6 p.m.

Human rights violations in the CHT are often due to militarization. From around 500 military establishments, only about 100 were withdrawn after the CHT Accord. Some camps were transferred to remote areas while some new camps were established at some areas like Taracha and Dulu Para of Bandarban. On the other hand, no military camp nearby settler villages was withdrawn. They provide backup supports to the settlers during land grabbing and other communal clashes. Millions of acres of land are occupied by the military authority to establish their camps and training ranges. The Bangladesh army has begun a new settlement program in the Sajek area of the Chittagong Hill Tracts in the early 2008, bringing in new groups of Bengali settlers. The construction of settler houses led to conflict between settlers and the Jumma.

At least five big incidents of human rights violations caused by the military or/and Bengali settlers were recorded after the Accord. Hundreds of households were burned to ground; many people were killed; women were raped and many other were injured. On April 19, 2008, seven villages belonging to indigenous peoples in Baghaihat were burned to the ground by Bengali settlers with the assistance of the Bangladesh army. Jumma villagers, including women and children, were beaten in the attack, and their belongings were looted. Hundreds of houses were destroyed and the Jumma villagers fled to the surrounding forests.

There is a continued media campaign against indigenous peoples of the region, claiming that the lands where indigenous peoples

reside do not belong to them. When indigenous peoples attack Bengali families who occupy their lands, media companies cover the incidents and the broadcasters identify indigenous peoples as the aggressors. Because the media outfits are owned by the dominant Bengali people, indigenous peoples literally do not have any way to express their side of the issue.

Abuse against women and children are evident and these still persists up to this time. Rape is a regular phenomenon in the Chittagong Hill Tracts. Even on March 8, 2009 during the celebration of 99th World's Women's Day, one 3-year old girl was raped by a Bengali settler. Crippled girls are also not spared from these types of sexual violence.

Individual attacks also continue to happen in the CHT. On August 19, 2008, Ladu Moni Chakma was hacked to death by a group of Bengali settlers in his home at the Sajek area of Rangamati. His wife, Shanti Bala Chakma, who was also attacked, was taken to the hospital. Local people believe that Ladu Moni Chakma was attacked because he gave information to members of the recently reformed Chittagong Hill Tracts (CHT) Commission about settlers grabbing land from indigenous peoples of the area.

[In order to ensure the land-ownership of tribal families having no land or lands below 2 (two) acres, the Government shall, subject to availability of land in the locality, ensure settling 2 (two) acres of land per family. In the event of non-availability of required land, grove-lands shall be tapped....CHT Accord-D. 3]

Grabbing of indigenous peoples' lands and dislocation of indigenous peoples from their own lands is prevalent in the CHT. In December 2007, there is report of putting pressure on the headman of Ugudochari Mouza under Khagrachari District, to agree to new illegal Bengali settlement in his area by the second-in-command of Mahalchari Army zone Major Gaffar.

Incidents at Mahalchari, Maischari, Dighinala, Baghaichari are evidences of continued systematic land grabbing done by Bengali settlers with the direct support of the military forces and government mechanisms.

Some 750 Mru (or Mro) families were evicted from their land in remote villages of the Bandarban Hill District in December 2006. The Mru, one of the 11 Jumma tribes, rely on their land as their only source of survival. Ranglai Mro was one of the most prominent indigenous leaders in the Chittagong Hill Tracts arrested by the military in February 2007 and handed over to the police force. He has been tortured brutally and sentenced to 17 years in jail as he was active in protesting against the eviction of his people from their land to make way for an army training centre. Ranglai was brutally tortured while he was in military custody. He was hospitalized, and was found to have suffered a heart attack. He was then sent back to jail without proper medical treatment. After almost two years after his arrest, Ranglai was finally taken to a specialist coronary hospital in Dhaka on January 1, 2009 when his condition became critical. However, he was still kept in chains while he was in the hospital. Doctors complained that the chains hampered their movement in treating him.

The use of chains was reported in a Bangladeshi newspaper, and after Bangladesh's National Human Rights Commission got involved, the prison authorities claimed the chains were removed. Contrary to the claim, the newspapers published a photo which showed that Ranglai was still handcuffed and tied by a rope to the bed despite a court document ordering his release on medical grounds. Ranglai Mro was released on bail in January 2009 after almost two years in prison.

Hill Peace Group in its *Refugees in Homeland* has cited some examples of the fresh land grabbing cases that occurred after the CHT Accord. Abinash Chakma of Logang union in Panchari upazila under Khagrachari has four acres of land registered at holding no. 223, dated February 3, 1989 which is now occupied by the Bengali settlers. The grabbing process was systematically started in 1989. Umesh Chandra Chakma, son of Abinash Chandra Chakma was killed by the BDR soldiers while he was working at their paddy-land. In 1992, their village was attacked by the Bengali settlers and VDP with the back-up of local army camp, where 12 Jummas were killed as per the report of government, although the local indigenous peoples claimed the number of dead was more than one hundred. Eventually, in 2005, the land of Abinash

Chakma was forcefully grabbed by the 20 Bengali settler families including Md. Firoz Mia, Md. Kasem, Md. Samid, Md. Rashid, Md. Rustam and Md. Idris.

The same process of landgrabbing happens in other upazilas in the three hill districts. In Mahalchari, Bengali settlers have tried establishing houses on the land of Jumma people in 2001. With the support of then DC the first intention was prevented. On August 26, 2003, the Bengali settlers from Chunglachari cluster village attacked the villagers of Lemuchari and burned down the houses of the Jumma village. It happened with the direct back-up of then MP Wadud Bhuiyan and the local army camp. This incident was disclosed to national newspapers and for this reason Bengali settlers could not establish their houses and UNDP came forward to reestablish the houses of Jumma families. In November 2004 the Bengali settlers tried to establish houses there again and with a negotiation meeting on December 13, 2004 at the Upazila Nirbahi Officer's office of Mahalchari, the process was stopped. Eventually, in the beginning of 2005, Bengali settlers with the support of local army camp have occupied the land of Jumma peoples and built their houses there. The victim Jumma families repeatedly applied to the UNO and DC about this land grabbing process, but they gained no response. Fifty six Bengali families are now residing at the Lemuchari village so they changed the name of the village. The Bengali settler families claim that the lands were given to them by the government in 1992 when they were brought to CHT from plain land. Bengali settlers grabbed 26 acres of land, which are owned by Jumma peoples listed as follows:

1. Bimal Chandra Chakma (58), son of late Dinachan Chakma, four acres of land recorded with R. No. 62;
2. Shanti Kumar Chakma (62), son of late Rajendra Lal Chakma, five acres of land recorded with R. No. 46;
3. Bira Kumar Chakma (32), son of late Dinachan Chakma, three acres of land recorded with R. No. 64;
4. Kirtimoy Chakma (42), son of Sonaram Chakma, 10 acres of land recorded with R. No. 44;
5. Jyoti Bikash Chakma (42), son of late Gopal Chandra Chakma, five acres of land recorded with R. No. 45.

There are also many other incidents of land grabbing at other upazilas of CHT. Like in Dighinala, Jyoti Prava Chakma was dislocated from her land, which was occupied by Md. Moslem in 1999. She lost 3.62 acres of registered land.

Hill Peace group has also reported the cases of arrest of Shakti Pada Tripura, Ranglai Mro and Santoshita Chakma Bakul. This group has also explained the maps of eight mouzas of Khagrachari District, where the comparative status of land grabbing before and after the CHT accord was shown. In Lemuchari mouza, it is reported that the amount of land grabbed after the accord is higher than the status of pre-Accord period.

In February 2008, a group of prominent Bengalis consisting of academics, writers, journalists, development workers, political leaders and activists visited CHT and found that an increase in repression has caused “fresh fear” among the Jumma indigenous peoples. Arrests and torture of Jummas have escalated since emergency rule was declared in January 2007. The team found evidence of torture, political repression and religious persecution, and received numerous reports of intimidation and eviction of Jummas from their land by Bengali settlers, often with the assistance of the authorities.

A Land Disputes Resolution Act was passed in 2001 giving final deciding powers to the chairman of the Land Commission regarding land disputes. The commission is due to be reactivated.

Paschim Madan Karbari Para: Where People Live in Fear of Eviction

Paschim Madan Karbari Para is named after Madan Kumar Tripura who was an indigenous village chief in Panchari upazila of Khagrachari Hill District. Prior to the Second World War in 1942, Madan Tripura came to this village from Bangalkati Para under Khagrachari Sadar upazila. Day by day the village was expanded on both of the banks of Chengi river due to increase of the number of families. After the Pakistan period, a cluster on each side of the river took two distinct names – the eastern side is Purbo (east) Madan Karbari Para and the other side is Paschim (west) Madan

Karbari Para. East of the original Madan Karbari Para falls under 242 no. Mouza in the Panchari Sadar union and West Madan Para comes under the Mouza no. 245 and in Ward no. 9 of Logang Union. At present, the family members under West Madan Karbari Para are 24 and all are of the Tripura community.

In 1981 and 1982 under the patronization of Ziaur Rahman's government and with military escort, some Bengali people were brought in from the mainland. These people were settled on the lands and homestead of indigenous peoples of the original Madan Karbari Para. These people are now known as CHT Bengali settlers.

A communal riot took place at Panchari in 1986. In that riot, settler Bengali people attacked the local indigenous peoples; they set fire to the houses, looted valuable belongings and killed some residents. Due to this incident, all the people of this area fled to India and became refugees. The study source said that during the absence of the indigenous peoples in that cluster, Bengali settlers occupied a part of Madan Karbari Para. Later when the CHT agreement between the Awami League government and Jano Sangahti Samity was signed in 1997, and based on the 20-point package agreement with the indigenous refugees in 1998, these people came back and built their houses on their ancestral land. After coming back to the homeland from the Indian refugee camp, the people of the Madan Para Tripura Cluster filled out a special application form titled "India Repatriated Refugee Khas Land settlement" supplied by Khagrachari DC office with the recommendation and approval of local Mouza Head, and submitted to the Panchari upazila as "Local settlement Case" in between years of 198-2002. It is to be mentioned here that, in regard to having recognition as "indigenous peoples habited special zone" in the hill tracts zone and for land settlement, approval and recommendation have to be obtained from the local headman for the determined land. In this context, approval and recommendation was taken in regard to applied land from Mr. Bimal Kanti Roaza headman of 245 no Bodo Panchari Mouza.

From those who applied to record land, one is Mr. Joyti Tripura. He said, "I filled a land settlement application by a government

prescribed form in 1998; the number is 173/pan/98.” Similarly, many residents from this area applied to record the land of their forefathers. Some of them are: Kherenda Tripura, father - Harichandra Tripura, settlement no. 173/pan/98; Mokka Ranjan Tripura, settlement case no. 22/pan/2002; Birbahu Tripura settlement case no. 22/Pan/2002; Krishna Jyoti Tripura, father - Prodip Kumar Tripura, settlement case no 24/Pan/2002; Sanchoy Jiban Tripura, father-Prem Mohan Tripura, Settlement case no. - 21/Pan/2002.

After the BNP-led Four Party Alliance came to power, Bengali settlers who were settled here in 2003 claimed lands of Paschim Madan Karbari inhabited by indigenous peoples as their own. They tried to evict these indigenous families. Until now, the Bengali settlers claim Paschim Madan Karbari area as their own. Bengali settlers are also threatening the indigenous peoples. As a part of this claim, Mr. Jalil - President of Jubdal, Panchari; Mr. Israfil, father - Dulal Mia - VDP member; Md. Shafiquel - VDP member; and Md. Barek - VDP member, Md. Sattar, and many others attacked this area in 2003.

In that attack, those people vandalized the home of the widow Suchitra Tripura and her father Joyti Tripura. Many organizations decried this incident. The cluster of indigenous peoples applied to the then UNO, Mr. Shafiquel Alam, to address the problem. Appeal was also again made when Mr. Shafiquel was transferred and another UNO, Humayun Kabir, came. Mr. Humayun Kabir ordered to stop forceful occupying of land. But, indigenous peoples of that area informed that Bengali settlers are still threatening them. Status quo was imposed on building any new house or repairing homesteads. In 2005, an inhabitant of this cluster named Mr. Jinno Joyti Tripura took an initiative to repair his own house.

Based on this, the settlers lodged a complaint at a nearby army zone commander at Panchari that indigenous peoples are constructing houses. As a result, army personnel visiting the area labeled the cluster (Paschim Madan Karbari Para) as controversial and ordered residents not to build any new house. It is also known that when the indigenous peoples of the cluster grow various types of fruits and vegetables, the Bengali settlers claim those

as their own. The Bengali settlers are also spreading rumors that indigenous peoples, by planting trees, are occupying settlers lands. The villagers complained that Bengali settlers are claiming that the government has already recorded the lands of indigenous peoples in their names while, in fact, the Bengalis were only settled by the government in that area in 1981-1982.

The Bengali settlers also filed two cases with the Deputy Commissioner's court to evict the indigenous families of Madan Karbari Para. In this regard, one of the inhabitants of this cluster expressing grief said:

We have been dwelling in this hilly area for hundreds of years; my forefathers established this cluster about 100 years ago so my right on his land is foremost than others. If these lands are given to others in the name of law without our consent, that law can never be a good law. And so, justice can also not be found without partially from this law. If settlers want to evict us, they get help from government. In this village, there is no educated person to lead us; most of the villagers live hand to mouth. Now we are living in fear of eviction.

The Most Recent Human Rights Violations in Baghaichari and Khagrachari

Fresh communal attack in the CHT has yet again proven that military forces are the major factors of political chaos in the region. The Bagaihat area of Baghaichari upazila in Rangamati consisting of 12 villages including Gangaram Mukh, MSF Para, Balughat Para, Retkaba, Kajachhra, Baibachhara, Dinokaibachhara, Badlarchhara, Guchchhagram, Nowa Para, and Dipo Para is an indigenous-dominated area; though the Baghaichari market is now run by Bengali settlers, it has been in operation for a long time.

On April 20, 2008, during the regime of the military-backed interim government, the settlers running the market tried to establish permanent households at Gangaram Mukh with the backing of the Bangladesh Army. After violent clashes where an indigenous man, Ladu Mani Chakma, was killed, the settlers abandoned the households. Over the last two months, however, the

settlers once again began frequenting the temporary households. On the 9th of February 2010, when violent clashes began, the settlers permanently moved to Gangaram Mukh while the indigenous peoples instigated to completely abandon trade in the market. This left the Bengali settlers extremely disgruntled and whenever indigenous peoples pass through the market area, they are hurled with insults and other verbal abuses.

In the evening of February 19, Bengali settlers attacked two indigenous businessmen who were going back from Baghaichari to Dighinala by motorbike. The indigenous businessmen took shelter at the adjacent indigenous village. Afterwards, Bengali settlers attacked the host village and set fire on seven shops run by indigenous peoples.

The next morning February 20, there was a pre-scheduled negotiation meeting on the operation of Baghaichari market, which indigenous peoples were boycotting for many days. The UNO of Baghaichari upazila and the Zone Commander of the adjacent army camp went to the Indigenous village Gangaram Mukh to attend the meeting. The Gangaram Mukh villagers demanded for remedy of the last night arson committed by the Bengali settlers who were also present there with the army forces to attend the meeting. Indigenous peoples disagreed to attend the meeting before they get compensation for the incident and they also disagreed to sit with the perpetrators of the arson. The military soldiers forced the villagers to attend the meeting. They forcefully dragged some villagers to bring them to the meeting place. Suddenly the Bengali settlers and the military soldiers together started beating the indigenous villagers. A number of soldiers came out with loaded weapons to take part in the attack. While forcefully dragging one of the villagers to the meeting place, Rezaul Karim, a military sergeant from 19 ECB, was stabbed. Things began to get out of control. The Bengali settlers swooped on the villages of the indigenous peoples, setting fire to as many as 465 houses and 20 shops in the 12 villages. A church, a pagoda, an MSF station and a shop of UNDP-funded project were also set on fire. A statue of Buddha installed at the Banani Buddhist Monastery was fully damaged. Indigenous peoples allege that the army was explicitly

and implicitly involved in setting the fires. Two people from the indigenous community found death during the violence while four others were missing.

Bashu Mati Chakma was preparing lunch at her home at Guchchhagram on February 20. Her seven children were also at home scared to step out after the violent attack on indigenous peoples the night before. Bashu's husband, Lakshmi Bijoy Chakma, was working at a tea and grocery shop close to their residence which he owned. "It was around 10 a.m. to 11 a.m. when, suddenly, our neighbors and people from other villages were rushing to the bushes after sounds of screaming and gunfire erupted in the area" Bashu said. "I grabbed my children and we also headed in the same direction when I noticed gunfire being directed our way" she added. "Lakshmi suddenly fell to the ground and at first, I thought it was just an accident," Bashu added. Bashu did not have time to look back. On the morning of February 21, when the indigenous peoples finally managed to step out of the bushes, Bashu, along with other villagers, discovered Lakshmi's dead body lying in the same place.

Meanwhile, Budda Pudi Chakma was cooking food when the rush to the bushes happened. After the preparation of food she tried to run into the bushes along with her children. While she was running to the bushes with her daughters, suddenly she fell on the ground. "I tried pulling her to the bushes, but I failed because she was heavy" Budda's teen daughter said. "When she fell to the ground, she broke her container and scolded with me for some distances then she fell again. No man was there at that time to help me. I called two children from the neighboring house. With the help of the children, I brought my mother to the bushes, But when we got there my mother had no life anymore" the daughter recalled in tears.

The indigenous villagers alleged that members of the Bangladesh Army participated with the Bengali settlers in setting fire to the villages. "If the army did not cooperate with the settlers, this level of destruction could have never taken place," said Bor Chakma, a resident of Kajachhara.

The news of the violence spread like wildfire across the Sajek Valley, then throughout Khagrachari and Rangamati District creating panic and spreading further violence. On February 20, The UNO of Baghaichhari imposed Section 144 of the Code of Criminal Procedure in the upazila.

Since the incident, the indigenous peoples of Baghaichhari, particularly the families of the victims, have been living in the bushes with great difficulty for want of food, drinking water and clothes. Government officials, World Food Programme and some social organizations have been providing aid such as five kilograms of rice per family, clothes and cash money, but the help is not adequate.

On February 23, during demonstrations against the violence, fresh attack was done on the demonstration of the students of UPDF by the Hill Bengali Student Council members and businessmen of Khagrachari bazaar. The Bengali people attacked and set fire on many indigenous houses and business shops owned by indigenous peoples in Mahajon Para, government school dormitory, Madhupur, Satbhaiya Para and Kadamtali areas. All these arsons were conducted while Section 144 of the Code of Criminal Procedure was effective in the municipality areas.

Around 14 houses in Mohajon Para, 48 houses in Sadbhaiya Para, two houses at Madhupur and Hotel Ziran, were burned down. A curfew was imposed on the entire district in the night of February 23.

On February 24, around 100 indigenous peoples, including two UNDP officials, were arrested. With direct intervention of the Project Director of UNDP CHTDF, Petrick Sweeting, these two UNDP officials were released later. The police also arrested some Bengali people with a claim that they have conclusive proof of the involvement of at least eight of them, including Assaduzzaman Mia, Mahbubul Haque Selim, Khagrachhari Jamaat Poura Amir Anwar Hossain, the organizing secretary of Hill Bengali Student Council Islam Uddin, BNP leader Abdul Kasem and Mohammad Siraj.

Satbhaiya Para: New Human Rights Violation

A violent communal attack happened at Satbhaiya Para of Khagrachari District municipality area on February 23, 2010 from 1 p.m. to 5:45 p.m. Looting valuable possessions from indigenous peoples and setting fire on houses were done by Bengali settlers led by Md. Abul Kasem alias Moisha Kasem. The attack took place while section 144 was active because it was imposed at 12 p.m. on the same day.

A victim named Mongsajai Marma, son of Sathowai Marma, described the violent incident in their village. “At around 1:00 p.m. we saw black smoke at the town area. At that time, a group of Bengali settlers comprising of around 50 persons came here and told us that we are all familiar with them so they will not harm anybody. After that they left the place instantly. Then after about half an hour, they came again with a larger group consisting of around 200 to 250 people and all they said was practically the same thing. They went away again. The third time they came, they called us for discussion in the presence of UP member. During the discussion, we saw that they have already set fire on some houses in our village. The discussion was postponed. When we started to throw water to the houses to put out the fire, the Bengali came along with police force and we heard sounds of blank fires from their side as they marched toward us. We had to flee from the spot to save ourselves. They took advantage of our flight and looted valuable possessions from our houses and they set fire on more houses. Md. Abul Kasem held a long machete all that time.”

Thinking about the reason behind this attack, the villagers recalled that there was a dispute between the villagers of Satbhaiya Para and Md. Abul Kasem in 2004-2005. Though he purchased one acre of land from Kongchairy Mog, son of the late Thwimra Mog, he occupied a wider perimeter. He dug a pond by the canal and he diverted the water flow in another direction. In this regard, the villagers filed a case against him, and the verdict was not favorable to him. Md. Abul Kasem might have resented this occurrence so he tried to take his revenge by attacking the village.

The villagers also recalled that on February 23, 2010, the regional political party United Peoples Democratic Front (UPDF) called for a day road blockade in protest of the violent incidents that happened at Baghaichhari of Rangamati Districts where most of the indigenous peoples were victims of looting and burning by Bengali settlers. In the morning of February 23, the UPDF staged a procession to support the blockade. The participants chanted agitating slogans as they paraded around the town. At some point, a group of Bengali people made an arson attack on the procession. After that many Bengali people came out to the streets and went on a rampage targeting the houses and business enterprises that belong to indigenous peoples. They then looted valuable possessions and set fire on the houses even in the presence of law enforcement agencies.

A total of 53 households were casualties in this incident at Satbhaiya Para. Out of this number, 49 households were completely burned after being looted while the four others were spared from fire but these too were looted. According to the victims, the individual losses are estimated to range from Tk.60,900.00 to around TK.900,000. The total amount of damage is around Tk.13,456,795.00.

CHT Accord and the Questions of Resolution of Land Dispute

The Minister of Land, Rezaul Karim, has recently declared that there is no alternative to land survey for resolving land disputes in the CHT. After the first meeting held in August 2009, Khademul Islam Chowdhury, Chairman of the CHT Land Commission on Settlement of Land Disputes, also underscored the importance of land survey as the first step to resolution of land disputes. Following this declaration by two influential persons of the government, land survey seems to be a top priority of the government in dealing with the land disputes.

Before engaging in land survey, the government and the CHT Land Commission should give answers to some of the crucial questions which are relevant to the implementation of the CHT Accord. Political will of the government is essential in finding a

pragmatic solution to the land problem. Therefore, the first and foremost responsibility of the government and the Land Commission is to create a broad-based political consensus on the modalities of the Land Commission's work. The CHT Accord, not land survey, should be the guiding principle in this regard. The government and the Land Commission should consider a few issues with due importance.

First, neither the government nor the Land Commission's chairman should declare land survey unilaterally; otherwise it might have many ramifications that may not be helpful in building trust. According to the CHT Accord (Section 2 of Gha) the government needs to consult the CHT Regional Council before starting land survey. The government must respect this provision.

Second, there are inconsistencies between the CHT Accord and the Land Commission's Act. Because of these inconsistencies, the Land Commission could not function during the former AL and BNP tenures. To make the Land Commission fully operative, the government does not have any other option but to remove the inconsistencies in the Land Commission's Act without delay.

Third, rehabilitating the internally displaced persons and returnee Indigenous refugees is one of the most important provisions of the CHT Accord. As per the CHT Accord (Section 2 of Gha), land survey cannot be carried out without rehabilitation of IDPs and returnee refugees.

Fourth, local laws of the CHT deny the concept of khas land because indigenous peoples follow customary rules to determine land ownership and this is supported by the CHT Accord. Therefore, the Land Commission has a mandate to resolve land disputes on the basis of existing laws, customs and systems of the CHT. The Land Commission also has the responsibility to work in line with the existing laws, customs and systems of the CHT.

Fifth, the working relation between the Land Commission and the government, especially the ministry of land, while carrying out land survey in CHT is in question. As per the Bhumi-Khatian (Parbattya Chattagram) Ordinance of 1984, the main objective of

land survey is to prepare Mouza maps and bhumi khatians, or amending the records in bhumi khatians. Appropriate parameters of preparing bhumi-khatians or demarcating the boundaries of lands should be developed before conducting the survey. In other words, the government should take the existing laws, customs and systems of the CHT into account as recommended by the Land Commission while carrying out land survey. If these measures are not taken, the Land Commission might not be able to utilize the outputs of land survey for resolving land disputes.

Sixth, land survey is a bureaucratic and time-consuming exercise. If the Land Commission has to wait until the final output of the survey, it may not achieve its objectives. Alternatively, the Land Commission might consider starting its work in a specific upazila on pilot basis. It can deal with the issues on a “case by case” basis, and the lessons learned from this “case management” can be replicated in other areas of the CHT.

Seventh, land survey alone cannot be a means of resolving the land disputes. To support the work of the Land Commission, it is essential to strengthen other ancillary CHT institutions—the CHT Regional Council, Hill District Councils, and the Task Force on Rehabilitation of Returnee Refugees and Internally Displaced Persons. As per the commitments of the CHT Accord, the government must empower the hill councils by devolving powers to them so that they can discharge services to the people.

Eighth, effective coordination and support between the civil and military administrations are necessary. The government must make sure that the army plays an impartial role and does not associate itself with the politically sensitive settlement program of the Bengali settlers. At the same time, the government might consider forming a mixed police force to assist the civil administration in keeping law and order in the CHT.

Finally, it is needless to say that resolution of land disputes is an ethical and political exercise. Indigenous peoples are politically too marginalized to influence the top decision-making process of the government. Therefore, we ask the government and the Land Commission not to take a unilateral decision with regards to land

survey. The government must respect the CHT Accord and have patience to listen to the CHT people for creating an inclusive environment.

IX. Concluding Remarks

The Chittagong Hill Tracts Accord was signed with an aim to end the decade-long ferocious armed conflict in the CHT region. This Accord was hailed and welcomed by the indigenous peoples of the CHT, the democratic and progressive political parties of Bangladesh, the United Nations, the European Union, many democratic governments and countries of the world, many national and international organizations and agencies and personalities as well. Then Prime Minister Sheikh Hasina also won a significant number of awards from many renowned institutions including UNESCO for her role in this Accord. This peace initiative was also recognized by other South Asian countries as one of the replicable manner of peacemaking processes suitable for this region.

Optimistic about the promise of the Accord in alleviating the dismal social conditions of the region, grassroots communities are not satisfied with the delayed process of implementation of the CHT Accord. Within twelve years after the signing of the Accord, the indigenous peoples of the Chittagong Hill Tracts and their supporters have been observing with frustration that the government of Bangladesh, including the Awami League-led government, that signed the Accord, could not show sincerity in implementing the Accord. As a result, most of the provisions, especially the main issues of the Accord, remain unimplemented. While the disappointment of indigenous peoples in the CHT increases dramatically, vested groups in the government, military and civil administration and including Islamic fundamentalist groups have been active in making impediments in the implementation of the Accord from the very beginning.

Although the CHT Accord recognizes the CHT as the region of indigenous peoples, there is no legislation made to ensure this

recognition. Instead, continued state-sponsored population migration is promoted by the government through state mechanisms which continue to marginalize indigenous peoples in their own homeland.

Indigenous candidates are not given priority during the recruitment of officials and representatives in important institutions and positions. The MoCHTA, which was supposed to be led by a full minister from one of the indigenous peoples in CHT, is still led by a state minister who is not even a full minister.

The Government of Bangladesh still follows its old model of military might in solving political problems in the CHT. For this reason, indigenous peoples are not getting proper justice to realize their rights according to the clauses of the CHT Accord. The temporary camps of the army, Ansars, APBN and the VDP still remain in the field and these hinder the free movement of indigenous peoples in their own territories. Most of the internal roads are still closely controlled by military forces. People can not move from one place to another because of military presence and control. Only around 55 temporary military camps out of more than 500 have been withdrawn so far within the 12 years of the signing of the Accord. The military administration still holds the supreme authority and control over the general administrations.

It is ironic that army officials involved in UN peace keeping missions are involved in “peace-killing” missions in the CHT. For instance, the Mahalchari incident of 2003 was reported to be led by an army officer called Lt. Col. Abdul Awal, the then Zone Commander of Mahalchari Zone, who has just returned from a UN peacekeeping mission before he occupied that position.

According to the Accord, the HDCs were supposed to deal with 33 subject matters of central ministries. But the most important affairs like establishment of local police force, full control on development activities including education, local government institutions and many other issues are not yet transferred to the councils. For this reason, the Deputy Commissioners are controlling all administrative affairs of the CHTs and violating the clauses of CHT Accord in every step of their works.

Due to the non-implementation of the Accord, it is observed that the situation in CHT is becoming worse, and communal attacks are still committed by Bengali settlers with direct backing of the local military authority. The government should therefore prioritize necessary steps for the implementation of the CHT Accord. These urgent steps should be done before the situation in the CHT turns to other directions in the future.

The government should take into account the concerns of indigenous peoples on the basis of recent cases of communal attacks which occurred in Baghaichari and Khagrachari. It should be understood that chaos in a part of the country does not harm only that specific part; it also has chain effects on the other parts of the country and even to the greater interests of South-East Asia and the world as well.

X. Recommendations

The respondents have suggested some solutions to the difficulties in the implementation of the CHT Accord. They demanded for the proper and full implementation of the clauses of the CHT Accord. The following are their specific recommendations:

- Higher officials in the CHT region and in the districts (DCs, SPs, EOs and CEOs of HDCs, UNOs and so on) should be deployed from competent indigenous officials;
- State-sponsored settlement processes of Bengali settlers from plain land to the CHT should be stopped immediately;
- Bengali settlers should be rehabilitated outside the CHT;
- Proper investigation of all human rights violation cases should be conducted and necessary action should be taken against the perpetrators of those incidents;
- GO-NGO should work together to bring social justice in the CHT. In doing this, coordination among the relevant actors is very important;

- Seats for women should be increased in HDCs and CHTRC including special care on smaller ethnic groups;
- Introduce mother languages of indigenous peoples in schools. Contexts and texts of curriculum and language of instruction should be the language of respective students;
- Recruit teachers from the locality; if possible from the respective union, if competent candidates are not available then from adjacent union, at least from the respective upazila in the case of non-availability from the adjacent union;
- Establish proper coordination and linkage among the Hill District Councils, Upazila Administration, Union Parishad and NGOs for effective implementation of government and non-government programs at the grassroots level. Hill District Council should take the leading role in this process. Union Parishad, as the lowest local government system of the country, should be included in the loop of coordination;
- Judges, prosecutors, law enforcement personnel and other relevant authorities should be trained to apply important human rights standards concerning law enforcement and criminal justice;
- Tribal Cultural Institutes should have rural-based programs like peoples-oriented action research, cultural competition, program on indigenous cultural promotion and so on;
- Transfer the authority of local police-force, land registration and management, secondary education and many other crucial departments to the hill district council;
- Support the cultural and community based organizations in order to promote the development of the indigenous peoples' culture.
- GO-NGO coordination should be strengthened in the light of pro-poor development principle. Development activities of GO and NGOs should be free from any type of con-

trol by the government and the military authority;

- Law enforcement personnel should be fully trained in international human rights and criminal justice standards and their duty to adhere to them at all times should be reiterated. If any army official is found to be involved in any human rights violation case, s/he should not be recommended to the UN peace mission;
- Police force in the Chittagong Hill Tracts should reflect the diversity of communities in line with the CHT Accord;
- The local institutions like MoCHTA, CHTRC, HDCs and Circle Chiefs should be accompanied by a legal expert or panel of legal experts to support them in achieving the goals and spirit of the CHT Accord through these institutions;
- Activate the CHT Land Commission through making necessary amendment of the CHT Land Commission Act in line with the spirit of the CHT Accord.

Endnotes

¹ Palli - village, cluster of villages.

² Shanti Niketon was a hostel of tribal youth name after the famous cultural academy initiated by Rabindranath Tagore, which is run by military administration, where they keep some tribal young men to show the foreigners that they support indigenous peoples.

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The CHT Peace Accord and its aftermath have again taught us that building peace is not just about arriving at a political settlement to an armed conflict. It is about creating an environment that will enable both indigenous and non-indigenous peoples to live with dignity and in harmony with each other, based on social justice.

