

## **INDIGENOUS PEOPLES OF BANGLADESH AND THE CHITTAGONG HILL TRACTS PEACE ACCORD : A CASE OF DISTRUST AND DISINTEGRATION**

**Naima Haider**

### **1. Introduction**

Indigenous peoples'<sup>1</sup> rights have assumed an important place in international human rights law. In recent years issues affecting indigenous peoples have received growing national and international attention and significant progress has been made towards the promotion of their rights. This body of law is still expanding and developing through indigenous advocacy in international fora; through the decisions of international human rights bodies; through recognition and codification of indigenous rights in international instruments presently under consideration by the United Nations and Organization of American States; through incorporation of indigenous rights into conservation, environmental and development- related instruments and policies; through incorporation of these rights into domestic law and practice; and through domestic judicial decisions.<sup>2</sup>

Indigenous rights have attained the status of customary international law and are therefore generally binding on states. International law recognizes the rights of indigenous peoples to:

- Self-determination
- Ownership, control and management of their traditional territories, lands and resources;
- Exercise their customary law
- Represent themselves through their own institutions

- 
1. There is a significant difference between the words "indigenous people" and "indigenous peoples". "Peoples" - with an "s" - implies that there are distinct groups of indigenous people in the world, each of which is a "people" with distinct characteristics and legal character. This emphasizes the collective character of indigenous culture and rights. It is particularly important when talking about self-determination, because Article 1 of the Charter of the United Nations recognises the "principle of equal rights and self-determination of peoples".
  2. Mackay, Fergus, "Universal Rights or a Universe unto Itself?" Indigenous Peoples' Human Rights and the World Bank's Draft Operational Policy 4.10 on Indigenous Peoples Draft Discussion Paper 03 September 2001.

- Free, prior and informed consent to developments on their land
- Control, and share in the benefits of the use of their traditional knowledge.

Self determination for indigenous peoples means “the right to control over their institutions, territories, resources, social orders, and cultures without external domination or interference, and their right to establish their relationship with the dominant society and the state on the basis of consent.”<sup>3</sup>

This article is devoted to the discussion of the historical background of the indigenous peoples and of the Chittagong Hill Tracts Peace Accord in the backdrop of international human rights declarations and conventions. Whatever actions and policies were adopted by the pre-Bangladesh governments were basically to appease the tribal peoples and make them docile and obedient to the respective governments. From the beginning of their habitation in the CHT the indigenous peoples were basically suspicious of plain peoples and they used to keep themselves segregated from plain peoples. After the liberation movements of Bangladesh the tribal peoples suffered heavy atrocities at the hands of the Mukti Bahini peoples for their nefarious activities in collaboration with the Pakistanis against the Bengalis. As a result the tribal peoples have become all the more skeptical about the Bangladesh government and its people. Attempts have been made in this article to trace the causes of their distrust towards plain peoples and consequent disintegration in national policy. Endeavour has also been made here to examine the provisions of the Peace Accord and suggest the ways and means to amend this Accord to remove their feelings and hostilities and to effectively arrest disintegration.

## 2. Indigenous peoples in the world

There are an estimated 300 million indigenous people in more than 70 countries worldwide (approximately 7,000 indigenous societies or cultures) – five per cent of the global population.<sup>4</sup> In the absence of reliable censuses, hard figures are difficult to come by. A third of the

---

3. Berman, Howard “The Development of International Recognition of the Rights of Indigenous Peoples” in Document 74. IWGIA and the Centre for Development Research. Copenhagen. (1993)

4. Office of the High Commissioner for Human Rights (2001), *Leaflet No 1. Indigenous Peoples and the United Nations System: An overview*, United Nations, Geneva. See also Centre for World Indigenous Studies (CWIS), 1999.

worlds' indigenous peoples, approximately 150 million, are living in the Commonwealth.<sup>5</sup>

The greatest concentration of indigenous peoples in the Commonwealth live in the following countries: Bangladesh, India, Pakistan and Sri Lanka (South Asia); Botswana, Cameroon, Kenya, Namibia, Nigeria, South Africa, Tanzania and Uganda (Africa); Australia, Fiji, Malaysia, New Zealand, and Papua New Guinea (Pacific and Southeast Asia); and Belize, Canada, Dominica and Guyana (Caribbean and Americas).<sup>6</sup>

Indigenous peoples have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. Despite their cultural differences, the various groups of indigenous peoples around the world share common problems related to the protection of their rights as distinct peoples.

Indigenous peoples around the world have sought recognition of their identities, their ways of life and their right to traditional lands and resources; yet throughout history, their rights have been violated. Indigenous people are arguably among the most disadvantaged and vulnerable groups of people in the world today. The international community now recognizes that special measures are required to protect the rights of the world's indigenous peoples.

### **3. Who are indigenous peoples**

Among the many challenging aspects of understanding indigenous peoples is the fundamental difficulty of defining just who is an indigenous person. The UN Working Group on the Rights of Indigenous Peoples could not agree on a formal definition. However, there is an informal common agreement among nations that indigenous peoples (Aboriginal people) are those who were living on their lands before settlers came from elsewhere. They are descendants of those who inhabited a country or a geographic region at the time when peoples of different cultures or ethnic origins arrived. For example, before Aryans came to India and Bangladesh, Dravidians lived and they would be considered as indigenous peoples. Subsequently Aryans became dominant in northern India through conquest, occupation, settlement or other means.

- 
5. Whall, Helena, 'Recognising and Protecting Indigenous Peoples' Rights in the Commonwealth', Memorandum to the Commonwealth Heads of Government attending the Commonwealth Heads of Government Meeting (CHOGM), Abuja, Nigeria, 1st -7th December, 2003, CPSU (November 2003).
  6. The largest concentration of indigenous peoples in the Commonwealth live in India, where there are approximately 85 million Adivasis or Scheduled Tribes.

Indigenous peoples are kinship-based, non-industrialized societies that have traditionally relied on hunting, fishing, gathering, herding or gardening for their food, fuel and materials. They have tried to remain locally self-sufficient, and resist assimilation. Almost without exception, they have been treated as backward and inconvenient by nation-states, and have been killed, dispossessed, or forced to assimilate in the process of state-building and national economic growth. All of the world's 6,000-10,000 original cultures were originally "indigenous," but most of them were absorbed by the growth of nation-states long ago. Some survive as "minorities" which are identifiable or self-identified as culturally-distinct groups, but which no longer maintain distinct communities within distinct territories. It is not always clear whether a particular group is a minority or an indigenous people. The difference can largely be a matter of degree.

There is no simple or precise definition of "indigenesness" that applies equally well to all countries. Studies by two United Nations legal experts, José Martínez Cobo (1984) and Erica-Irene Daes (1994), both focused on *aboriginality* (being the first on the land), *cultural distinctiveness*, and *self-identification* as "indigenous."

The United Nations has defined indigenous according to the most widely accepted definition of José Martínez-Cobo, the Special Rapporteur to the sub commission on Prevention of Discrimination and Protection of Minorities. In his report, entitled Study of the Problem of Discrimination Against Indigenous Populations, Cobo states that, "Indigenous communities, peoples and nations are those which having a historical continuity with pre-invasion and pre colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems."

The United Nations' International Labour Organisation, in its Convention on Indigenous and Tribal Peoples, 1989 (No. 169), has adopted essentially the same three criteria as stated above. The ILO defines "tribal peoples" separately as persistently culturally-distinct, marginalized societies regardless of their aboriginality. According to the ILO, indigenous peoples and tribal peoples should have exactly the same special legal rights.

The United Nations working definition of indigenous people is as follows:

“...those people having an historical continuity with pre-invasion and pre-colonial societies, consider themselves distinct from other sectors of the societies now prevailing in those territories or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations, their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples in accordance with their own cultural patterns, social institutions, and legal systems.”

Article 1 of the International Labor Organization's (ILO) Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention 169) of 1989 has defined tribal and indigenous peoples as:

1. This Convention applies to:
  - (a) tribal peoples in independent countries whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated by their own customs or traditions or by special laws or regulations;
  - (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or by geographic region to which the country belongs, at the time of the conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status retain some or all of their own social, economic, cultural and political institutions.
2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

Moreover and most importantly, in accordance with indigenous peoples' perspectives, both the ILO and Martinez-Cobo emphasize Self-identification as one of the main variables in any definition. Article 2 in the ILO Convention 169 clearly states that, "Self identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply".

UNDP's definition incorporates both that of Martinez-Cobo and the ILO. It also recognizes that despite common characteristics, no single accepted definition of indigenous peoples that captures their diversity exists. Therefore, self-identification as indigenous or tribal is usually regarded as a fundamental criterion for determining indigenous or tribal groups,

sometimes in combination with other variables such as language spoken and geographic location or concentration. UNDP further extends the definition to include a much wider array of groups who are susceptible to being disadvantaged in the development process.

The UN Economic and Social Council (ECOSOC)'s Sub-Commission on the Prevention of Discrimination and Protection of Minorities Working Group on Indigenous Populations defined indigenous populations in the following way, which combines both objective and subjective elements. "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions, and legal systems."<sup>7</sup>

#### **4. The 1994 Draft Declaration on the Rights of Indigenous Peoples**

The 1994 Draft Declaration on the Rights of Indigenous Peoples is similar to the UN Universal Declaration of Human Rights. The only difference is that the Draft Declaration is especially focused on the rights of indigenous peoples, while the Universal Declaration of Human Rights is much broader and includes all human beings. One of the rights is enumerated in Article 6 of the Draft Declaration, stating: "Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext. In addition, they have the individual rights to life, physical, and mental integrity, liberty and security of person."

Another right in Article 10 states as follows: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation, and, where possible, with the option of return."

The Draft Declaration on the Rights of Indigenous Peoples, states the right to membership in an indigenous community. The UN Working Group on Indigenous Populations proposes four principles to be taken

---

7. E/CN.4/Sub.2/1983/21/Add.8, para. 369/

into account in any possible definition of indigenous peoples: (a) priority in time, with respect to the occupation and use of a specific territory; (b) the voluntary perpetuation of cultural distinctiveness, which may include the aspects of language, social organisation, religion and spiritual values, modes of production, laws and institutions; (c) self-identification, as well as recognition by other groups, or by State authorities, as a distinct collectivity; and (d) an experience of subjugation, marginalisation, dispossession, exclusion or discrimination, whether or not these conditions persist.<sup>8</sup>

For the purpose of its operations, the World Bank considers "indigenous" those peoples who manifest:

- vulnerability to being disadvantaged in the development process
- close attachment to ancestral territories and to natural resources in these areas
- self-identification and identification by others as members of a distinct group
- an indigenous language, often different from the national language
- presence of customary social and political institutions
- primarily subsistence-oriented production.<sup>9</sup>

The United Nations International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights state that all peoples have the right of self-determination by virtue of which they "freely determine their political status and freely pursue their economic, social and cultural development". (Part one, Article one, 1966) However, because there has been dispute over the exact meaning of the term "peoples", it is not clear exactly to whom "peoples" refers. Some state governments oppose use of the term "peoples" in regards to Indigenous Peoples because they fear its association with the right of secession and independent statehood. Those states would prefer the terms "tribes" or "populations", which do not have those associations. On the other hand, Indigenous Peoples use the term "peoples" because of its association with inherent recognition of a distinct identity. "Indigenous People" is a compromise between these two positions. Indigenous Peoples and their advocates find the denial of being described

---

8. UN Doc. E/CN.4/Sub.2/AC.4/1996/2. A similar approach is followed by the Indigenous Peoples of Africa Coordinating Committee (IPACC). See IPACC, Annual Report (November 1998 to October 1999) Appendix, 22

9. World Bank Report 1991

as "peoples" and the inherent entitlement to self-determination a form of racism and continued discrimination.

The 1948 UN Universal Declaration of Human Rights indirectly embodies rights for indigeneous peoples. Article 1 states that " All human beings are born free and equal in dignity and rights". This means all indigenous peoples are equal to settlers in their rights and dignity. Article 7 of the Declaration stipulates that: " All are equal before the law and are entitled without any discrimination to equal protection of law. All are entitled to equal protection against any discrimination in violation of this Declaration". This implies indigenous peoples cannot be discriminated from other individuals.

The Bangladesh Constitution of 1972 provides similar rights as fundamental rights of all citizens of Bangladesh and Article 28(4) of the Constitution enables the state to make special provision for "advancement of any backward section of citizens." However, the term "backward" does not signify any particular group and thus it is not clear whether it would include the "indigenous".

### **5. Indigenous peoples of Bangladesh**

Bangladesh's geographic location and history have made it a home to people of diverse origins, races, colours and descent. The assimilative character of Bengal civilization combined with the intermingling of inhabitants with occasional waves of immigration have resulted in a composite society which has racially and culturally turned into a melting pot over the millennia. A variety of races including the Dravidians, the Mongoloids, the Negroids and the Aryans and their continuous intermingling have, therefore, contributed to a composite racial "mix" in such a way that categorical distinction of "race" or "ethnic origin" per se have ceased to exist for the Bangladeshi people. Race itself as an issue does not impinge on the consciousness or outlook of the Bangladeshi people in their intra social relations as they seek to find homogeneity in their identity through common language, tradition, culture, norms and harmony in tolerance and coexistence. The quintessence of Bangladeshi society is therefore the intermingling of races and any consideration of Bangladesh's overall approach and policy towards the elimination of racial discrimination must begin with an understanding of the racial homogeneity of the Bangladeshis.

Indigenous peoples in Bangladesh are generally regarded as "tribals" in official documents. However, some laws refer to them as 'indigenous'<sup>10</sup>

---

10. Act 12 of 1995 and Rules 6,34,45 & 50 of the Chittagong Hill Tracts Regulation, 1900

or as 'aboriginal'.<sup>11</sup> Indigenous peoples from eleven different ethno-linguistic groups have been living in the region for many centuries who form the majority of the population.<sup>12</sup> Unlike the rest of Bangladesh, where Bengali-speaking Muslims form the majority of the population, the indigenous peoples of the CHT are largely Buddhist, Hindu and Christian, sometimes in conjunction with indigenous faiths.

The pockets of ethnic minorities along the western, northern and eastern borders of Bangladesh are home to smaller factions compared to major presence in the south-eastern part. Of the total tribal population, the tribes in the south-eastern Chittagong Hill Tracts Districts comprise 56 per cent, tribes in Rajshahi Division (West) comprise 26 per cent, tribes in Dhaka Division comprise 10 percent and tribes in the southern Divisions of Barisal and Khulna comprise about 7 per cent.<sup>13</sup> Traditionally other than in the south-eastern area, tribal minorities have lived under the same administrative dispensation as the rest of the population and enjoy adequate legal and administrative protection pursuant to national policy in fulfilment of constitutional provisions of equality for all and positive discrimination to backward sections of the citizenry.

In Bangladesh, the indigenous peoples' movement for autonomy in the Chittagong Hill Tracts (CHT) has its origins in a historical process of assimilation and oppression which began with colonisation in 1860.

## **6. History of the Chittagong Hill Tracts (CHT)**

Bangladesh evolved through a long process of political and administrative change over several centuries. As part of greater India, Bangladesh was colonised by Britain from 1760 until 1947. Following independence from colonial rule, Bangladesh became a part of Pakistan and remained so until its emergence as an independent nation in 1971. Its present day inclusion within Bangladesh is the historical product of the post-1860 British colonial advance to the east and the northeast of Bengal, to provide a buffer zone to the Indian empire.

The CHT has long been a problematic region of Bangladesh, firstly because of its strategic location between India and Burma and secondly because of its unique topography of thick forest. Bangladesh District Gazetter on Chittagong Hill Tracts describes the topography of CHT as

---

11. Section 97, East Bengal State Acquisition and Tenancy Act, 1950

12. The 1991 Census puts the indigenous (officially "tribal") population of the region at just over 51%.

13. Source : Banglapedia.

that of "a tangled mass of hill, ravine and cliff covered with dense trees, bush and creeper jungle."<sup>14</sup>

Currently, comprising of the three districts of Rangamati, Khagrachhari and Bandarban, the CHT is a geographically isolated region of Bangladesh. It is surrounded by the Indian States of Tripura in the North, Mizoram in the east and Burma in the southeast. With 13,221 sq. km. of surface area, the CHT constitutes 10 per cent of Bangladesh's total area. Being a land of hill and forests, it presents a sharp topographical contrast with the rest of Bangladesh.

The peripheral area of the CHT in South East Bangladesh is inhabited by 13 indigenous groups. Of the approximately 13 ethno-linguistic groups of the Chittagong Hill Tracts, the four largest are the *Chakmas*, the *Marma*, the *Tipri* and the *Mro*. The *Chakmas* constitute the largest of the tribal populations in the Chittagong area. Exact population figures are lacking but the most reliable estimates put their number at 140,000 in 1956 and 230,000 in 1981. According to the 1991 population census, there were about 253,000 Chakmas. More than 90 percent of them are concentrated in Rangamati and Khagrachhari districts. About 100,000 Chakmas also live in India, particularly in the states of Arunachal, Mizoram and Tripura. Small groups have settled in other countries as well.<sup>15</sup> The ethnic inhabitants of the CHT are completely different in appearance, language, religion and culture from Bengalis.

The struggle in the Chittagong Hill Tracts, which is home to eleven different ethnic indigenous groups (known collectively as *Jumma*<sup>16</sup>) is based upon ethnic identity politics. The erosion of traditional indigenous patterns of self-rule, culture, language and economic deprivation has been instrumental in creating grievances among the *adivasis* (original inhabitants) of the CHT over time. The unique geographical location (hilly, densely forested), land pattern (high, non-fertile), agriculture (shifting cultivation), and indigenous ethnic composition have made the region substantially different from other parts of the country. A structure of non-formal, self-governing systems traditionally existed in the hill tracts which maintained autonomy from the power of the centre over a

---

14. Bangladesh District Gazetteer: Chittagong Hill Tracts, Ministry of Cabinet Affairs, Establishment Division, Government of the People's Republic of Bangladesh, Dhaka, 1975, p. 1.

15. Source : Banglapedia (National Encyclopedia of Bangladesh).

16. 'Jum' is shifting cultivation carried out predominantly on the steep slopes of the hills. The Jum cultivators are collectively known as Jumma or Jumia. They are also known as hill people.

long period. It was in 1860 that the British colonizers first formally annexed the area. Despite annexation, a degree of autonomy was still maintained through promulgating special laws and regulations.

The first direct and large-scale state intervention in the region came after 1947 during Pakistani colonial rule. In its effort to exploit natural and economic resources from East Bengal, the Pakistani rulers began to intercede into the CHT. The 1962 Constitution of Pakistan changed the status of the region from an excluded area to a 'tribal area,' despite strong protests from the hill leaders. The building of the Kaptai hydro-dam in 1962 was the next major step of state intervention that had a far-reaching impact on the region and the lives of its people as will be discussed later. The present form of politicization in the region began at this point and continued even after the independence of Bangladesh in 1971. From the very beginning, the ruling Bengali elites attempted deliberately to construct a homogenous image of Bangladesh.

The 1972 Constitution of Bangladesh did not even recognize the existence of any indigenous groups in the country. Thus, the hegemonic Bengali nationalist ideology, along with subsequent militarization and desecularisation of national politics and state oppression, intensified the CHT crisis leading it into a fully-fledged guerrilla struggle in the early 1970s. However, although a Peace Accord had been signed in 1997 bringing an official end to the two decades of bloody conflict, the non implementation of the accord has become the new sources of grievance and conflict. Moreover, the precarious nature of the accord has led to internal division among the hill people. The critics of the accord have developed a new organization, the United Peoples Democratic Front (UPDF) and vows to materialize their demand of full autonomy.

The decades old struggle for autonomy of the Jumma peoples of the Chittagong Hill Tracts (CHT) in Bangladesh came to an end with the signing on 2 December 1997 of a peace accord between the government of Bangladesh and the Parbattya Chattagram Jana Samhati Samiti (PCJSS—the Chittagong Hill Tracts Peoples' Solidarity Association).

### **6.1. The History of the Conflict**

The present conflict of the CHT problem may be traced back to the Moghul period. The Moghul influence in the CHT became visible in the second half of the seventeenth century. The Chakma chiefs invited Bengalis to trade certain daily necessities such as dried fish, chicken, salt, tobacco, molasses, and black cloth, which were not available in the hills.

The Chittagong Hill Tracts were ceded to the British East India Company by Nawab Mir Qasim Ali Khan, who was the semi-independent governor

under the Moghuls in 1760. Until 1900 the main objectives by which the British policy was guided were the protection of the own political, economic and military interests as well as keeping the Hill People segregated from the Bengalis.<sup>17</sup> In 1860 the area was separated from the district of Chittagong and became the Chittagong Hill Tracts as it remained until today. But the British colonialists did not establish any administrative structure worth mentioning, as the contacts were limited to the payment of taxes.<sup>18</sup>

The overall civil, revenue and development administration of CHT is somewhat different from that of the rest of the country. To understand the present structure of administration of CHT, its evolution at least from the time of British is to be reviewed briefly.

## 6.2. Historical Overview : British Period

The Chittagong Hill Tracts were brought under the Province of Bengal by the British administration in 1860, which covered all the land to the west.<sup>19</sup> Before the British occupied the Chittagong Hill Tracts and made it a district of their colony of British India, the Chittagong Hill Tracts did not have a special name then; it was simply known as a section of the hill country linking India and Myanmar (Burma). Chittagong Hill Tracts was a district with a unique status since it was not a regular Bengal district, unlike the lowland district of Chittagong. The British gradually established their sphere of military, political and economic influence over the Chittagong Hill Tracts but they did not interfere with the administration of the Chittagong Hill Tracts. The British had two main objectives in the Chittagong Hill Tracts.<sup>20</sup> Their objectives were to protect the political, economic and military interests of the British and keep the hill people segregated from the Bengalis in order to protect them from

- 
17. Mohsin, Dr. Amena, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts*, Bangladesh. Dhaka: University Press Ltd, 1997, 26
  18. Shelly, Dr. Mizanur Rahman, ed., *The Chittagong Hill Tracts of Bangladesh: the Untold Story* (Dhaka, Bangladesh: Centre for Development Research, Bangladesh, 1992), 28.
  19. Schendel, Willem Van, Mey, Wolfgang and Dewan, Aditya Kumar in *The Chittagong Hill Tracts: Living in a Borderland/ Dhaka, University Press, 2001, viii, p. 327*
  20. Mohsin, Dr. Amena, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts*, Bangladesh. Dhaka: University Press Ltd, 1997, 28

the economic exploitation of Bengalis.<sup>21</sup> Keeping the hill people segregated served British political interests since the Chittagong Hill Tracts remained calm, distanced from the Indian nationalist movement that has surrounded Bengal and the rest of India.<sup>22</sup>

Despite British interests, the hill people used their isolation as their own advantage and thought of British as their "protectors", thus the British had no problem ruling over them. However, the policy of segregation did the hill people more harm than good since it left them unprepared for the political system into which they were incorporated.<sup>23</sup>

Moghul rule lasted from 1666 until 1760, when the region was ceded to the East India Company. Between 1860-80 the British government introduced a toll tax on the export of forestry products and declared one-fourth of the total CHT land area as 'reserved' forests to be converted into teak plantations. Cultivation of lands within the reserved forests became a criminal act.<sup>24</sup> The British period saw the adoption of the Forest Act of 1927 which continues to set the parameters for Bangladesh' forest policy.

### 6.3. The 1900 CHT Regulation

The Chakma domination was not interfered with until the Hill Tracts Manual was introduced in the year 1901 when the CHT was recognized as an indigenous area. Under the CHT Regulation of 1900 (popularly known as the 1900 Regulations) the hill tracts were divided into three revenue circles, each headed by a rajah. The three circles, known as the Chakma, the Mong, and the Bohmang, together were constituted with representatives from all tribes. A hierarchical system of authority was created, with each circle divided into *mouzas*<sup>25</sup> (369 *mouzas*, each headed by a headman), and each *mouza* comprising a number of villages (each headed by their own *karbaris*). The headmen of the *mouzas* had the power to collect revenue, settle disputes, and allocate land for shifting

---

21. Ibid , 29

22. Ibid, 31

23. Ibid 37

24. Roy, Raja Devasish. "The Land Question and the Chittagong Hill Tracts Accord" in *The Chittagong Hill Tracts: The Road to a Lasting Peace* (Baguio City: Tebtebba Foundation Inc., 2000), 33.

25. A *Mouza* in the plain districts only denotes a revenue unit. In the CHT, it is, in addition, an administrative unit comprising of several villages under a Headman. A *mouza* can be multi-ethnic.

cultivation.<sup>26</sup> The 1900 Regulations also restricted the immigration of non-indigenous peoples into the CHT. It was given a special status as a "Totally Excluded Area" as provided by the Government of India Act of 1935, which meant relative autonomy for the CHT under the jurisdiction of their traditional chieftains, with direct administration by the central government.

The colonial administration played a very significant role in determining the social, political, economic and judicial structure of CHT. This was particularly true for 1900 Hill Tracts Manual which is still considered by the ethnic minorities of CHT as a source of their overall rights and a firm basis to challenge the legality of the presence of Bengali settlers in CHT, although it is true that the very objective of the British to introduce the Manual was not benevolent rather strategic, i.e., the classic colonial strategy of "divide and rule". Since 1900, the Manual has been the basis of civil, revenue and judicial administration of CHT, although several amendments have been made and new laws have been enacted to supplement the Manual.

To insulate the indigenous areas from increasing politicization of the plains and maintain a semblance of control, the British built administrative and legal barriers and declared the tribal areas as "backward tracts", "excluded" or "partially excluded areas". The major significance of the 1900 Regulation lied in its provisions on the colonial land and forestry policies. As mentioned earlier, the Regulation challenged in-migration of settlers from the plains and marked the region an "excluded area", isolated from the rest of the Bengal province. The colonial state also claimed ownership of all lands in the hills.

According to the Bengal Judicial Department's Report [Proceedings 22-23; September 1876], the lands that the tribals occupied were "vested exclusively in the Crown." The colonial state prevented these people from accessing vast tracts of forests that they regarded as Commons prior to 1900. These forest lands were declared "reserved forests" by the colonial authorities.<sup>27</sup> Simultaneously, for commercial gains, high quality lands were given out to the European tea planters. The overarching aim of the colonial forest policy was to provide essential forest products for

---

26. Gain, Philip, "Life and Nature at Risk," in *The Chittagong Hill Tracts: Life and Nature at Risk*, ed. Raja Devashish Roy, et al. (Dhaka, Bangladesh: Society for Environment and Human Development, 2000), 17.

27. Schendel, Willem Van. 1992. 'The Invention of the "Jumma.": State Formation and Ethnicity in Southeastern Bangladesh', *Modern Asian Studies*, 26:1, 95-128.

military-strategic interests of British imperial strategies. For supply of essential timber for shipbuilding and iron smelting, the British imperialists turned to India and other colonies. By the 16th century, much of Western Europe was deforested. During 17th century, Ireland's forests were devastated to meet England's needs of timber for shipbuilding, iron smelting and tanning. A permanent supply of suitable timber was required for the Royal Navy. Indian teak, the most durable of shipbuilding timber, saved England during the war with Napoleon and during the later maritime expansion. During the First and the Second World Wars, India had to supply large quantities of timber for the Allied powers.

The provisions of the 1900 Regulation were amended several times subsequently, through government notifications, acts and other regulations, in 1920, 1925, 1933 and 1935. The earlier provision of preventing outsiders to settle in the area without a special permit from the Deputy Commissioner was changed in 1933 when the colonial state declared CHT, as mentioned above, a "backward tract" and gave the Governor-General-in-Council the responsibility to administer CHT as an "excluded area." The *rajahs* or circle chiefs were derogated to the position of advisors. Between the years 1900 and 1947, with its later changes and amendments, the 1900 Regulation remained the major framework for administering the CHT.

#### 6.4 Post-1947 Period

The major problem for the CHT people emerged in the eve of Indian independence. With partition of the Indian sub-continent in 1947, British India disintegrated into India and Pakistan. It was only natural that with contiguous Muslim dominant areas forming Pakistan and the remainder reshaped into the Union of India, the largely Buddhist CHT whose whole economy was integrated with East Bengal should have been included as a part of India. The indigenous leadership in the *Parbattya Chattogram Jana Sanghati Samiti* founded by Kamini Dewan in 1946 wanted to join the Indian Union and the indigenous chiefs [mostly the *Chakmas*] advocated the formation of a confederation with CHT, Tripura, parts of Assam, Cooch Bihar and the Khasia territory within India.

However, CHT's future did not feature in the pre-partition negotiations and the proposal of this confederation was ignored by the Indian National Congress and the Muslim League.<sup>28</sup> In August 1947, the CHT

---

28. The two major nationalist political parties engaged in chalking out post-partition administrative plans for the Indian sub-continent with the British colonial powers.

became a part of Pakistan against the will of the local people. No formal explanation was offered for this. The individual groups refused to recognize the forced accession of their region to Pakistan and for several days, the Indian flag flew in major CHT townships. The pro-Indian communities in CHT even called for an armed resistance against the Pakistani authorities. However, this futile attempt soon collapsed when the Baluch regiment of the Pakistani army took control of the region.

Initially, the Pakistan government had other urgent concerns to attend and the CHT region retained its special administrative status of an "excluded area." However, the provincial administration in Dhaka tried to abolish the special status in 1955 and integrate the region with Dhaka in order to end the center's interference. The attempt failed because of vehement opposition from the CHT people and absence of support from the central government. Consequently, local control was lost and the central Pakistani leadership in Karachi assumed direct administration of the region. The first administrative act of the Pakistani government was to repeal the Chittagong Hill Tracts Frontier Police Regulation of 1881 and absorb the local police force into the East Pakistan police. This was viewed as the beginning of a planned policy to threaten the separate identity of the indigenous people. The Constitution of 1956 treated the CHT region as an "excluded area" and placed it under Pakistan's Ministry of Home and Kashmir Affairs. When Ayub Khan [1958-1969] came into power, his army dismantled the residual elements of tribal individual control. What is more interesting, the martial Ayub administration was more integrationist than the colonial rulers in the sphere of state-building. The 1959 Regulation of Basic Democracies Order replaced self-sufficient tribal institutions with new patron-client networks.

### **6.5. Pakistan Period**

British rule came to an end in 1947 and British India disintegrated into India and Pakistan. The Bengal Boundary Commission headed by Cyril Radcliffe, awarded the Chittagong Hill Tracts to Pakistan whereas the Congress wanted to incorporate the Chittagong Hill Tracts in India. The Commission argued that East Bengal had no source of power except development of hydroelectricity and one of the main sources was the river Karnafuli, which lies in the Chittagong Hill Tracts. The Bengal Boundary Commission also explained that the whole economic life of the people of the Chittagong Hill Tracts depends upon East Bengal and that Chittagong, the only port of East Bengal also depends upon the Chittagong Hill Tracts. This idea clearly shows that Chittagong Hill Tracts was taken as part of the port city of Chittagong. Ultimately, the Bengal Boundary

Commission, headed by Cyril Radcliffe, awarded the CHT to Pakistan.<sup>29</sup>

The first constitution of Pakistan in 1956 did not change both the Chittagong Hill Tracts "excluded area" status and the Chittagong Hill Tracts Regulation in 1900. However in 1962, the Pakistan Government replaced the phrase "excluded area" with "tribal area"<sup>30</sup> in the Constitution of 1962. Two years later, the Pakistani Government abolished the special "tribe area" status of the Chittagong Hill Tracts. In order to keep the non-hill people in the Chittagong Hill Tracts, Rule 51 of the Chittagong Hill Tracts Manual, which gave the District Commissioner the power to expel non-hill people from the Chittagong Hill Tracts, was struck out. In addition, an amendment was also made to the Chittagong Hill Tracts Manual and it gave non-hill people, who had lived in the Chittagong Hill Tracts for at least fifteen years, to have property rights. The hill people were infuriated and they felt as if the non-hill people were looking for a legal excuse to migrate into the Chittagong Hill Tracts. These actions created a great sense of alienation and fear among the hill people. There were signs of tensions in the Chittagong Hill Tracts but one significant event heightened the tensions and animosity i.e., the construction of the Kaptai Hydroelectricity Dam. The dam built over the Karnaphuli next to Kaptai is about 666 metres long and 43 metres high. The product is an artificial lake which covers an area of about 655 sq. km and has swallowed about 125 *moujas*, including the major portion of Rangamati town.

The Kaptai Dam Project brought severe economic crisis to the hill people in the Chittagong Hill Tracts. The dam weakened the economy of the Chittagong Hill Tracts since land was scarcer, and the cycle of shifting Jhum cultivation or ('slash and burn' or 'swidden' agriculture) was reduced from 10 years to 3 years (Mohsin, 1997). The reduction of Jhum cultivation led to a decline in soil fertility and low yields. The majority of the hill people practices Jhum cultivation. Jhum cultivation can also be known as "shifting cultivation" and this traditional method of farming is popular and widespread because it allows the hill people to farm on hillsides. Before the farmers start cultivating, the farmers use the "slash and burn" technique to clear the surface vegetation of selected slopes of land. Mixed crops of rice, cotton, millet, sesame, maize, and vegetables are planted. This cultivation guarantees a steady food supply for the farmers throughout the year and after a period of about two years, the

---

29. Mohsin, Dr. Amena, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts*, Bangladesh. Dhaka: University Press Ltd, 1997, 18

30. The consequence was that the area remained distinctive but not excluded any longer

farmers move on to another plot and the land is left to regenerate for 10 to 15 years.

### 6.6. Bangladesh Period

After nine months of war of independence against Pakistan, Bangladesh emerged as an independent state on 16 December 1971. The victorious 'Mukti Bahini' (Freedom Fighter) entered into CHT with vengeance and communal hatred, creating a reign of terror situation through out CHT. The Mukti Bahini fell upon the innocent Jumma people, killing, looting, arsoning and raping women, burning houses and villages, victimising and terrorising the inhabitants who were forced to take refuge in the jungles. Soon after the Pakistani army had withdrawn, the Mukti Bahini (liberation forces of Bangladesh) went on a systematic rampage against the Jummas in the CHT.

The Liberation War arose from an effort to free Bengal from the hegemonic system of Pakistan, which defines itself by religion. The ethnocentric political programme was guided by the idea of the "purenness" of the Islam which included the idea of Urdu being the Islamic language.<sup>31</sup> The Bengalis were considered to be a lower Hindu caste although they had actively supported the idea of a Muslim Pakistani state.<sup>32</sup> The Pakistani hegemony then led the Bengalis to assert their separate identity, which was now based on distinction through language and culture, instead of religion. Because of the exclusion from Pakistani Islamic nationalism a new form of nationalism guided by culture and language arose which became the guiding paradigm for the independent Bangladesh.

In January, 1976, Chittagong Hill Tracts Development Board (CHTDB) was established (with three branches at three sub-divisional/Circle headquarters) with the objectives of formulating development policy and implementing multi-sectoral development program for the CHT as a whole. The CHTDB, headed by G. O. C. of 24 Infantry Division and Commander of Chittagong Region, is assisted by a Consultative Committee and is represented by tribal and non-tribal leaders.

In 1981, the Bandarban sub-division in the south and in 1983 the Khagrachari sub-division in the northeast were upgraded into districts. As a result, three separate administrative districts, viz. Rangamati,

---

31. Urdu is written in a Arabic Persian script, while Bengali was sanskritised by the Hindu elites during colonialisation (Mohsin 1996, 35)

32. After the Muslim population of Bengal had been dominated by a Hindu aristocracy created by the British colonial policy Hindu as well as Muslim identity which arose after the pre-colonial syncretism (Mohsin 1996, 74)

Bandarban and Khagrachari, emerged in CHT since 1983. Again in 1989, the government of Bangladesh passed three Acts to establish three Local Government Councils for three Hill Districts (District Councils), the formation, powers and function of which are not similar to those of the rest of the country. While the Local Govt. Councils and CHTDB are directly controlled by Special Affairs Division (converted into a full fledged Ministry called Ministry of CHT Affairs, after the signing of Peace Accord), Union Councils, Thana Parishads, Poura Savas, Bazar Fund, etc. are under the control of Ministry of L. G. R. D. and Cooperative.

In 1998, in consonance with the Accord, a Regional Council for CHT region was created to coordinate the activities of three Local Govt. Councils. Thus, the overall civil, revenue and development administration of CHT has assumed a very intricate shape in which, vis-a-vis many government, autonomous and semi-autonomous bodies like the rest of the country, a few other bodies (Local Govt. Councils, Regional Council, CHTDB, etc.) especially created for CHT who play their respective roles.

### **7. CHT Peace Accord**

Over the last quarter century, the indigenous people of the Hill Tracts have been involved in struggle for autonomy from the Bangladesh state. The main roots of the crisis on the CHT centred on the land issue, the transfer of population from plain districts and the control of administration by non-inhabitants. Besides, discrimination, deprivation and exploitation in social, cultural, economic and political fields and the programme of assimilation of the indigenous hill people into the majority Bengali population were other bones of contention.

It was in 1997 that the Parbotto Chattagram Jana Sanghati Samiti (PCJSS or JSS), the armed wing of the struggle for Jummaland reached a peace accord with the Government of Bangladesh.

When the Accord was negotiated in December 1997, it included the following salient features:

- decommissioning and deposit of arms by Shanti Bahini (the tribal militant group) under a general amnesty
- rehabilitation of the international refugees and IDPs dismantling of non-permanent military camps and the return of soldiers to their regular barracks
- Establishment of a land commission to deal with conflicts over land and natural resource rights;
- recognition of the cultural identity of the indigenous people and the CHT as a 'tribal' area;

- Devolution of power to the Hill District Councils, Regional Councils and CHT Ministry as the units of self government in the CHT;

Moreover the accord was expected to empower the indigenous people in certain areas by devolution of power through the following measures:

1. Establishment of a Ministry of CHT Affairs, which is to be headed by one indigenous person from CHT.
2. Creation of Regional Council for the entire CHT with a two-thirds majority of indigenous people in representation.
3. Widening the areas of functioning of already existing Hill District Councils by adding new subjects under its jurisdiction.
4. Creation of an independent Land Commission to resolve the dispute over land rights acting as tribunal for hearing the complaints and dispossession of lands.
5. Withdrawal of military camps from the CHT region except the cantonments.<sup>33</sup>

There were also a number of important issues that the Accord did not address:

- The Accord is not protected by constitutional safeguards, and is open to amendment or revocation at any time.
- It makes no provision for environmental protection, despite long-term damage from uncontrolled resource exploitation.
- It ignores the issue of continuing infiltration of illegal settlers into the area.
- It makes no provision for social reconciliation between tribals and Bengalis.
- It contains no constitutional provision for the ethnic identity, nor for the councils, so these can be repealed any time
- There is no timetable for implementation of the accord and no provision for independent monitoring of the peace process

## **7.1. Post Accord Situation**

### **7.1.1 Dispute over Land**

Although the Peace Accord made specific provisions regarding the return of land to tribal refugees, this process has been complicated by the difficulty of proving ownership. Prior to the conflict, tribal communities owned land on a communal basis, and very little documentation was

---

33. Chakma, Mrinal Kanti, Violation of Human Rights of the Indigenous People of Chittagong Hill Tracts and the Plight of Chakma Refugees, in Roy, S.K. (Ed.); *Refugees and Human Rights* (Delhi: Rawat. 2001) pp, pp. 345-360.

deemed necessary. The new Bengali settlers introduced a new framework of land demarcation whereby written proof was required, which then led to widespread illegal 'land grabbing'.

The hill people claim the land to be theirs by virtue of being indigenous to the region. On the other hand some maintain that they are as much settlers as the Bengalis are, the only difference being that they had settled centuries earlier from adjacent Myanmar. The Bengalis had maintained that as citizens of the state they have the right to movement and residence anywhere within the territory of the Republic of Bangladesh. Pressure on land in alluvial plains forced many to settle down in the hilly regions.

There are two types of Bengali settlers – old settlers and new settlers. According to the hill people, the old settlers are the Bengalis that have migrated and settled in the Chittagong Hill Tracts before the Partition in 1947. Presently, most hill people in the Chittagong Hill Tracts have no problems with the old settlers. But they do have problems with the new settlers. The new settlers are Bengalis, backed up by the government, that have migrated into the Chittagong Hill Tracts after the Partition in order to evict the people from the CHT and make them minorities.

### **7.1.II Communalism**

Communal divisions have also spread into the public service sector, and discouraged many tribals from accessing healthcare facilities, even when they can do so with ease. Exploitation and extortion are commonly reported practices, and are both particularly prominent in the more isolated communities, where discrimination appears rampant.

Moreover, ethnic tension continues to make the CHT particularly vulnerable to incidences of communal violence, and personal security remains low. Numerous attacks upon houses, villages and temples have been recorded in the last few years, and small-scale disputes have quickly assumed much larger proportions, with a typical pattern of continued aggravated retaliation.

### **7.1.III Continued militarisation**

During the conflict, the CHT underwent unprecedented heavy militarisation. In the early 1980s the total strength of the Bangladeshi army and auxiliary forces in the CHT was calculated to be over 120,000, which at the time provided for one armed soldier for every tribal person.<sup>34</sup> Military presence infiltrated every pore of society, and the number of police stations in the region also doubled.

---

34. Survival International, 'Genocide in Bangladesh', *Survival International Review*, No 43, London, 1984, p. 13.

The situation post-Accord has not changed very much, and military presence has become a normal phenomenon of life in the CHT. Although Section 17 (a) of the Agreement provided for the removal of "all temporary camps of army, ansar [paramilitary] and village defence force in the Chittagong Hill Tracts excepting Bangladesh Rifles (BDR) and permanent cantonments", it did not specify a deadline by which time this withdrawal should be completed. Only 31 camps of the estimated 520 temporary camps have been withdrawn so far.<sup>35</sup>

Instead of withdrawing the military, the government launched "Operation Uttaran". The military continue to conduct operations through out the CHTs. The order issued in 1973 to impose military administration in the CHTs remains in effect at present, having never been withdrawn.<sup>36</sup>

#### **7.1.IV. Tortures and Religious Persecution**

In the name of counter-insurgency the Jummas have often been detained and tortured by the army. Thousands have perished in the armed encounters, extra-judicial executions, tortures, rapes and so on. Bangladesh security forces often resorted to mass detention and torture of the helpless villagers and left many of them crippled for life. For further consolidating their authority over the villagers, security forces have uprooted villages and forcibly kept them in so called "cluster villages" (known as concentration camps), where they live under constant supervision of the military. There have been religious persecution in the form of violation and destruction of religious places of the Jummas by the Bangladesh military.

#### **7.1.V Rape**

Even after the signing of the Peace Accord between the Jana Samhati Samiti and Government of Bangladesh in 1997, the rape of the indigenous Jumma girls by the law enforcement personnel and the illegal settlers continue to take place regularly in the Chittagong Hill Tracts (CHTs). Countless women have been victims of indiscriminate military operations and suffered displacement, harassment and torture as well as sexual harassment and rape.<sup>37</sup>

---

35. The Indigenous World 2001-2002, International Work Group for Indigenous Affairs, Copenhagen, Denmark, page 317.

36. Chowdhury, Bushra Hasina, Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord, Programmes in Arms Control, Disarmament and International Security, University of Illinois, December 2001.

37. For details on the impact of the armed conflict on indigenous Jumma women see RCK Roy: Indigenous Women: A Gender Perspective, (2004), <[www.galdu.org](http://www.galdu.org)>

The indigenous and minority girls in other parts of Bangladesh also face similar situation. Impunity has been the single most important factor contributing to increasing incidents of rape of indigenous and minority girls. As the Special Rapporteur on Religious Intolerance noted the government of Bangladesh "appears more sensitive to the interests of Muslims". The biases of the administrative, political and judicial systems prevent access to equality and justice by indigenous peoples and minorities.

#### **7.1.VI. Rehabilitation of returnee Jumma Refugees and Internally Displaced**

About 43,000 Jumma refugees returned to CHTs from Tripura State of India after the signing of the Peace Accord. In addition, about 60,000 indigenous peoples were internally displaced between 1992 and 1997. They include people whose neighbours were massacred and whose homes were burnt down during military operations. The settlers confiscated their lands and in many instances obtained false official certificates of ownership.

#### **7.1.VII. Ethnic discrimination in schools**

Education is universally acknowledged to be a very important part of the process by which a child situates himself and his identity within a social and national context, and the values that a student learns in this time should be in agreement with those set down by Article 29 (c) of the CRC, which provides that State parties should direct education to "the development of respect for the child's parents, his or her own cultural identity, language and values". In the case of the CHT this has been largely ignored, and even after the Accord brought an end to open fighting, the ethnic discrimination that lay behind it is still widespread in the schooling system.

The type of education offered by government schooling was in many ways focused on submerging ethnic distinctions beneath national mainstream values. This remains the case even after the Peace Accord, which only provides weak safeguards in the area of education. For example, although the Accord set down that the primary education of tribals should be disseminated in their mother tongue, this has not been the case in practice, and the medium of instruction continues to be predominantly Bangla.

### **8. Conclusion**

With the signing of the Accord in 1997, the situation improved but other problems have surfaced due to the slow pace of implementation of the Accord and the unresolved land situation. This has created a volatile

environment where peace and development remain illusory. The conflict has caused a great deal of social and economic hardship to tribal families in the CHT, and as already mentioned, with the slow implementation of the Peace Accord it is the children who are losing their chance to make a future for themselves. The tribal people of CHT for over two decades have been the targets of gross human rights violations. They must now be assured that their fundamental rights, including their economic, social and cultural rights are respected.

Chief of the Chakma Raja Devasish Roy explains: Apart from the problem of its non-implementation, perhaps its greatest drawback lies in the fact that it does not provide for constitutional recognition of the CHT, its self-government and legal system and the indigenous peoples of this region...The absence of constitutional recognition of the CHT self-government system (which existed up to 1964) also means that many CHT laws could be declared to be ultra vires to the national constitution.<sup>38</sup>

In the opinion of the Chittagong Hill Tracts Commission, who have conducted formal assessments of the region every 5 years from 1991, "...the Peace Accord has turned out to be no guarantee of lasting peace in the CHT. On the contrary, it has become a new source of conflict and instability."<sup>39</sup>

It is expected that if the Peace Accord is modified a little taking into consideration their grievances and if the modified Accord can be effectively executed taking the tribal peoples into full confidence and accommodating their people on an equal footing with the plain people in the government's tribal administration, things may improve and a peaceful atmosphere may ensue. In the modern global society where rights and privileges of minority peoples attract the attention and sympathy of the majority communities, none can be forced to swallow bitter pills against their wishes. The Peace Accord in its redrafting must contain provisions reflecting the ethnological, ecological, historical and geographical attitude of the indigenous peoples of Bangladesh.

---

38. Roy, Raja Devasish, "Salient Features of the Chittagong Hill Tracts Accord of 1997" in *The Road to a Lasting Peace* (Baguio City: Tebtebba Foundation Inc., 2000), 62.

39. Chittagong Hill Tracts Commission, *Life is not Ours: Land and Human Rights in the Chittagong Hill Tracts*, 2000 Update, p78.