



“Strengthening Partnership between States and indigenous peoples: treaties, agreements and other constructive arrangements”

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**An appeal to international community for implementation
of CHT Accord of 1997**

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The views expressed in this paper do not necessarily reflect those of the OHCHR.

1. INTRODUCTION

An accord popularly known as *Chittagong Hill Tracts (CHT) Accord* was signed on 2 December 1997 between Government of Bangladesh and PCJSS (Parbatya Chattagram Jana Samhati Samiti), a political party of indigenous Jumma peoples in CHT region, with an aim to resolve the CHT problem through political and peaceful means. It paves way for the peace, development and opportunities to meaningful engagement of indigenous peoples in CHT. It is expected that self-determined development approach is to be developed ensuring rights to land, territory and natural resources.

The CHT Accord provides recognition of CHT region as tribal-inhabited region, introduction of special governance system in CHT with the CHT Regional Council and three Hill District Councils (HDCs) with the authority of general administration, law and order, police (local), land and land management, development, education, health, environment and forest (except reserved forest) etc, and demilitarization of the region, resolution of land disputes, rehabilitation of returnee Jumma refugees and internally displaced persons, setting up CHT Affairs Ministry at national level etc.

2. PRESENT STATE OF IMPLEMENTATION OF THE ACCORD

The Awami League government implemented a few provisions including enactment of laws as per CHT Accord. Among them, passing of CHT Regional Council Act and HDC Acts in Parliament, establishment of CHT Affairs Ministry, repatriation of Jumma refugees from Indian State of Tripura, withdrawal of around 66 temporary camps etc. are most remarkable provisions.

However, the main issues on which preservation of status of tribal-inhabited region, introduction of special governance system in CHT with CHTRC and HDCs, resolution of land disputes depend are yet to be implemented. As a whole, most of the provisions, especially the main issues of the Accord, have either left unimplemented or partially implemented. For instances-

2.1. Recognition of the CHT as “Tribal Inhabited Region”

CHT Accord stipulates that Government and the PCJSS, having considered the CHT region as a tribe-inhabited region, recognized the need of preserving the characteristics of this region and attaining the overall development thereof. There has not been any initiative by the government so far to uphold the Jumma national identity and to protect the special character i.e. the tribal character of the CHT region.

Rather, efforts have been geared up to wipe out the “special character” of the region by adopting various anti-Jumma peoples programmes, such as, rehabilitation of the Bengali settlers in the CHT who were and are being brought into CHT from the plain districts of the country with an ulterior political design to expanse new cluster villages of the settlers across CHT, supporting and leading them in carrying out communal attacks on the Jumma people, illegal land grabbing in the region, inclusion of the Bengali settlers and incoming Bengali outsiders in the electoral enrollment and issuing of fake Permanent Resident Certificate (PRC) to them and providing employment opportunities including lease and settlement of land, which ultimately results in the eviction of the ethnic indigenous peoples. Very recently, the indigenous Jumma people in CHT have been termed as Bangali people through the 15th amendment of the constitution. Thus, the envisaged features of “special character” of the “tribal inhabited CHT region,” the identity of the indigenous peoples and their traditional habitats, life-styles and culture have been put under a serious threat.

2.2. Three Hill District Councils (HDCs)

On 3, 4 and 5 May 1998 Rangamati, Khagrachari and Bandarban Hill District Council (Amendment) Act 1998 were passed respectively in the Parliament in order to strengthening them as per the CHT Accord. But these three HDC Acts have not been implemented fully and properly. Rather, these Acts are being violated in various ways. Since after the amendment of the HDC Acts, the Rules of Business of the HDCs are yet to be amended so far.

Out of 68 functions under 33 subjects of the HDCs, only 12 functions have been transferred partially to the HDCs so far. But after the CHT Accord, no subject has been transferred to the HDCs by the Awami League government. The most crucial subjects, such as, law and order of the district, land and land management, police (local), secondary education, youth welfare, forest, environment, tourism (local), preservation of statistics on death-birth etc. are yet to be transferred to the HDCs.

Since the signing of the CHT Accord, no election of three HDCs has been held. The Election Rules and Electoral Rolls Rules of three HDCs have not been formulated till today. Voter list in CHT region was not prepared only with the permanent residents of CHT as per provisions of HDC Act. Rather, non-residents were also included in the CHT voter list. The 5 member interim Councils (each HDC) formed with and headed by ruling party members have been functioning years after years in a undemocratic way.

2.3. CHT Regional Council (CHTRC)

The CHT region has been enjoying special administrative status since the British period. The CHT Accord recognized this special status of the region with the introduction of the CHT Regional Council (CHTRC) as an apex body of this administrative system. It was vested with the power of supervision and coordination of the three HDCs, law and order, general administrations, development programmes, CHT Development Board (CHTDB), coordination of NGO activities, disaster management and relief operation, traditional and social justice and the power of giving license for heavy industries.

Though CHTRC Act was passed in 1998, but this Act is yet to be executed fully and hence the CHTRC introduced under the special governance system is yet to be institutionalized. The government has not yet approved the Rules of Business of the CHTRC. In making any law in connection with the CHT, the government shall enact such law in consultation with and as per the advice of the CHTRC. But this legislative prerogative of the CHTRC largely remains untested especially in matters of such laws as are exclusively meant to deal with the CHT issues.

2.4. Land Disputes and Land Commission

The Accord stipulates formation of a Land Commission headed by a retired justice to resolve the land disputes in accordance existing laws, customs and practices in CHT. Land Commission was formed, but land disputes are yet to be resolved since more than 14 years have passed after signing the Accord.

CHT Land Dispute Resolution Commission Act passed in 2001, but several issues contradictory to CHT Accord were included in this Act. After convening several meetings for more than a decade, on 20 June 2011 Ministry of CHT Affairs (MoCHTA), with the consultation with CHTRC, finalised 13-point amendment proposals of the Act and sent them to Land Ministry for taking necessary initiative to place Cabinet and Parliament for final adoption. At last, the CHT Accord Implementation Committee in its 4th meeting held on 22 January 2012 decided to amend the CHT Land Dispute Resolution Commission Act 2001 as per recommendations of CHTRC and MoCHTA in the winter session of the Parliament. The winter session of the Parliament was already over, but contradictory provisions are yet to be amended.

On the other, present chairman of land commission Khademul Islam Chowdhury who was appointed in 2009 by the present grand alliance government is continuing controversial activities. Without convening any formal meeting of the Commission, he unilaterally declared to conduct land survey in the CHT and to start hearing of land disputes.

The issue of disposal of the disputes over lands has landed in an extreme uncertainty. It is because of non-amendment of contradictory provisions of the land commission act, non-settlement of the disputes over the lands, every now and then, conflicts and communal riots are being occurred in CHT centering the issue of the land disputes and the process of forcible occupation of lands belonging to the Jummas is going on unabated.

2.5. Dismantling of temporary camps

CHT Accord stipulates that immediately after return of the members of PCJSS to normal life, all the temporary camps of the army, Ansars and the VDP, excepting the Border Security Force (presently called BGB) and 6 permanent army establishments, shall be taken back by phases from CHT and the time-limit shall be fixed for its purpose.

According to a letter received by the PCJSS from the government, out of more than 500 camps, only 31 have been withdrawn during the then Awami League government (1996-2001). In addition, more 35 camps including a brigade (Kaptai brigade office) were withdrawn during present grand alliance

government. But it is alleged that APBN have been re-deployed at least 10 camps out of 35 camps withdrawn.

De facto military rule named “Operation Dabanal” (Operation Wild-fire), which was imposed on the CHT during the period of insurgency, was replaced with “Operation Uttoran (Operation Upliftment)” on 1 September 2001 in the post-Accord period. Military interference with and dominance over the civil administration, law and order, construction and repairing of roads, tribal affairs, forest resources etc. are still continuing on one hand, and on the other, they continue to actively support the outsider Bengali settlers in expanding and establishing newer cluster villages in the CHT through “Shantakaran Prakalpa” (Pacification Project).

2.6. Cancellation of Land Leases

Huge tracts of land were given lease to non-indigenous outsiders in 1990s and 1990s for rubber plantation and other commercial purposes. Around 2000 plots covering 50,000 acres of land have been given lease in three hill districts. The Accord provides that out of the lands allotted to non-tribal and non-local persons for rubber and other plantations, the lease (allocation) in respect of the lands of those who did not undertake any project during the last ten years or did not properly utilize the lands shall be cancelled. During the period of present government, about 593 plantation plots so far have been cancelled. But to the utter frustration of the CHT people, the Deputy Commissioner of Bandarban district has recently reinstated most of the plots to the owners.

On the other hand, allotments of land under this category continue unabated by the district authorities. The Deputy Commissioner of the Bandarban district continues to give hundred of acres of land in lease to the outsider non-tribal Bengali people in violation of the concerned provisions of the CHT Accord.

2.7. Task Force on Rehabilitation of Returnee Refugees and IDPs

Task Force was formed and Jumma refugees have repatriated from India as per 20-point package facilities. But all lands of returnee refugees were not returned back and Internally Displaced Persons (IDPs) are yet to be rehabilitated. Rather, Bengali settlers were included as IDPs violating the CHT Accord.

Since reconstitution of the Task Force during present grand alliance government, no development in rehabilitating the internally displaced Jumma families, returnee Jumma refugees and ex-combatants of PCJSS has been achieved. The government side is still following the previous policy to rehabilitate Bengali settlers in CHT identifying them as IDP which is contradictory to the CHT Accord and the spirit of the movement of the indigenous people. As a result, the rehabilitation process of the tribal IDPs has ended in stand still situation.

2.8. Appointment of Permanent Residents in Services of the CHT

CHT Accord provides that against all the posts of officers of all ranks and employees of different classes in government, semi-government, local government and autonomous bodies of the CHT, the permanent residents of the CHT shall be appointed, subject to priority being given to the tribals.

But no step has 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 to be put into practice in the CHT region. As a consequence, the outsider Bengali settlers are encroaching upon all employment facilities created for the permanent residents of CHT including Jumma people.

2.9. Ministry of CHT Affairs (MoCHTA)

MoCHTA has been unable to work properly according to its rules of business as almost all the officers in the Ministry are non-indigenous persons (Bengalis). Most of them are either unaware of or insensitive with the CHT affairs and her original inhabitants. In fact, they are racially prejudiced and biased for Bengali settlers in CHT.

In January 2010 CHT Affairs Ministry issued a controversial letter to three hill districts asking not to use the word Adivasi (indigenous people), rather to use Upajati (tribe/tribal). The letter also motivatedly said that some tribal/indigenous leaders with the support of western Christian state tried to build an indigenous state claiming themselves as indigenous peoples. Agitation was sparked in CHT for this letter.

2.10. Remark/Observation

The implementation of the CHT Accord is no longer in the agenda of the government. Ignoring popular demand for declaring road-map for implementation of the CHT Accord, following delay-dealing policy to move case against CHT Accord and CHT Regional Council with Appellate Division of the Supreme Court, time-killing in amending the CHT Land Dispute Resolution Commission Act of 2001 as per finalisation of CHT Affairs Ministry and CHT Regional Council give a certain hint that the issue of implementation of CHT Accord is not in the priority list of the government.

3. CONSTITUTIONAL RECOGNITION OF CHT ACCORD AND INDIGENOUS PEOPLES

Despite demand of PCJSS, in the fifteenth amendment of the constitution, the government did not provide constitutional safeguard to the CHTRC Act 1998 and three HDC Acts 1998 enacted as per CHT Accord. It is mentionable that during the signing of the Accord, government said that government could not provide constitution recognition/safeguard to the CHT Accord, as at that time, Awami League-led government did not have two-third majority in the parliament to amend the constitution. However, if Awami League gets two-third majority in the parliament, then it would provide constitutional recognition/safeguard to the Accord.

In the Fifteenth Constitution (Amendment) Bill passed in the parliament on 30 June 2011, the government ignored the demand of indigenous peoples for recognition of their fundamental rights including recognition as indigenous peoples. However, the government recognised the culture of indigenous peoples in the fifteenth amendment stating that “the State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities”. It is mentionable that the terminologies of “tribes, minor races, ethnic sects and communities” are not accepted by the indigenous peoples.

Further, fifteenth amendment provides that “the People of Bangladesh shall be known as Bangalees as a nation and the citizens of Bangladesh shall be known as Bangladeshies”. Indigenous peoples rejected this provision arguing that they are Bangladeshi as citizens, but they are not “Bangalee” as a nation. They all are a separate nation possessing separate identity, culture, customs, language and society apart from Bengalis. Indigenous peoples rejected the Fifteenth Amendment of Constitution saying that it undermined the human rights and fundamental freedoms of indigenous peoples.

Indigenous peoples demanded to review the 15th amendment to the constitution, which did not recognise them as ‘indigenous peoples’ and their fundamental rights. They urged the government to ensure indigenous peoples’ right to land along with their political, economic, cultural and social rights in the constitution.

4. OVERALL SITUATION IN CHT

Due to lack of effective initiative for implementation of main provisions of the Accord, no basic changes have been achieved during the period of present government. Rather, there has been hardly any positive development on the overall situation in CHT.

Gross human rights violations against the indigenous peoples continue unabated. The violations include arbitrary arrests, torture, extrajudicial killings, harassment of rights activists and sexual harassment. In most cases the violations happen with impunity. The failure to thoroughly investigate human rights violations by Bengali settlers with the support of the law enforcement agencies in the CHT remained a matter of serious concern. As a result, the indigenous Jumma people are leading a very unsecured life.

4.1. Activities of Bengali settlers and land grabbing

Expansion of settlements and forcible land grabbing continue unabated in all the three districts including on the roadsides in particular. Communal attack on indigenous Jumma villagers continue even during the period of present grand alliance government with an aim to uproot indigenous Jumma peoples from their ancestral lands and occupy their lands by Bengali settlers. The communal attacks at Baghaihat under Baghaichai upazila in Rangamati district and Khagrachari municipality in Khagrachari district on 19-20 February 2010; at Bagachadar area under Longadu upazila in Rangamati district on 17 February 2011; at Hafchari area under Ramgarh and Manikchari upazilas in

Khagrachari district on 17 April 2011; at Baghaichari and Dighinala on 14 December 2011 etc. were the latest communal attacks committed by Bengalis settlers in collusion with the security forces.

In this attack, hundreds of Jumma houses including Buddhist temples, churches and schools have completely been burnt to ashes and looted, several innocent Jumma villagers shot dead and several villagers have been wounded and arrested.

Bengali settlers under the banner of 'Somo Adhikar Andolon' (CHT Equal Rights Movement), an extreme nationalist and fundamentalist organization, continue to oppose and hinder implementation process of CHT Accord as well as to implement the fundamentalist plan in the region.

4.2. Violence against Jumma women

Violence against indigenous Jumma women is one of the most widespread violations of human rights in CHT. There are many dimensions of violence against indigenous women such as domestic violence, rape, assault, sexual harassment, prostitution, trafficking, abduction and forced marriage. The biggest concern in rape and other violence against indigenous women in CHT now is the lack of access to justice and absolute impunity that perpetrators enjoy. From January 2007 to February 2012, at least 51 incidents of violence against indigenous women in CHT were reported. In these incidents, 66 indigenous women were victimized. Of them, 6 Jumma women were reportedly killed after rape in addition to 31 women were raped. Besides, 24 Jumma women were attempted to rape and 5 women were abducted.

4.3. Attitude of military forces

Under the de facto military rule 'Operation Uttoron', the military forces continue to remain the supreme authority in the region, as they did during pre-Accord period. The military search operations, harassment, threat and intimidation and repression in CHT are continuing due to prevailing 'Operation Uttoron'. Needless to say, a vested group inside the army continues to oppose any substantive progress on the implementation of the Accord. Army authority also influenced present grand alliance government against the constitutional recognition of indigenous peoples.

5. APPEAL TO INTERNATIONAL COMMUNITY:

PCJSS appeals to international community to influence Government of Bangladesh for effective and speedy implementation of CHT Accord. The following issues can be taken into consideration for implementation of CHT Accord-

1. To declare a roadmap with timeframe in order to ensure effective implementation of CHT Accord;
2. To make the special governance system with CHT Regional Council and three Hill District Councils functional;
3. To amend the CHT Land Dispute Resolution Commission Act of 2001 as per recommendations of the CHTRC & MoCHTA and to start functioning of the Land Commission;
4. To withdraw all temporary camps and de facto military rule 'Operation Uttoron' of military forces from CHT region;
5. To rehabilitate returnee Jumma refugees and internally Jumma displaced families (IDPs);
6. To preserve the characteristics of Jumma indigenous peoples-inhabited status of CHT;
7. To rehabilitate the Bengali settlers outside CHT with dignity;
8. Amendment of the Constitution and laws
 - a) To incorporate the CHTRC Act 1998, and Rangamati, Khagrachari and Bandarban HDC Acts of 1998 (Amendment), which were enacted in the light of the CHT Accord signed on 2 December 1997, in the First Schedule of the Constitution as 'existing laws';
 - b) To replace 'tribe, small nationalities, ethnic group, and communities' with 'indigenous peoples' in 'Article 23A' of the 15th Amendment of the Constitution;

- c) To enshrine the list of more than 54 different indigenous ethnic groups by adding a new schedule in the Constitution, and ensure constitutional recognition of the indigenous peoples;
- d) To remove words - 'people of Bangladesh shall be known as Bengali as a nation and' from Article 6 of the 15th Amendment of the Constitution;
- e) To cancel religion-related provisions – 'Bismillahir-Rahamanir-Rahim' and 'State Religion';
- f) To amend the 'Small Ethnic Groups Cultural Institution Act 2010'.

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