



**THE TRAGEDY OF THE CHITTAGONG HILL TRACTS IN BANGLADESH :
LAND RIGHTS OF INDIGENOUS PEOPLE**



Hasnat Abdullah, MP and Convener of National Committee, on behalf of the Government of Bangladesh and Jyotirmou Bodhisattva Lama, on behalf of the peoples of CHT are being seen at the signing of the Chittagong Hill Tracts Accord, 1997 on 2 December 1997. Extreme left seated Prime Minister Sheikh Hasina



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**The Tragedy of the Chittagong Hill Tracts in Bangladesh: Land Rights of Indigenous
People
By**

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Abstract

There are 64 districts in Bangladesh and three of these districts make up the Chittagong Hill Tracts (CHT). The majority of the population of the CHT, which consists of the indigenous peoples, is culturally and socially different from that of the rest of the country. In spite of these variations, the indigenous population of Bangladesh holds a national identity since they have been living here for centuries. But over a long period of time, the identity and culture of the indigenous people has become a negative benchmark which keeps them detached from the mainstream society of Bangladesh. Constitutionally, being a religious or cultural minority or having a different physical appearance is neither a crime nor a means of contrast in Bangladesh. Unfortunately, this research found that the indigenous people of CHT face discrimination because their culture and appearance are considered important and sources of social marginalization. The ownership of land is confined here within a mechanism of dual principle which the state employs in the name of ensuring fairness. The British colonial rule, the Pakistani regime and even the sovereign government of Bangladesh have applied the most deadly means to displace the indigenous people from their land with a view to subjugate them. Manipulating the cultural identity and history of the indigenous people, making them victims of repressive laws, confiscating their land for military purposes and for migrant settlers, sending the military to control them and creating conflict among the communities through shameful mechanisms, are examples of some of the policies that the state has used. The study takes a comprehensive view regarding this controversial issue that has been infusing a sense of detachment from the mainstream of the society among these people. One reason for the conflict between the state and the indigenous peoples of CHT is the presence of natural resources. The presence of natural resources on land that indigenous peoples traditionally inhabit is a common trigger of land rights disputes. CHT could be valuable for the indigenous people living within and outside of the locality. So addressing the issue of land rights has become a matter of urgency within the field of development in the context of 21st century Bangladesh.

Key Words: Land rights; Indigenous peoples; Bangladesh; Chittagong Hill Tracts; Colonial and Post-Colonial state policy; Land conflicts; Peace accord.

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List of Acronyms

- AITPS = Asian Indigenous and Tribal Peoples Network
- AL = Awami League
- AIPP=Asian Indigenous Peoples Pact
- BEIC= British East India Company
- BNP=Bangladesh Nationalist Party
- CHT = Chittagong Hill Tracts
- CHTDB = Chittagong Hill Tracts Development Board
- CHTLAR= Chittagong Hill Tracts (Land Acquisition) Regulation
- CHTPA= Chittagong Hill Tracts Peace Accord
- DF= Department of Forest
- DC = Deputy Commissioner
- FSO= Forest Settlement Officer
- GO= Government Organization
- GOB = Government of Bangladesh
- HCD= High Court Division
- HDC = Hill District Council
- HWF = Hill Women’s Federation
- ICCPR = International Covenant on Civil and Political Rights
- ICERD = International Convention on the Elimination of All Forms of Racial Discrimination
- ICESCR = International Covenant on Economic, Social and Cultural Rights
- IDP = Internally Displaced Persons
- IP LDRCA= Indigenous People Land Dispute Resolution Commission Act
- IWGIA = International Working Groups on Indigenous Affairs
- ILO = International Labour Organization

JIB = Jamaat-e-Islami Bangladesh
MoCHAT = Ministry of Chittagong Hill Tracts Affairs
NHRC = National Human Rights Commission
NGO= Non-Governmental Organization
NORAD= Norwegian Agency for International Development
PAIC= Peace Accord Implementation Commission
PCJSS = Parbatya Chattagram Jana Samhati Samiti
PCP = Pahari Chatra Parishad (Hill Student's Forum)
PF= Protected Forest
PGP = Pahari Gono Parishad (Hillpeople's Council)
PM= Prime Minister
PRSP= Poverty Reduction Strategy Paper
RC = Regional Council
RF = Reserved Forest
RCA= Regional Council Act
RHDC= Rangamati Hill District Council Act
SB= Santi Bahini
SDO= Sub-divisional Officer
TNC= Transnational Corporation
UCF = Unclassified State Forest
UN = United Nations
UNICEF= United Nations Children Education Fund
United Nations Draft Declaration of Indigenous Peoples
UNDP = United Nations Development Program
UNESCO = United Nations Economic, Social and Cultural Organization
UNPFII = United Nations Permanent Forum on Indigenous Issues
UPDF = United People's Democratic Front
USAID = United States Agency for International Development
WB= World Bank
WFP = World Food Programme

CHAPTER ONE: SETTING THE SCENE- INTRODUCTION, BACKGROUND AND OBJECTIVES OF THE STUDY

1.1. Introduction

There are more than 350 million members of at least five thousand indigenous peoples around the world. These peoples live in wide cultural, social, political, economic and environmental diversity. One thing that they do have in common is that they frequently face several types of rights violations and conflicts (Yamada, 2005:4). Unfortunately, indigenous people are insecure in most parts of the world when it comes to land and natural resources. The most common obstacles that indigenous peoples face to ensure their rights include: lack of legal recognition of their land rights in national systems; inflexible or deficient land administration services, lack of resources, capacity, political connections or awareness to take advantage of existing legal opportunities to their own benefit; racism; social prejudices and entrenched forms of discrimination; assimilation policies (ibid: 4). Sometimes, indigenous communities are endangered and even destroyed as a result of the lack of legal and administrative security over their land and natural resources, as in the case in the Chittagong Hill Tracts in Bangladesh (Colchester and Lohmann 1993). The human rights of indigenous people are violated continuously all over the world because of land conflicts, which results in threats and deaths of individuals, disappearances of whole communities and forced changes in cultural habits (forced assimilation) and socio-economic relations. Protecting the land rights of the indigenous people should be given preference since land plays one of the most important roles in ensuring the continuity of the indigenous life and community (Yamada, 2005:4).

The indigenous people of the CHT possess a type of land rights that differs from the rest of the country. They have been cultivating this land for hundreds of years based on their own customs and traditions. The three historical political regimes of CHT in Bangladesh, the British colonial period in Bengal, the Pakistan period, and, lately, the independent Bangladesh have all created complex obstacles for land rights of the indigenous peoples (Iqthyer, Z. 2013:97). The British implemented many policies and applied different programs for overall development and strong

administration (Golam, 2005:2). The livelihood of the indigenous people faced additional setbacks with the change of ruling authority of the state during the Pakistan period from 1947 to 1971. The conflict between the indigenous people of CHT and the government escalated when the Pakistani regime assumed power and adopted ambitious development plans. Many authors argue that the indigenous people were bound to migrate to India and Myanmar, because of the construction of the Kaptai Hydro –Electric Dam at Chittagong in 1962, which made thousands of hill people homeless and landless (Roy, R. C.2000: 95-101, Shelley, M. R. 1992, Ishaq 1975:126, Bhaumik et al. 1997: 140-149, Raja Devasish Roy.,2004-2012, Mohasin, Amena., 1997, Van Schendel, W., Dewan, A.K., 2000, Mey, Wolfgang(ed.),1984, Adnan, Shapan .,2004, Bleie, Tone.,2005, Iqthyer, U. M. Z.2013:97). They were internally displaced in what was then East Pakistan. Indigenous values, traditions and livelihood were neglected in the development policies because the aim of the policies was solely economic development, not cultural development. Rather, many development policies and programs cut their rights to their ancestral land. After long political discussions and emergence of the state of Bangladesh, the Peace Accord of 1997 was agreed upon between the government and the CHT peoples. The aim of the Peace Accord was to create a political mechanism to resolve the insurgent situation of CHT. However, conflicts increased between the indigenous people and the Bangali settlers when the government failed to implement the Peace Accord suitably. The peace process involves many issues like possession of one's own land and forest, resource utilization, settlement of disputes with non-Bengali migrants and other socio-cultural, political and religious factors which have worsened the situation for the indigenous peoples (Iqthyer, 2013:97). It will be discussed here that the neglecting of values, traditions and livelihood of the indigenous people is a common feature in all of the policies during different government regimes.

1.2. Background of the Study:

The indigenous people of the CHT in Bangladesh are facing great challenges regarding their land rights. These challenges started during British colonial era and became pronounced in the Pakistani regime (AIPP, 2007: 14). The focus of my thesis is to show how the indigenous people since the British colonial period have been continuously deprived of human and land rights and other basic needs.

"Land dispossession is the main problem that the indigenous peoples in Bangladesh face. Like other countries of the world, the lands, forests and territories of the indigenous peoples in Bangladesh have been and are still being taken away from them without their free, prior and informed consent – to build dams or create reserve forests, protected areas, national parks, eco-parks, and even for settlement of government-sponsored non-indigenous migrants and expansion and establishment of military bases and training centers. Land dispossession is particularly glaring in Bangladesh, where not only have indigenous peoples continued to suffer from violent land-grabbing and other forms of land alienation, but many have been evicted, or threatened with eviction, from their traditional homelands"(AIPP, 2007: 14).

The state defines most of the indigenous land as "Khas", or land of the state, while the Forest Department categorizes the land as Unclassed State Forests (USFs)¹. The traditional land management system of the indigenous people is not yet recognized by Bangladeshi State. (ibid: 15). However, in the near past it has been noticed that Malawi, Zimbabwe, South Africa, Venezuela, Bolivia and parts of the Philippines recognized the customary law of land (Adam, Jeroen.2010: 401).

According to one of my Respondents - *"From the beginning, indigenous peoples in CHT have been following their traditional and customary laws, norms and values in their land tenure system. This means that they have never followed a written document system for land ownership, and, in practice, the land has been transferred from generation to generation. However, this land right has gradually been violated, by the governments' negative manner of response and discriminatory attitude towards the indigenous peoples in relation to their traditional and customary land rights and practices"*.

¹After the independence of Bangladesh, more reserve forests have been created, further depriving the indigenous people of their common lands. The total land area of the CHT comprises 13,295 square kilometers or 32,85,266 acres. Of these, 19,22,000 acres are covered by forest. If we deduct the reserve forests amounting to 9,04,456.44 acres and the protected forests comprising 19,220 acres (1% of the total forest land), we have merely 9,98,323.56 acres or about 52% of the total forest area available for jum cultivation. However, the government considers these lands as 'Unclassed State Forest' and wants to mutate them gradually into reserve forests.

The present 52 per cent USF has shrunk from 75% in 1976. The USF or the remaining commons will shrink further once the Forest (Amendment) Act, 2012 is passed in parliament. The proposed amendment provides for another category of forest called “Other forest” in addition to the existing three types of forests, namely, reserved forest, protected forest and unclassed state forest.”(Cited in <http://chtnews.blogspot.se/2013/08/the-expropriation-of-common-lands-in-cht.html>,By Roy,R.C.2000).

The root cause of the conflicts in CHT and the causes of indigenous people’s loss of land are presented and analyzed in this study. In order to get a broader picture of what has happened and why indigenous land rights are disputed, the historical and present land policies are analyzed. It is important that the land issues of the CHT be addressed in a comprehensive manner; hence a historical analysis of the policy issues is considered necessary. This research attempts to examine the impacts of the policy and programs on the land rights of the indigenous people of the CHT.

1.3. The location of the study area

The CHT lies in the southeastern border region of Bangladesh. It is the largest region of the indigenous people in Bangladesh. This region shares borders with Tripura in India on the North and Mizoram to the east. On the south and south-eastern part lies the Chin and Rakhain States of Myanmar, respectively. The total surface area (including river and forest reserves) of the Chittagong Hill Tracts (CHT) is 5,089sq. miles (13, 189 sq. km.), out of which the total land area constitutes 1,423 sq. miles (3,685 sq. km.) (*CHT District Statistics (BBS)1983: ix*). The CHT comprises three hill districts: *Rangamati, Bandarban and Khagrachari*. Furthermore, the land area of these districts are 452 sq. miles (1171 sq. km.); 516 sq. miles (1336 sq. km.) and 455 sq. miles (1178 sq. km.) respectively (*ibid: ix*).

There are more than 45 indigenous communities in Bangladesh and they have been there for centuries. The official census of Bangladesh in 2001 counted the indigenous people in the region as 1,772,788. But, this number is grossly underestimated and contested, because the indigenous people themselves claim that there are about three million indigenous people living in the region. According to the 1991 census, there were about 501,144 indigenous people in CHT and another 704,834 indigenous people were living in the plain area of this region (AIPP, 2007). The number of Bengali people (non-indigenous) in CHT was only 9% of the total population when

independence was gained from India in 1947 (UNPO: 2002). It is evident that the proportion of the non-indigenous (Bengali speaking) population has increased in CHT over time (Nasreen, Z.& Togawa. 2004:97-99).

Table-1.3: Changing Trend of Ethnic Composition in Chittagong Hill Tracts (1872 to 1991). Percentage of total population in brackets.

Year	Indigenous people	Bengali	Total
1872	61,957 (98.27)	1,097 (1.73)	63,054 (100)
1901	113,074 (92.81)	8,762 (7.19)	121,836 (100)
1959	260,517 (90.39)	27,171 (9.61)	287,688 (100)
1981	441,796 (59.17)	304,873 (40.83)	746,669 (100)
1991	500,190 (51.34)	474,255 (48.66)	974,445 (100)
2001 ²	736,682 (54.86)	606,058 (45.14)	1342,740 (100)
2011	809,370(51.00)	777,630(49.00)	158,7000(100)

Source : (Nasreen, Z.& Togawa, 2004: 99,census of 1872-1991) ;(AIPP, 2007:09 ,census of 2001); [http://www.mochta.gov.bd/downloadfile/1Annual_Report_2012-13_\(Final_print\).pdf](http://www.mochta.gov.bd/downloadfile/1Annual_Report_2012-13_(Final_print).pdf) (P:08,cansus of 2011).

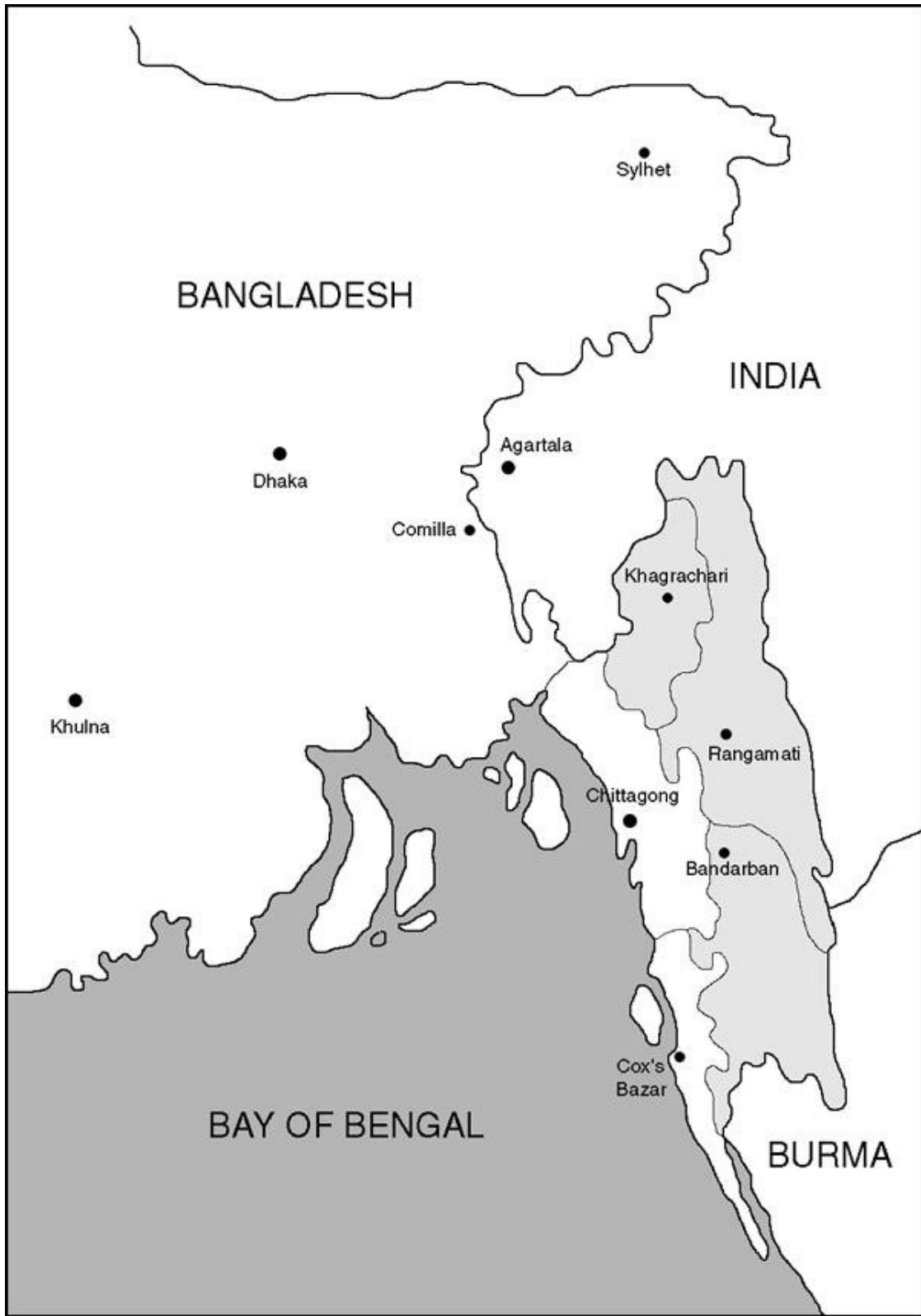
The table shows that in 1872, 98.27% people of the CHT were indigenous and 1.73% were Bengali people. In the year 1901, indigenous people decreased to 92.81% and Bengali people increased to 7.19 %. The change continued and indigenous people reached 90.39% in 1959 while Bengali people became 9.61%. In the year 1981, 59.17% population was indigenous and 40.83% was Bengali. According to the census of 1991, indigenous population in the CHT reached to 51.34% and Bengali 48.66%. In the year of 2001, 54.86% indigenous population in the CHT and Bengali 45.14 %., In the year 2011,51 % indigenous population in the CHT and Bangali population increased 49%. So, it is clear that the number of indigenous people decreased dramatically during the transition from the British rule to Pakistan and then Bangladesh.

²("The PRSP of the GOB states that there are about two million indigenous people in Bangladesh, out of which 1.6 million live in the plains. The official census of 2001 does not

contain ethnically disaggregated data "(Roy,R.D.,2012:4).



Map:1.3.a. Bangladesh (<http://www.chtdf.org/index.php/about-us/working-location>)



Map:1.3.b. Chittagong Hill Tracts (<http://www.chtcommission.org/information>)

1.4. Research Questions and Objectives

The historical process of land administration in the CHT and the alienation of the indigenous peoples from the land are the main center points of this study. The indigenous people of CHT consider their land not only as a piece of land, but rather as their life-world. The land represents natural balance, a way of life and traditional institutions. During the colonial period in the modern age and in the post-colonial era, there has been an incessant aspect of alienation from land on a massive scale all over the world. Dispossession of Bangladeshi indigenous people is nothing outstanding from the rest of the world. So, in this study I attempt to find out reasons for the land loss and the landlessness of the indigenous peoples in the CHT and using policy etc. Thus this thesis will also ask the subsequent questions:

How have the indigenous people of CHT been deprived of traditional land during the British ,Pakistan and Bangladesh regimes by policy administration ?

and

How were the land rights and violence in CHT related to each other from time to time?

1.5. Significance of the Study

Developing nations often demonstrate a tendency to overlook disputes of land rights. Emphasizing land rights issues is a way to reduce violence. The significance of the study is given below:

The study analyses the significance of state policies at different periods of time regarding administration patterns and land rights of the indigenous people in the CHT.

Restructuring land policy is important for any kind of post-conflict development, and the case is no different for CHT in Bangladesh. Land policy plays an important role in peace negotiations and development, but, more often than not, the issue does not receive much attention in the academic research.

CHAPTER TWO: METHODOLOGICAL CONSIDERATION AND CHOICE

2.1. Introduction

In this research work, both primary and secondary data have been collected. The primary data was collected from several categories of indigenous and other people like students, teachers, farmers, businessmen, housewives, clan leaders, political leaders, government & non-government employees etc. Secondary data was collected from various written documents including books, research papers, journals, magazines, and newspapers. In the following text, some of the central books are presented. This study is not based on field work, which is usually the method applied for anthropologists in collecting primary data. As I could not manage any scholarship for field work, it became difficult for me to meet the cost of the field work. However, the subject of this thesis is possible to analyze using other types of data. Data was collected from several areas. I have used primary data in the form of individual interviews, online focus group interviews, discussions with informants, and life history narratives of informants. Other primary data used is government reports, census, documents, and statistics. I have also used secondary sources as earlier research and reports of international NGOs working in the field of indigenous peoples. Also, primary and secondary case studies are used to a limited extent.

2.2. Interviews

Bryman suggests telephone interviews and online interviews in the case when the researcher is financially constrained (Bryman 2008:444). I used telephone, email and Facebook for individual interviews and Skype for group interviews. I appointed a research assistant in Bangladesh for the purposes of assisting during the interview sessions. The assistant also collected data in the field. Interviewees were informed of the purpose of the study before starting the interview so that they could participate without hesitation. I recorded most of the interviews but some of them hesitated to have the interview recorded so instead I took notes.

The data were collected through individual and group interviews. I made individual interviews with twenty-five indigenous people of different age, sex, educational, ethnic, geographical and socioeconomic backgrounds. All of my interviewees were from the three CHT districts. Their ages ranged from 28 to 75. Other people interviewed such as traditional leaders from that society, human rights activists, journalists, development workers and native(indigenous) intellectuals. The interviews were conducted via telephone and email in the first two weeks of April in 2014.

The interviews were semi-structured with open-ended questions. Here I followed the suggestion of Flick who argues that it can be a good idea to start the interview with an open question. One can then finish the interview with a confrontational question (Flick, 2009:156). Bryman (2008:442) on the other hand suggests that researchers should give importance to practical views of the interviewees. I tried both when framing questions of my research. The interviews were divided into three parts: (i) general questions (age, sex, occupation, informal discussion) (ii) questions on land rights, and (iii) questions about how a conflict increases due to land rights.

2.3. Online Focus Group Discussions

According to Nigel G Fielding and Raymond M. Lee (2008:290), online focus group discussions (FGD) present an opportunity for conducting qualitative research widely. FGD helps to develop concepts and data which have already been tested through individual interviews. I selected one focus group from each of the three CHT districts: *Bandorban*, *Ranghamati* and *Kagrachori*. In order to find the members of the focus groups, I sought help from my research assistant in the field. There were five to seven interviewees in each group. The duration of the discussion sessions was 40 to 45 minutes per group and they were also held in the first part of April 2014. I conducted three FGDs through Skype and the other two were conducted by my assistant.

The FGDs included participants like indigenous leaders, Bengali settlers, NGO personnel, government service holders and a number of indigenous persons. The online focus group discussions provided me with a possibility to improve the data that I collected through the individual interviews and other sources. Another advantage of the online FGD was that some participants, namely those who said that they do not feel easy in a face-to-face interview due to

the politically sensitive nature of land rights in CHT, could participate and take part of the discussion without being stressed by a formal interview session. They felt more comfortable sitting at home in front of a computer. The online FGDs were also a chance to compare data from other sources. I got a comparative picture of my research through the discussion with the participants. In the same way, I could reveal the particular research problems with the help of the group interviews because people from different phases of the society participated in the discussion sessions. Fourteen respondents were employed in the private sector, six were students, two respondents were involved in small businesses, and three respondents were government services providers.

2.4. Ethical Deliberations

A researcher must place the highest level of significance on ethical issues while designing a research agenda and collecting data (Mason, 1996:29). While collecting data from email, telephone, Skype, Facebook and online interviews, I put significant value on ethical accounts. First I informed my interviewees of my research purpose and interest. Then I asked permission for recording the interviews. I asked for permission to use names and to cite their comments for the purpose of my research and made a verbal agreement with them on this regard. Most of them agreed to my proposal and some of interviewee permitted me to use names and information. A few of the interviewees requested that I provide them their statements in order to verify them before publication. I sent a draft of my research paper to them so that they could add their opinions if they wanted. I have coded the identities of my interviewees where information is personal or sensitive. I like to give due credit to the respective writers whose data I used in my paper as secondary data and considered them as authentic and reliable sources; and in the list of reference I have mentioned their names with details.

2.5. Secondary Sources of Data

This section contains a summary of the central research that has been conducted in the field of this thesis.

Roy, R.C.,2000. *Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh*. Document No. 99. Copenhagen: International Work Group for Indigenous Affairs (IWGIA)

The book manifests how the indigenous people of the Chittagong Hill Tracts have been struggling for their rights to their ancestral land resources in the CHT. The book describes how the successive administrations exploited their resources and tried to displace the peoples from their ancestral lands and territories despite them possessing legal rights to the land; the book also took into consideration the sovereign state to present limited autonomy of the regions. The background of the book consists of the process of assimilation and integration of the indigenous community, complementing the international legal approaches, the authors analyzed the present situation in the context of indigenous and national law. In the conclusion of the book, the author describe the present condition of the Peace Accord, which was signed on 2 December 1997 between Jana Sanghati Samiti (JSS) and the government of Bangladesh.

Bleie, Tone.,2005. *Tribal Peoples, Nationalism and the Human Rights Challenges: The Adivasis of Bangladesh*. University Press Ltd, No. of Pages: 390

The main context of this study is the changing condition of the indigenous peoples, of whom the least is known as minority, of India and the north-eastern parts of the South-Asian subcontinent, their lands and identities on historical basis. Human rights violations of the indigenous people in north-western Bangladesh and the crisis of their livelihood is nothing new in this region. The struggle and the demand for ethno-national identity has persisted for a long time, but the issue came into public most widely for the sake of political recognition. It is revealed by indigenous peoples, nationalism and the human rights challenge that, since emphasis was not placed on protective land laws in the post-colonial period, the indigenous people faced a great loss of agricultural land and forests. As a result, forced migration, poverty, and the extinction of indigenous traditions came into effect. In the light of cultural homogeneous nationalism and internal ethnic and religious divisions, the authors describe why the indigenous people face constant discrimination within their territory .

Mohsin, Amena. ,2003. *The Chittagong Hill Tracts of Bangladesh on the Difficult Road to Peace*, London: Lynne Rienner Publishers Inc.

In December 1997, the government of Bangladesh and the political representative of the indigenous people PCJSS signed the Peace Accord, ending the two decades-long armed struggle in the Chittagong Hill Tracts. But the situation of CHT is not peaceful today because the accord is not implemented properly and many important provisions of the accord are not clear. The process, context and politics of peace building are discussed by researcher Amena Mohsin. Analyzing the existing political and diplomatic condition regarding the Peace Accord and indigenous people, Mohsin suggests that local, national and internal communities should come forward to stop the ongoing conflict and implement peace in this area. Through a survey from this book I tried to reflect in my research that land and conflict are related to each other.

Van Schendel, Willem, Wolfgang Mey and Aditya Kumar Dewan, 2001. *The Chittagong Hill Tracts, Living in Borderland*, The University Press Limited.

The title of the book is 'The Chittagong Hill Tracts; living in a borderland' and it is written by Willem van Schendel, Wolfgang Mey & Aditya Kumar Dewan; the story of marginalisation and politics of partition are set in the introduction of the book where the Chittagong Hill Tracts (CHT) are described as one of Asia's most ignored regions. The authors describe how the hills were first ruled by the chiefs and then came under control of the British empire. Power of the chiefs became restricted in the 1860's when the British took control of CHT, and the matter of ruling went entirely to the colonial rulers, although the practice of hereditary system prevailed among the indigenous people. The authors say that neither Pakistan nor Bangladesh gave much historic prominence to the Chittagong Hill Tracts and this is the reason why the history of Hills were crafted by historians.

After the independence of Bangladesh in 1971, a large number of Bengali Muslim settlers were brought to the CHT, which broke the privacy of the CHT people; eventually, the problems reached their peak, ultimately leading to an armed struggle. The inhabitants of the hill were termed as backward, uncivilized, and primitive and such notions were affirmed among others.

The indigenous people were defined as 'other' and, morality was hardly deemed present among the indigenous people although it was never present among the hill people.

Gilbert, Jeremie, 2006, *Indigenous peoples' land rights under international law, from victim to actors* , Ardsley, N.Y.: Transnational Publishers.

Life of the indigenous people and their rights to own and use the traditional territories are discussed in this book. The indigenous people of the CHT cannot enjoy their rights to their lands although lands and territories are deeply related to this group of people. This book tells us whether the indigenous people can enjoy the collective right on traditional territories in accordance with the international legal regime and examines how the land rights of the indigenous people and international law are inter-related; analysis of important issues like collective rights, self-determination, autonomy, property rights, and restitution of land make the discussion more fruitful. The book, is related to my research and I think that it is therefore helpful for my research and the pursuit of its goals, as I have used the survey that the book provides.

Mohasin, Amana., 1997. *The politics of Nationalism: The case of the CHT, Bangladesh*, The University Press Limited, Dhaka. No. of Pages: 272

The process of nationality among the indigenous people of CHT is examined through the politics of nationalism in Bangladesh. The book deals with the historical relationship between the indigenous people of CHT and the British empire since 1760 and the indigenous people remained a subordinate group within Pakistan and Bangladesh because the notion of nation-state became vital among the major dominant community of the state. The indigenous hill people were marginalized on grounds of military regime, politics and economy. The state defined "state" and "nation" synonymously and made new policies in the name of nation or national development where the matrix was nation-state. As a result, the indigenous people claim themselves a separate nation within Bangladesh. It is said in the book that such a claim cannot be a good answer for the indigenous people because hegemony is the base of their notion of nationalism.

2.6. Problems with Data Collection

I carried out the research in the three districts (*Rangamati. Khagrachori & Bandarban*) of CHT and I hope that it is a pioneer study on the issue of land rights of the indigenous people of CHT. I have already mentioned that there are three districts and thirteen indigenous groups in the CHT but I could not ensure participation of all the indigenous categories and administrative areas because the time frame for my research was not long enough to do so, and because I had to use an assistant in the field. Of course, it would have been better to conduct my own field work for this thesis. Yet, I believe I was able to collect relevant and sufficient data for my thesis.

CHAPTER THREE: THEORETICAL FRAMEWORK AND HISTORICAL CONTEXUALIZATION

3.1. Introduction

This chapter considers indigenous land rights in both national and international contexts. This chapter contains a brief discussion on some provisions of law in addition to comparative analysis of land and indigenous peoples in some parts of the world.

Tone Bleie, an anthropologist, was able to visualize the whole scenario of the historical context of indigenous people in Bangladesh, which is discussed here. To discuss collective land rights in the present CHT, anthropologist Tone Bleie (2005:64) suggests that Article 27 of the United Nations International Convention on Civil and Political Rights, which states that ethnic groups or minorities “shall not be denied the right, in community with other members of their group to enjoy their culture”, is a relevant starting point to argue that indigenous peoples have a right to their traditional land areas. Bleie places much emphasis on the recognition of groups rights for the indigenous peoples in the CHT and says that the expropriation of resources, salient forms of discrimination, etc. should be measured so that the exclusion of minorities and other discriminated groups from the national development process can be indicated (Bleie, 2005:54-56). She has shown how the struggles for cultural rights, including the protection of cultural property, and the land rights movement have been closely related to each other (Ibid, 2005:59). Because of principles and practices of state sovereignty, the recognition of the CHT indigenous people’s group rights faces great barriers. Achieving human and land rights remain an elusive goal because the state sees the claims to land rights of the indigenous peoples as a threat to sovereignty and political power.

3.2. Land rights, Social Boundaries and Hegemony

Many western historians and anthropologists conducted research on the CHT in the post-British period. But during the Pakistan regime in the 1960s', foreign researchers were restricted in their research in the CHT. Later, in the early 1990's some foreign and Bangladeshi researchers were

able to conduct research work, like indigenous researchers as Raja Devasis Roy, Chandra Roy, and Aditya Kumar Dewan.

Understanding ethnic groups and majority-minority inter-relationship, Fredrik Barth's work is relevant. Barth's discussion of ethnicity is not based on the cultural substance that the boundary of a state encloses. Rather his explanation is based on a concept of social boundaries and the process of mobilisation. So he does not focus on the nebulous expression of culture, but he mainly points to the features of social organization; therefore, ethnic groups are not a product of particular interactional, historical, economic and political circumstances, they are part of the situation (Barth, 1994:12). And the social situation, where different ethnic groups are living close to each other, can also produce tensions and conflicts.

Willem Van Schendel has adopted a somewhat similar view while discussing the establishment of indigenous people in CHT. Van Schendel discusses the notion that although the indigenous people are internally diversified, they share a common historical experience to avoid the influence of non-indigenous outsiders as for example Bangali settlers (Van Schendel, 1992:21-23). While Barth discusses large-scale ethnicity of indigenous people's nationalism, Van Schendel, on the other hand, argues that large-scale level of ethnicity is related to states or nations as well as various international organizations. In the case of states or nations, the main actors are regimes and the groups they confront are organized ethnic movements, liberation movements, etc. So, Barth argues that the state should not be considered a symbol or an idea; rather it should be considered as an actor (Barth, 1994:20). Barth focuses on the policy of the state during times of national crisis since state policymaking depends on the exercise of power and interest (Ibid, 1994:19). He further states that the role of the regime is important as different regimes require different conditions for materializing their different agendas; therefore, the state will impose different policies on different ethnic groups in order to control the indigenous population and their movements (Ibid, 1994:20). So, the purpose of regulating categories of persons and groups is to provide public goods and to affect their lives and movements (Ibid, 1994:19). Thus, Van Schendel's analysis of the CHT indigenous people nationalism has a close relation with that of Barth's ethnic relations at large-scale political levels. Van Schendel also shows how the forming of indigenous people's land rights is a continuous policy that has carried from the British rule to

present Bangladesh. To fully understand the relation between the Bangladesh state and the indigenous peoples of the CHT.

I am also looking into the concept of hegemony as it was deployed by the Italian political philosopher, Antonio Gramsci. Hegemony, according to Gramsci, is about domination, although it can take different meanings in different situations. The word hegemony comes from the word hegemon which means the leader state. It is called hegemony when the leader state rules subordinate states by the implied means of power, the hazard of force, rather than by direct military force. In Ancient Greece from the 8th century BCE to 6th century CE, small city states were dominated by a strong city-state which was termed as hegemony. The four conceptions of hegemony, according to Gramsci, are: (1) hegemony as international domination; (2) hegemony as state hegemony; (3) ideological hegemony or hegemony as consensual domination; and, (4) hegemony as the exercise of leadership within historical blocs within a particular world order (Robinson : 560-561). Gramsci argues that hegemony is a way of establishing and maintaining rule by one group over another subordinated group. Such an idea of hegemony enables a ruling class to affect values and perceptions of the subordinated group, in order to suppress opposition. The ruling groups sometimes succeed in gaining favor of some dominated groups (Robinson, 2005: 560). However, we need a more elaborated view of hegemony than what Gramsci presents with its focus on the state, the roles of the different historical hegemonic regimes, the British Empire, Pakistan and Bangladesh, will be analysed because the political and social institutions, living conditions and rights of the indigenous peoples of the CHT have been shaped by this long historical hegemony of mistreatment.

3.3. Indigenous Rights in International Political and Legal Contexts

Possession of land, its control, exploitation and the use of natural resources is the cause of many current conflicts between states and indigenous peoples around the world. In many countries, the state, or rather the governments, in cooperation with multinational corporations, exercise their right to control resources in order to be able to assert their own economic interest over the indigenous peoples, which makes the situation more complicated. The conflict between the state and the indigenous peoples in the CHT concerning land is as old as colonialism itself.

Land conflicts between indigenous peoples and states started when European conquerors of the New World, from the 1500's and onwards, acquired land with the concept of terra nullius, and started ruling over the aboriginal inhabitants. The basis for taking over indigenous lands was first found in religious dogmas and later in politics and enlightenment political philosophy and law. For instance, the British political philosopher John Locke, sometimes named the father of political liberalism, argued in his book "Second Treatise of Government" of 1690 that land had to be cultivated, in an European sense, in order for the people to pose a legal claim on the land. That meant, for example, that hunter and gathering peoples lost lands due to their "backward" forms of societies. Backward meant that they were not agriculture based societies. This argument was endorsed by the very influential Swiss legal philosopher Emeric de Vattel. In the book "The Law of Nations or the Principles of National Law" of 1758 he argued that rights over land are generally grounded in a productive use of the land (Roy, 2000:50-51). By productive use of the land, Vattel meant the same thing as most other political philosophers of this time meant, that is, agriculture. Vattel argued that nature makes every man obliged to cultivate land and every nation is compelled to cultivate land by the very law imposed by nature upon man. Vattel realised that some people and societies had depended on hunting and gathering, but that the number of human beings had increased in such a great number that they cannot survive if they stick to the old fashion ways of avoiding labor (ibid). According to Vattel, some people who occupy more land than they need, and spend an idle mode of life, cannot complain if industrious nations, who have a shortage of land, come to the lands of these "primitive peoples" and work under a system of honest labour (ibid). European colonial ideas followed these ideas to a large extent when they established colonies in the lands occupied by "the savages". According to the Europeans, the savages had no special need for unused lands and lawfully they, the European, could possess them (Dodds, 1998: 190). Thus, these lands were literally terra nullius in the colonial enterprise, that is, land belonging to no one.

During the 1800's it started to be argued that native peoples should have the right to practice their own traditional laws within a form of self-governance. The colonial rulers made laws for them in order to ensure their right of applying customary law and representation through their own institutions (Colchester, 2002:2). The colonial powers often recognized native peoples as nations

and signed treaties with them, although their aim of the treaties was to cheat them in the question of lands and sovereignty (ibid).

The Berlin Africa Conference of 1884-1885, where much of the current borders in Africa were drawn, also recognized the term 'Indigenous people' in international politics and law. The colonial powers agreed to recognize indigenous rights in Article 6 of the Final Act of the Conference (Erni, 2008:32). However, the colonial powers started using the concept of indigenous people to discriminate between such peoples and their own citizens (Erni, 2008: 32). Furthermore, the Article 22 of the Covenant of the League of Nations, which was adopted after the First World War in 1919, recognized indigenous people as a 'sacred trust of civilisation'. (Erni, 2008: 32). In 1949 the General Assembly of the United Nations System formally addressed indigenous land rights issues for the first time by inviting the UN Sub-Commission to explore new ways of improving the living standards of indigenous peoples in the Americas (See the General Assembly Resolution 275 (III), May 11 1949).

Further development occurred in the UN through the International Labour Organization (ILO) who adopted convention No. 107 on Indigenous and Tribal Populations in 1957. In the convention, the ILO stated that indigenous peoples around the world lived in deplorable economic and social conditions. The convention underlined the need to assimilate and protect indigenous peoples (Barsh,1986:370). The Convention provided a clear instruction for adopting a principle of co-ordination and systematic action through collaboration to make them part of progress initiatives (ibid). The ILO Convention No. 107 faced severe criticism for being authoritarian and neglecting the will of indigenous peoples. ILO later revised this convention in 1989, as Convention No. 169 on the rights of indigenous and tribal peoples. The requirements in the previous convention, that states should assimilate indigenous peoples, were deleted and instead it was emphasised that indigenous peoples have rights to their traditionally used lands among many other things.

In 1983, a hundred years after the Berlin Africa conference, which set the stage for much of the international indigenous politics of the 1900s', the Ecuadorian UN ambassador José R. Martínez Cobo finalised an international report on land rights of indigenous people in a study on

discrimination against indigenous populations. The report suggested that indigenous people traditionally possess an absolute right to their own territories and they can claim rights to lands which had been taken from them (Ibid: 371). This report later became the benchmark for much of the UN work in the field of human and land rights of indigenous peoples.

It is not only governments and the UN that have been active in discussing and formulating the international rights of indigenous peoples. Also, indigenous peoples themselves, at least since the 1970's, have been very active in promoting and claiming their rights. Representatives from indigenous communities from all over the world made a combined effort with a proposal, which was appreciated and suggested for ensuring rights, echoed by the World Conference to Combat Racism and Racial Discrimination in 1978. The indigenous peoples denounced governments' authoritarian approach for dealing with natural resources without involving indigenous peoples. The group went on to declare that deprivation of the rights would be considered as a grossly objectionable idea. It was argued that indigenous peoples should have the right to develop their own economy, cultures and languages (UN Doc. E/CN.4/Sub.2/AC.4/1984/WP.1.).

In the fourth session, The Government of Argentina took in mind the losses faced by the Indians regarding their lands upheld the lack of legal recognition of the land they still occupied, and the government committed to ensure land ownership of the indigenous people according to their own customs and community. Mexico recognized the development programs in the indigenous areas as ethnocide and urged the necessity of land reform criticizing the development programs.

Rapid population growth, climate change and lack of proper land policies are making the indigenous localities vulnerable spots, resulting in social, political and environmental degradation in the 20th century (Simmons, 2004:183). If formal state law becomes contradictory to informal or customary claims, and if legal rights supersede customary rights, the condition gives birth to a boiling pot for land conflicts (USAID 2005:3-4). Land was the bone of contention for war between Senegal and Mauritania and El Salvador and Honduras, and similarly ensued a struggle for land leading to internal conflicts in Bangladesh, the Philippines, South Africa and Israel (Simmons, C.S.2004; 183). Kosovo, Afghanistan, Somalia and Iraq had land as a catalyst for secondary conflicts (Molen, P. and Lemmen, C. 2004:5). Land plays a pivotal role in

preserving peace and speeding economic progress in later stage of conflict, and it affects both the choice of return and refugees and IDPs find it a crucial issue (USAID 2005: 2). A suitable solution for peace treaty involves many requirements like tenure security, land registration and its administration (Unruh, 2002). Any analysis associated with local land tenure is not adequate for the refugees and IDPs regarding land and ownership of land. It is a matter of regret that land policy received little attention in the literature as an element of peace building mission, rather the issue was sometimes under-rated. Land related conflict strongly affects economic and emotional values (OECD, 2004) ; law, public administration, and culture like other influences often get mixed with economy and politics although the 169 no. convention of the ILO terms 'land rights' as the most important of all rights (USAID 2005: 3).

Possession of land, its control, exploitation and the use of natural resources became the cause of current conflicts related to land and territory. In many countries, state and multinational corporations exercise their right to control resources to assert their own economic interest over them, which makes the situation more complicated and conflicts spread among indigenous people regarding land ownership and rights of use. There is controversial laws in Chile where one law ensure indigenous communities' rights to their lands while another law permit private companies to assert possession on subsoil and water resources (Stavenhagen, R. 2005). The Zapatista uprising of Mexico in 1994 made the rights of indigenous people on land a national issue which implemented a peace agreement in 1996 but it could not be effective enough for the indigenous communities. The government passed a constitutional reform in 2001 regarding indigenous issues but it failed to be effective, as a result peace process delayed. Indigenous population consists of the half of entire population of Guatemala but their access to land and resources became their main problem which led to the peace agreement of 1996 following Maya's identity and right. Neither central government nor international community is successful enough to establish a well functioning land administration in Afghanistan. (ibid).

In Bangladesh, Indonesia and Sri Lanka, land appropriation and resettlement schemes by government are mainly responsible for causing conflicts and tension related to land uses and claims. Resettlement of Bengali people in the Chittagong Hill Tracts (CHT) started in the Pakistan period, and from 1951 to 1961 the number of Banglali settlers increased from 26,000 to

119,000 (Roy,R.D. 2004:152).The Jhumia people³ were marginalized in their own homelands after the independence of Bangladesh, especially in the year 1979 and early 1980s, when 100,000 jhumia people were displaced (ibid).

If we consider the notion of collective ownership among the indigenous people, we see a strong relation between the concept of collective land rights and the idea of group rights. In many parts of the world, indigenous people are deprived of their political, economic and social participation since there is little progress in case of international recognition of group rights(Cindy , 2002: 126).The international human rights organizations put importance individual rights in all their international deeds like the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966) (Mjanger,2008). But there is a light of hope that the United Nations Declaration of Indigenous Peoples (2007) showed eagerness about the rights of the indigenous people. The CHT was divided into three circles, according to this regulation, and control of administration and judicial system were bestowed upon the community chiefs along with ensuring social security and collecting revenue (ibid).

Another larger international NGO symposium on Discrimination against Indigenous Peoples of the Americas, was held at Geneva in 1977. This symposium resulted in a draft statement of principles urging states to identify indigenous people as subjects of international law and give them the authoritative power over matters that were close to questions of their livelihood. The Declaration of Rio on Environment and Development in 1992 acknowledged the role of indigenous people in the sustainable development practices. Ultimately, their identity, culture and interests should be duly recognized and supported by the states. The United Nations declared year 1993 as “the International Year for Indigenous People” and 1995-2004 and 2005-2015 as “the International Decades on Indigenous People”, for the purposes of promoting and protecting the rights of the indigenous people. In the year 2000, the UN established the UN Permanent Forum on Indigenous Issues - considered a milestone in the history of indigenous rights.

³The indigenous people who use hill area for cultivation through shifting and regular cultivation .

Later, in 2007, the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous People, in The Declaration affirmed the freedom to practice rights – either collectively or individually - of indigenous people as recognized by the Universal Declaration of Human Rights and international human rights law and the Charter of the United Nations (See the Article 1, UN Declaration on the Rights of Indigenous Peoples). Today, it is quite clear that the developing international law confirms that indigenous people can, as a group, claim rights of ownership, control and management of lands and territories, native law implementation and representation opportunities, with the obligation of involving them in development efforts or in land policy-making

CHAPTER FOUR: ETHNOGRAPHY OF THE INDIGENOUS PEOPLE IN CHT

4.1. Introduction

The Chittagong Hill Tracts in Bangladesh offer a mirror image of the situation prevailing in other parts of the globe. An inherent feature of such a people is that they are very much aware of preserving their life-style. Constitutional initiative has not been in action in Bangladesh to address their status with the exception on some legislative and administrative measures. In Bangladesh land appropriation and resettlement schemes by the government were mainly responsible for causing conflicts and tension related to land uses and claims. The resettlement of Bengali people to the Chittagong Hill Tracts (CHT) started in the Pakistan period, and from 1951 to 1961 the number of Bengali settlers increased from 26,000 to 119,000 (Roy, R.D. 2004:152). The indigenous people were marginalized in their own homelands after the independence of Bangladesh, especially in the year 1979 and in the early 1980s', when 100,000 indigenous people were displaced (ibid).

4.2. The Chittagong Hill Tracts Indigenous Peoples

The people of Bangladesh use different terms to categorize the indigenous people of Bangladesh. But sharp disagreements arose between the indigenous leadership and the government officials regarding the use of such terminology (Roy, R. D. 2012:3). Some government officials of Bangladesh are not in agreement when it comes to using the word “Adibashi” or “indigenous” although “Adibashi” is close to indigenous or aboriginal in meaning; rather they prefer the term “Upajati”, which means sub-nation and is closer to the word “tribe” or “tribal” .The representatives of indigenous people prefer the term “Adibashi” in Bengali and “indigenous” in English. The term “Upajati” or sub-nation is connected to the words “backwardness” and “primitiveness”, so they reject the term “Upajati” though it means “tribe” in a lesser extent (Roy, R. D. 2012:3). A large group of the indigenous people accepted the term “Jumma”, which was derived from the “Jum” cultivation, or “Pahari”, which meant the inhabitants of the hill. The government of Bangladesh and its officials used various other terms like (i) “indigenous”; (ii)

“aboriginal”; (iii) “adivasi”; (iv) “ethnic minority”; (v) “hillmen/ hillpeople”; and (vi) “upajati” (subnation/tribe/tribal) .The Supreme Court of Bangladesh found the petitioner an indigenous Hillman of the CHT when a petition regarding the indigenous people of Bangladesh was presented before the court (ibid).

There is no reliable source of CHT history because the indigenous people have no written history of their own and they solely depend on an oral form of history (Mohsin, 1997:11). From the late eighteenth century, scholars found more accurate documents on the history of the CHT. "These were: Arakan to the south, Tripura to the north and Bengal to the north-west" (Van, Schendel. 1992: 97). Mohsin considers the revenue documents of the Mughals as the first written information about the Hill people of Chittagong while another detailed account comes from the British administrators of this region (Mohsin, 1997 :11).From 15th to 19th Century, the Hill tribes of CHT moved here mainly from Myanmar, earlier Burma. The Kuki group is considered the earliest tribe to be settled in CHT and the Chakmas started living here after them (Shelley, M. R. 1992: 26).

To meet subsistence requirements, shifting farming⁴ proved to be the only agriculture practice of tribal people since the whole part of CHT was covered with dense forest. The indigenous people used dibbles to grow cereals, oilseeds, vegetables and cotton, which were grown by shift. To meet their household consumption of products like corn and oil seeds, they produced rice, mustard and sesame. To weave cloths for household use, the indigenous people used to produce cotton(Rasul, G.& Thapa, G.B. 2005:3-4). The CHT came under Mughal influence mainly in 1666 and it increased gradually thereafter.

⁴"There are a huge number of different farming practices that are lumped together under the disparaging term ‘slash and burn’, otherwise known as swidden or shifting cultivation . Shifting cultivation also known as slash-and-burn agriculture or swidden cultivation."
Sources: <http://www.survivalinternational.org/about/swidden>

There is no clear evidence of Chakma Rajas' (King) adopting Islam as a religion but they used Muslim names like Rattan Khan (1673), Jalal Khan (1715-25), and Shermust Khan (1737-58) to remain close to the Mughal power. Jalal Khan, a Chakma king, requested an Mughal administrator of Chittagong to allow Bengali merchants to trade some daily necessities such as dried fish, chicken, salt, tobacco, molasses, black cloth etc. as these goods were not available in the Hills, and he voluntarily agreed to pay an annual cotton tribute to the Mughal authorities. As a result, the whole area received the name "Kapas Mahal", or "the Cotton Area" (Shelley, 1992: 27). But he refused to pay the annual tribute in 1724 for what the Mughal Dewan, Kishan Chand, a Hindu attacked and defeated him; Jalal Khan fled to Arakan and later died there. Shermust Khan became loyal to the Mughal authority in 1737, which inspired the Mughal authority to introduce a new administrative designation, Dewan, in the Chakma tribes, which continued up until 1900 (ibid).

4.3.The Ethnography

There are thirteen indigenous peoples in the Chittagong Hill Tracts (CHT), almost all of them depend on the Jum cultivation and so they are collectively called Jummas. The *Bawm, Chak, Chakma, Khumi, Khyang, Lusai, Marma, Mro, Pangkhua, Tanchangya, Murung, Khasi* and the *Tripura* are the major indigenous groups of the Chittagong Hill Tracts (Roy, 2004:115-116). (Section 2 of the Chittagong Hill Tracts Regional Council Act, of 1998 (Act No. XII of 1998) does not include the *Murungs* and the *Khasis*). Though national development has not shaped a uniform impact on the different groups of indigenous people, they commonly share a history, peaceful cohabitation, and visions of a common future (Roy, 2000:19).

Table 4.3: The name of different ethnic groups in CHT of Bangladesh.

Central Name	Alternative Name	Group Origin
Chakma	Thek, Tui-thek	Arakanese Group
Marma	Magh, Mogh, Maramgri	Bhyya
Tripura	Tipra, Tip(p) era	Tripura Group
Tanchangya		
Riang		
Murong	Murang, Mrung	
Lushai		Kuki Group
Panku	Panko, Pakhin, Pankho	
Bon	Bonjugi, Bawm, Bangogi, Banjogi	Mizo
Chak		
Khumi	Kumi	
M'ro	Mroung, Mru	
Kyang	Khayengs, Khanegas, Sho, Khuan	

Source: Shelly, 2000:120

In respect of physical features, culture and religion, the indigenous hill peoples are different from the majority Bengali population of Bangladesh (Roy, 1994:50). These peoples are mostly from Mongolian forefathers, belong to the Tibeto-Burman language and family extraction, and are closer in appearance and culture to populations in north-eastern India, Burma and Thailand but far different from the majority of the Bangladeshi population (Roy, 2000:19). Buddhism is the dominant religion among the indigenous peoples (Chakmas, Marmas, Tanchangya, and partially the Mru). While many of the indigenous groups have retained their traditional religion, some of them (Tripuras) follow Hinduism, and Christianity is followed by some others ((Lushais, Pankho and Bawm and some Mru). Whatever their religious faith is, the hill people apply traditional indigenous elements in their religious rituals and practices (ibid).

Along with unique tradition and culture, the indigenous people possess their own languages not only in oral forms but also in written scripts; however, many of them are about to face extinction, especially that of the Chakmas, which are about to be lost for reasons of not being used properly. Despite close links with the languages of Bengali and Assamese, the *Chakma* and the *Tangchangya* have caused distinctive development in their languages over centuries. The languages used by other indigenous peoples are said to be sprung from the Tibeto-Burman family of languages (Roy, 1994:50 & *ibid*). The script of Chakma maintains less similarity with that of the Burmese but more with the Khmer script. Bengali is the medium of educational instruction in Bangladesh, and as of yet now there is no information or plan regarding the inclusion of indigenous languages as a medium of educational instruction, since linguistically the hill people are minorities in Bangladesh (Roy, 2000:22).

Nowadays, a huge number of Bengalis are living in the CHT along with the indigenous people, and it is said that they are almost equal to the hill people in numbers (Shafiqur, 2003:6). A vast majority of the Bengalis living in the CHT are Muslims like the rest of people of the country. At the same time, a large number of Hindus can be found working as shopkeepers or small traders in the CHT, although it is difficult to find Hindus in the plains of CHT (*ibid*). Land is obviously very important for the economy of the CHT, as most of the CHT inhabitants, particularly the hill people, are wholly or partly dependent on land for their living (Shafiqur, 2003:7). As most of the people of Bangladesh are either land pressed or directly dependent on agriculture, many people from the plains preferred migration to the hills because the hills are relatively less populated and such migration was indicated by economic factors for economic development. Though the migration of Bengalis to the CHT started in the 19th century, the proportion was not significant until the 1940's, as it could keep pace up until this period. The Bengalis started moving to the CHT in boats about two hundred years ago but they never settled in the CHT, rather they served the region as fishermen or traders for their own livelihood. The hill people, especially the *Chakma*, *Tanchangya*, *Tripura* and *Marma* started receding over a large part of present Chittagong and Cox's Bazar districts during the last three decades of the 18th century, but prior to that they lived exclusively in the hills (Shafiqur, 2003:7-8).

Excessive growth of population in the plains of Bengal changed the picture, as a number of hill people living in the plains came down and a few of them are now living scattered throughout these areas. The population of these fertile plains began to grow abruptly along with the colonization of Bengal in 1760 by the British empire. The pressure of a more excessive population accelerated migration not only to the eastern and southern part of Chittagong, but also to the Indian states of Assam, Meghalaya and Tripura, and the Rakhine state of Myanmar faced the pressure of migration (ibid). The Chakma, Marma, Tripura and Tanchangya living near the Rangunia, Ramu and Sitakunda areas of plains Chittagong, and in other districts of Bangladesh like Noakhali, Sylhet and Comilla (formerly Tripura) near to the CHT felt the effects of this population growth. The Chakma people exercise a special kind of historical ballad called Chadigang Chara (“Exodus from Chittagong”), sung by minstrels known as “genkhuli”, to tell the stories of this unequal struggle for land (ibid).

This historical fact has been revealed through the discovery of the travel accounts of a British surveyor who travelled this region during the late 18th century (Van Schendel 1992). This feature of the CHT is unique and a source of unhappiness because the government sponsored settlers from other parts of the country to ease the population pressures of the densely populated plains not only for political reasons but also for the purposes of combating the existing insurgency and political unrest in the region (Julian & Alan 1984:32-43). The government also adopted disruptive developmental efforts and afforestation projects in the name of economical, ecological and socio-cultural development but the government efforts were unsustainable to the hill people (Shafiqur, 2003:8). Poor soil conditions, lack of communications, a shortage of infrastructural and credit facilities, human agencies such as the type of government, and the government projects mentioned above are the causes of land crisis in the CHT in the present day (ibid).

CHAPTER FIVE : LAND POLICY UNDER DIFFERENT REGIMES

5.1. Introduction

The discussions in this chapter concern how state authorities of the British empire, Pakistan, and Bangladesh have continuously ignored, caused destruction and made alterations to the customary rights of the CHT indigenous people. On the other hand, the regime of colonialism has been finished but still bears the disgrace of post-colonialism. Colonial powers returned to their native place but yet the prefix “post” complicates matters by implying an aftermath in temporal and ideological senses (Loomba,2005:12). This chapter will also explore the impacts of such inequitable conducts. A number of factors, directly or indirectly, have shaped the institutional livelihood and rights of the people of CHT under the control of the Pakistani and Bangladeshi governments. The late 1970's saw the move of indigenous peoples from politics to armed struggle in order to attain rights in the CHT. This chapter will focus on the response of the Bangladeshi government in this regard. It will also explore the delicate negotiations leading to the Peace Accord in 1997. For a comprehensive understanding of the situation, the point of departure will be the situation of the indigenous peoples under the British Empire. A short introduction to the pre-colonial tenure is also given.

5.2. Pre -Colonial CHT

The mountainous CHT-region represents the main topographical frontier of predominantly deltaic Bangladesh. Different political developments in these regions reflect the contrast in the geographical features between the hills and the plains (Brauns and Loffler 1990: 27). Before the colonization of Bengal by the British, no government of Bengal directly administered the CHT. Before the British colonial period, the administrative charge of small parts of this region was given to the influential chieftains from the less numerous indigenous peoples (Van, Schendel et al. 2000: 25, 29, 32) but the larger part of the CHT was given to the Chakma Raja (a Chakma) and the Bohmong Raja (a Marma) (Hutchinson 1909: 12).

5.3. The British Phase (1760-1947)

The voluntary or irregular trade tribute to the Mughal governor of Chittagong by the more influential CHT chiefs can be considered the starting point for colonisation, but the real colonisation of CHT took a period of nearly two hundred years (Ishaq, 1975: 34-35). The Mughal empire handed over the administrative charge of CHT to the British East India Company in 1760. Indigenous chiefs paid tributes to the British East India Company. Historically, neither the Mughal nor the East India Company had direct control over the indigenous peoples, who were then referred to as the hill tribes, because local control remained in the hands of the indigenous people (Serajuddin, 1971: 57). Many Bengali wet-rice farmers migrated to the territories of the Chakma and Bohmong Rajas and they were interested in paying revenue. They also came under the Raja's administrative authority. By the 1770's, the Bengali farmers became much more interested in living under the East India Company's rule since they had managed to take over a large quantity of lands with the help from the Chakmas (Van, S. 1992: 101). The indigenous people of the CHT were compelled to pay about 20 maunds (one maunds is 82.28 pounds) of cotton to the British as annual tribute for the right to trade, and the amount of such tribute was made larger for the Marmas who came from Arakan and were considered to be the second largest indigenous group in CHT. The Company changed the tribute from cotton to cash in 1789, when each married man had to pay 3 or 4 Rupees annually (Mohsin, 1997: 80). This became a heavy economic burden for the indigenous peoples and they became dependent upon the Bengali traders for paying the taxes in cash. By this time, the Bengali traders had established themselves as the superior group of people in the CHT (Mohsin, 1997: 80; Roy, 2000: 40; May, 1984: 79). During the Mughal Empire, the Chakma Raja traded with the Bengali merchants. The market gradually went under the control of the Bengali traders and the indigenous peoples were obligated to sell products at a very cheap rate. Sometimes the indigenous peoples were compelled to borrow money from the Bengali traders with an interest that could be as much as 600 percent. On the other hand, CHT revenues also rose (ibid).

The British were also eager to bring the Bengali settler under their direct jurisdiction because the Bengali farmer would bring in higher revenue earnings than the indigenous peoples and their practice of swidden cultivation. The indigenous peoples remained outside the formal rule of the Company and paid only nominal tributes. The new settlers, however, had to pay substantive

taxes. The British deployed military forces to subjugate the local rulers (Serajuddin,1971:43-57). The British East India Company thought that they had no right to interfere in the internal affairs of the indigenous peoples. Until 1829, the Company never considered the indigenous peoples as British subjects. Rather, they were considered as tributaries (Ishaq, 1975:28). This treatment of the indigenous peoples collapsed when this area came under total British control in 1860. The British government declared Chittagong Hill Tracts a District and later made the CHT into a subdivision in the Bengal region. Hutchinson was a British administrator during the British colonial rule and he described the gradual colonization of the CHT. Hutchinson says that the strong and stable government of neighborhood attracted the CHT Chiefs to British influence and by the end of the 18th century, every leading chief reached the Collector office of Chittagong with a certain tribute or yearly gift with the hope of getting the privilege of free trade between the CHT and the plains. At the beginning there was no fixed amount for the tribute, but gradually it became fixed and was turned into a revenue paid to the state or the British government (ibid).The British Bengal Government were able to coax the leading figures and other regional prominent individuals into the government's administrative machinery during the time period between 1860-1937, making the district offices remarkably potent with the cost of power weaning of indigenous institutions.

The Santal people of Jharkhand in eastern India revolted against both the colonial authority and the local Zamindari system; the revolt is commonly known as Santal Hool or the Sonthal rebellion. The revolt led by four Murmu Brothers - Seedo, Kanhu, Chand and Bhairav- started on June 30, 1855 and on November 10, 1855, the British authority imposed martial law, which lasted until January 3, 1856; by this time, the rebellion was brutally controlled by the troops of the British Raj. After the Santal movement, the British Crown took control of the CHT from the British East India Company and in 1857-58 (Bleie,2005:107-112). The Crown declared the CHT a separate district by passing the Regulation Act in 1860. Soon after gaining control over CHT, the British Crown rejected the claim of ownership of the land by the native Chiefs. In 1864, the British applied the concept of terra nullius (i.e., land belonging to no one)and declared that the lands of CHT were vested exclusively in the British Crown. From this time, the local chiefs of the CHT had no rights of ownership. They were rather assigned by the government as delegates

to collect taxes and rents (Mohsin,1997: 87). The British Government divided the CHT into three parts where they introduced territorial Chiefs/Rajas and employed an administrative officer for each part under the Deputy Commissioner. The Chiefs of these parts had authority to make rulings on so-called customary matters but not on civil, criminal matters which came under British law. The British Colonial Government declared 1356 square miles out of 5146 square miles as reserved forest for covering the need of railway sleepers, which were being used to increase the railway network under construction within the vast territorial domain of British India. The reserved forest comprised more than 25 percent of the total land of the CHT (Hutchinson 1909:72-74). In the name of protecting the reserved forest area, the Colonial Government imposed restrictions on the native populations' rights over their ancient region's vast forest resources, which they had been using for centuries as means of their living. The Colonial Government completely ignored that the vast forests tracts were an important part of the indigenous people's economic, social and cultural institutions (Mohsin,1997:87; Mey,1984:95; Bleie, 2005:109).

The Act XXII of 1860 and the Act I of 1900, which were also known as the CHT Regulation of 1900 or simply as the 'CHT Manual' accelerated the transformation of the CHT. The British introduced the CHT Regulation of 1900 Act for the demarcation of the boundaries of the Chittagong Hill Tracts and the Reserved Forest and this law is considered the first major law in the CHT (CHT Regulation of the 1900 :130). According to this rule, the Deputy Commissioner (DC) alone could control and regulate jum cultivation⁵ and can stop jum cultivation or restrict its expansion to new areas, but the DC needs not show any reason for this action. The provision was made a century ago, but still it is in force though there was change in other executive procedures. On the basis, I will discuss the implication of the CHT Regulation in relation to the land and resources rights of the indigenous people.

⁵The farming practice of the indigenous people of Chittagong Hill Tracts is called Jum (swidden cultivation) which is closely related to their economy, history and culture.

In the analysis of CHT regulation, we find that the ethnic and cultural diversity in the CHT was neglected. During the formulation of the 1900 Act, ethnicity and clan diversity was the basis of land and resource rights for the indigenous nations. At that time, several ethnic groups existed in this area (See the R. H. Sneyd Hutchinson census on 1872-1901).

When the ethnic groups settled themselves to the land and forests of CHT, each of them followed their own system of land management. *"The sloping land used for jum cultivation traditionally belonged to different indigenous communities. Exclusive individual rights to jum plots had never been established, and community members could claim ownership only over the crops grown on the plots "*(source www.landcoalition.org/sites/default/files/legacy/.../ch3p03.pdf?q). Common land indigenous people in CHT had been based on customary practices operating through the oral tradition rather than written laws. *"The Hill people look upon their land rights as a collective right within the framework of customary rights . Ownership and possession are collective rights, and the land which is not under private ownership is considered to be common land, accessible to all members of the community. Although individuals have exclusive rights to specific areas, such as the house, the community as a whole share the right to access and use the common land"*(Mjanger,2008:16). But the British did not care for such ethnic diversity of CHT when they formed the CHT regulation; instead, their concern was to occupy the private land and forests only.

As a result, the whole system of land management in CHT was changed significantly as a result of the introduction of the CHT Regulation as its basis was land management. Wolfgang Mey, a Dutch anthropologist, says that like other parts of India, the British made such a land rights, which was solely different from that of their own land. Common land indigenous people in CHT had been based on customary practices operating through the oral tradition rather than written laws(see details Adnan, & Dastidar.,2011:37-39). After analyzing the regulation, Amena Mohasin, a Bangladeshi Scholar, expressed that the CHT manual was, as such, a legal document that accelerated the sovereignty of the indigenous people and ensured their alienation from the political system, though the same politics brought them closer later (Mohasin,1997:33). The colonial state made them local hierarchy only a virtual group of tax collectors

(Mohasin,1997:34). The British had more interest in revenue only and therefore appointed their own representative to gain their interest.

Another reason for imposing land restrictions and Forest Reservations was to motivate the indigenous peoples to cultivate the land by plough⁶ instead of Jum cultivation by fire and stick. Captain Thomas Herbert Lewin, who was the first Deputy Commissioner in the CHT, wrote that the Government introduced the Reserve Forest Act with a view to inspire the indigenous peoples to use plough cultivation⁶, while at the same time prohibiting (Lewin, 1870). The plough was introduced for collecting more revenue, but also their political position was strengthened by its use. Fifty percent of the Jum tax was given to the chief. The Headman and the British Government received another 50 percent of the tax. The chief and headman received nothing from the plough cultivation, but rather it went to the state. As a result, the Colonial Government did not have to depend on local favors of chiefs, headmen and karbaries (ibid).

The cultivating cravats or farmers had to migrate from one part to another in search of fertile land. This migration was regulated by the *CHT Manual*, which explicitly restricted, regulated and sometimes prohibited their migration. According to the Article 41 of the Manual, the Deputy Commissioner had the authority to regulate Jum cultivation. Without giving any reason, he could declare and restrict the expansion of Jum cultivation to new territories. Ethnic and cultural diversity of this region were destroyed by the Regulation and the placement of all of the clans and tribal divisions under the control of three chiefs. The ancient category of common land was undermined. Local people or their representatives could not formulate any rules for themselves. Land could be acquired for various commercial and residential purposes according to Rule 34 (94) of the Manual, but the Bengalis were favoured as claimants of the lands in most of the acquisition cases (Mohsin,1997:34). The opportunity of private land ownership created a class of landowners in the changing CHT society.

⁶A plough is a large farming tool that contains sharp blades and is used to pull over soil before planting seeds.

The new land owners used the indigenous peoples as day labourers and just ten percent of the farmers in the region owned most of the land (May, 1984:80). The best forested and cultivated lands were allocated to European businessmen for teas, coffee, orange and tea plantations (Mohsin,1997: 92). The social cohesion and solidarity in the CHT were disturbed by the shift in the land rights and management practices. And equality, as well as the traditional distributing norms of the indigenous peoples, were undermined (Adnan, 2004: 39).

5.4. The Pakistan Phase (1947-1971)

Cyril Radcliffe, the head of the Bengal Boundary commission, included Chittagong Hill Tracts to Pakistan as the leaders of CHT failed to include CHT with India. Although the leaders hoisted Indian and Burmese Flags, the CHT strongly opposed the inclusion with Pakistan (Mohsin, 1997). As India was hoisting the flag of secularism and the CHT was an area of 95 percent non-Muslims, the Chakma elites pleaded to the Indian National Congress to merge the CHT with India, but the CHT leadership failed to do so. Before submitting the memorandum to the Boundary Commissioner in 1947, Congress leaders were highly interested in incorporating CHT with India, but they included only West Bengal and remained silent about the CHT. The three Chiefs of the CHT sought recognition from the British, the Congress and the Muslim League as a native state. A constitutional monarchy like that of the British was suggested by Chakma Kamini Mohan Dewan, while Sneha Kumar Chakma proposed a republic. The more radical suggestion came from the Marma Chief who suggested a union with Burma (ibid). In the end, the CHT was finally included in Pakistan since it was suggested by Cyril Radcliffe, the Head of Bengal Boundary Commission.

Despite the existence of controversy when it comes to the political ideology of Pakistan, it is based on the Muslim religious ideology. Additionally, the majority of the population of East Pakistan were Muslims. However, Pakistan did not make any efforts to promote the economic development of East Pakistan. Instead, East Pakistan was being economically exploited by West Pakistan. This eventually led to a political uprising in East Pakistan and the 1971 war between East Pakistan and West Pakistan, which then resulted in the new state of Bangladesh. It was not

only the economic exploitation that caused the war of separation, but also the language movement in 1952, the 6-points movements in 1966, and accusations against the East Pakistani leaders. Bangladesh was established as a sovereign country after a nine month long bloody war. Pakistan wanted to be established as a solely Muslim nation and found the Bengali population of East Pakistan, many of whom were indigenous peoples and most of whom were non-Muslim, contradictory to their fundamental ideology. The indigenous peoples feared the worst since they were segregated from both the society and the state. However, the Pakistani rulers were not concerned with the sufferings of the indigenous peoples or the dangerous effects that their policies had on the environment of the CHT. Furthermore, the Pakistani government made administrative changes and left several lasting legacies that caused further suffering for the indigenous people; the following section will provide details of this.

The CHT was administered by the government of Pakistan from the city of Lahore, which is situated at a great geographical distance from the Tracts. The government of Pakistan merged the local police force of the CHT into the East Pakistan Police, thereby canceling the CHT Frontier Police Regulation of 1881, which was the first administrative change in this region. The state of Pakistan discriminated the indigenous peoples when it tried to snatch the special social status of the CHT, however the government was forced to retreat in the wake of loud protests from the indigenous peoples. Consequently, The status of CHT, as well as the Regulation of 1900, was kept unchanged in the first constitution of Pakistan in 1965. The Pakistani Constitution defined the CHT as an “excluded area” in 1956 and started administrating it as such, however after the constitution was amended in 1964, the status of the CHT was changed to a “tribal area” from an “excluded area” as there were many tribal areas in West Pakistan. Earlier the District Commissioner of the CHT could expel any non-CHT people from the CHT region. Stability remained in CHT for some time when the people of CHT got the right to vote and the power of the high court was revised. However, the tenure of President Ayub Khan from 1958 to 1969 brought back with it many of the former problems. Tensions grew in the CHT again when the status of the CHT was turned into a “tribal area” from an “excluded area” in 1962. At first, Ayub Khan changed the nature of the status of the CHT, but then in 1962 he fully demolished the status of the CHT by amending the constitution of Pakistan. And thus Ayub Khan threw away the

regulation of 1900 (Shelley 1992:30). Here I will analyze some of the development projects by the Pakistani government in order to discuss their impacts on the peoples of the CHT.

A: The Karnafuli Paper Mill

The government of Pakistan adopted a plan in 1949 to establish the Karnafuli Paper Mill. The estimated production of the mill was 100 tons of paper per day. The government spent about Rs. 65.90 million and the World Bank gave a loan of \$4.20 million USD. The project was completed in October 1953 (Ishaq 1971: 155-56). The establishment of the Karnafuli Paper Mill was the first major development project by the government of Pakistan in the CHT. Bamboo and softwood were extracted from the hill forests, which also were used by the indigenous peoples. The indigenous peoples were deprived of any type of direct or indirect benefits from this project (Adnan 2004:23). Very few indigenous peoples were employed at the mill, although thousands of work opportunities were created. Most of the jobs in the new factories were given to the West Pakistanis and Bengalis. As a result of the creation of the mill, the local indigenous peoples were displaced from the forest (Mohsin,2003:26). According to the government policy prior to the project, the mill was supposed to be in favor of and under the jurisdiction of the indigenous people. Unfortunately, many indigenous people who had been living near the mill area were forced to move (Mohsin1997:106). To this day, there are hardly any indigenous families living near the mill area.

B: The Kaptai Hydroelectric Project

According to one of my Respondents, " *Without any prior environmental or social impact assessment, the Pakistani government established the Kaptai Hydroelectric Project (1959-1963). Many of the indigenous people have still not received any compensation after loss of their lands and homes in the 1960s, because of the flood caused by the Kaptai Dam construction*". The indigenous peoples were not included in any consultative or participatory status during the creation of this huge project. The dam flooded 54,000 acres of cultivable land and more than 100,000 people, including 10,000 farming families were displaced from their houses and farms. The dam submerged about 40 percent of the total settled cultivable land of the district

(Roy,2000:96). The Kaptai dam was constructed at a cost of about Rs. 490 million founded by USAID and the Pakistani government (Ishaq,1971:155). To rehabilitate the vulnerable tribal families, the government allocated 240 million rupees but only 20 million Rupees were actually released for this purpose (Shelley,1992:31). The government said that they did not find enough land for reimbursement, which led a great number of the indigenous people being forced to migrate over the border into the Indian state of Tripura. By the mid-1960's, the Government of Pakistan instructed the District Administration to send local indigenous employees to other districts of East Pakistan. The indigenous people of CHT also lost their rights to education in their own languages.

5.5. Land Rights of the Indigenous Peoples before Independent of Bangladesh

The British made the Chittagong Hill Tract a district in 1860, and in 1868 they declared all the land of this region as terra nullius (i.e., land belonging to no one) (Gilbert, 2006:26). If any area is identified as terra nullius, it doesn't mean that it is uninhabited; people may live there but the territory might not be a possession of any socially and politically recognized community. But the chiefs of this region resisted the acquisition of land by the state and claimed to be the owners of the land on the argument that they had been collecting revenue for a long period of time, and because they had been enjoying certain privileges that supported their right to claim ownership of the land. But the British government never agreed to the claims of the CHT chiefs. Rather they opined that the chiefs of the CHT could claim the ownership of land on no grounds, and that the land was vested to the Royal Crown and the chiefs only rendered their duty of collecting taxes and rents from the inhabitants on behalf of the government since they were delegated for those duties(Mohasin, 1997:87). The British had realised that the chiefs of CHT could affect the clan and tribe but they had no influence on territorial divisions or claims to sovereignty. However, the British looked for some initiative to placate the traditional chiefs on the turmoil situation of terra nullius.

After the colonization of India, the British rulers found the vast forest areas an impediment to their way of prosperity, as colonial exchequer was getting hampered. With a view of declaring any land covered with trees or brushwood a forest, they passed a missive in 1855 entitled

“Charter of Indian Forests”, created Forest Department in 1864, and passed the Indian Forest Act of 1865 whose main purpose was to state that the government was to claim the forests a government property. They brought an amendment titled the Forest Act of 1878 for the purposes of controlling the century old right of customary use. Through the Forest Act of 1878, the colonial government established the idea that villagers had no right to the forests they used.

Rather, it was a government privilege (Mathur, 2009: 173; Mitra, & Gupta, 2009: 195). British control of the Hill Tracts after 1860 introduced two types of forest, with the aim of curtailing the rights of the indigenous people to the land and forests. Although the British did not completely abolish customary rights of the CHT indigenous people to forests, about one fourth of the whole region of the CHT (1,244 sq. miles) became reserved forest by the year 1882-83 (Roy, R. C. 2000: 69). Later this land policy was amended with a view to identify, define and declare different customary rights and privileges of the CHT indigenous people. The CHT Regulation of the Bengal Act of 1900, was passed by the British colonial government (Rule 50). By this regulation, the indigenous people were allowed to dwell in the rural areas, and they received the right to use timber, bamboo and other simple forest products for daily domestic use (Rule 41 A; Forest Act of 1927).

The indigenous people of CHT consider their land rights equal to all other parts of the country as per the customary rights (Roy, R.C. 2000: 54). Right to land is changeable over time and members of all community have access to those land which is not under any private ownership because they are considered common lands. The idea of shared usage of land is most important in this context. Specific lands like houses are private property but the whole community have share to common land. Even a private land can become a common land if it is no longer possessed by any individual. In this case, the land is owned by an individual but it is used by the community. It is similar to the concept of property rights (Roy, R.C. 2000: 56). Thus, all the indigenous people exercise their rights to land and resources collectively (Gray, 1996:106). It has become a tradition of hundred years that if any land is not used for a long, population disperse in different areas and new lands are allocated to them according to their traditional land management system (Pedro ,2004: 14).

According to the CHT Regulation 1900, settlement of Bengalis were restricted in the CHT and non tribal people were not allowed to buy land . If Bengalis wanted to be settled in the CHT, they had to take prior permission from the deputy commissioner and the commissioner *could only grant their request* with the recommendation from the Headman or the Circle Chief. Thus, settlement of non indigenous people were restricted in the CHT. In the CHT Regulation 1920, CHT was declared an excluded and Independent area from the general administration. With the declaration of CHT's 'Totally Excluded Area' by the government of India Act 1935, complete autonomous power went to the King of CHT (Mjanger, 2008).

With the basis of two nations theory, the British India was divided into two countries- India and Pakistan, and present Bangladesh became a part of Pakistan then known as East Pakistan. According to CHT Regulation 1900, the government of Pakistan let CHT to be run as autonomous since 1963 but a military government came to power in 1963 and made some amendments in the constitution which came into effect in 1964. After this amendment, CHT lost its title 'Excluded Area' and renamed as tribal area. People from the plains of Bengali were allowed to be settled in the CHT and the natives were entitled tribal people. But the issue created a conflict between the Pakistan government and the indigenous people (ibid). According to CHT Manual, CHT was a sovereign territory and 97.2 percent indigenous people were non Muslim. Since Pakistan and India were divided according to their religious ideology, the indigenous people of CHT could not accept the inclusion of CHT with Pakistan in 1947. So, the people of Rangamati hoisted Indian flag and the inhabitants of Bandarban erected Burmese Flag after the partition (ibid).

5.6. Bangladesh as an Independent State

The inhabitants of the plains of East Pakistan protested against the suppression of Pakistani rule and began to prepare for a fight against Pakistan for self-determination and freedom. At the same time, the CHT people were taking preparations against the settlement policy of the Pakistani government. The CHT people had, for a long time, been dissatisfied with Pakistani rule and suspected that the Pakistani government intended to create a Bengali Muslim colony within the CHT (Roy, 2008). The architect of Bangladesh and the father of the nation, *Bangabandhu Sheikh*

Mujibur Rahman, declared the independence of Bangladesh on the 26th of March 1971; directly after, a nine month long war started. *Sheikh Mujibur Rahman* was arrested by the Pakistani army on the same day. Just before the arrest, *Sheikh Mujibur Rahman* declared:

“This may be my last message. From today Bangladesh is independent. I call upon the people of Bangladesh, wherever you might be and with whatever you have, to resist the army of occupation to the last. Your fight must go on until the last soldier of the Pakistani occupation army is expelled from the soil of Bangladesh and final victory is achieved” ((Swadhinata 1982:1).

After the declaration of independence by *Sheikh Mujibur Rahman*, leaders within the nation encouraged people of all sections to join the fight to make the country independent. The war ended on December 16, 1971, and thereafter Bangladesh gained its independence. The tribal problems of Bangladesh already had a long historical background since the country gained its independence, and after this occasion, the indigenous people had to face many problems in the field of politics, society and economy (Shelley,1992:33). Their situation did not improve as their role in the independence movement was not trusted by others.

Generally speaking, the contribution by the indigenous peoples in the freedom struggle is not viewed in a positive light in Bangladesh. It is my opinion that that the indigenous peoples were in a fluctuating mental state at that time about their role in the war of independence. The responsibility reason for the absence of any pro-active role by the indigenous communities during the struggles should be attributed to the leaders of the freedom movement, the Awami League, and the local warfare officials for not involving the indigenous peoples into the liberation war. During Pakistani rule, the indigenous people were neglected and discriminated severely, which led to them lacking any sympathy for the Pakistani regime. It is true, however, that not all of the tribal chiefs were against the Liberation war; for example, Mong King Prue Chai Chowdhury, one of the three Chiefs, played a key role in the pro-liberation part. The Bohmong King, Sohi Prue Chowdhury, played a neutral role but the Chakma King, Tri Dev Roy, was a supporter of the Pakistani army (Mohsin,1997:55).

With time, the indigenous peoples started to consider the new independent Bangladesh as their own country and hoped that their self-determination, dignity and rights to land and other resources would be established (Roy, Bhattachroyo et al. 2008:7). But frustration soon fell over them. The Bengali people could reach their goal, but the indigenous peoples were in question about what their place really was in the new state. They placed a demand on the new government of the new state to reach an acceptable solution to their grievances. The late Manobendra Narayan Larma, a member of parliament, demanded autonomy of the CHT in favor of the indigenous people. But the Bengali leaders did not support his demand. Rather *Bangabandhu Sheikh Mujibur Rahman* suggested that the indigenous peoples are in fact Bengali people (Roy, Bhattachroyo et al. 2008:7). The indigenous peoples hoped that the leaders of the freedom movement would hold the CHT in high regard and attach significance to it since it was an important and sensitive area. The indigenous people expected that the CHT and its people would at least be considered in the Constitution of Bangladesh; but there was nothing for them, which brought about widespread frustration regarding their uncertain future in Bangladesh.

5.7. The Indigenous Peoples in Independent Bangladesh

The following text will show the different ways in which the authorities in the early independent Bangladesh dealt with the indigenous peoples in the CHT. Both the military junta and the elected governments are scrutinized in this section. Generally, the indigenous peoples are regarded as peoples constrained within a domain and not part of the rest of the society. At the time of independence in 1971, Manobendra Narayan Larma, a member of the parliament, placed a demand that consisted of four points in order to come to terms with the discrimination. The points included: i) autonomy for the CHT with its own legislature, ii) retention of the 1900 CHT Manual, iii) continuation of the offices of tribal chiefs and provisions restricting the amendment of the CHT Manual and iv) a ban on the influx of non-indigenous peoples into the CHT. *Sheikh Mujibur Rahman* said he would try to implement the four points demand, but, he also argued that in the new independent state, it would be difficult for the state to fulfill all persons' demands. Rather, he suggested that the indigenous peoples become Bengalis and give up their hope of having an indigenous realm with separate legacies and identities (Mohsin, 1997: 56-57). According to article 3 and 6 of the Constitution of Bangladesh, the only group that makes up the

population of the country is Bengalis and their language, Bengali, is the only official language. There is no recognition given to any other ethnic nationalities of Bangladesh even if they were citizens of the country (Bleie, 2005: 163). In a parliament session on the 23rd January 1974, Bangladesh was declared a uni-cultural and unilingual nation state. After the assassination of *Sheikh Mujibur Rahman*, several amendments were brought into the constitution. The Government of Bangladesh (during the military government period under President Ziaur Rahman and President Ershad) opened up the CHT for unrestricted immigration and settlement of non-indigenous people from all over Bangladesh through the amendment of Rule 34 of the CHT Manual in 1979, which also resulted in about 100,000 indigenous peoples being evicted from their traditional lands. Between 1979 and 1984, about 400,000 Bengalis migrated and settled in the CHT (Mohsin, 2000: 61-70). The ethnic minorities of Bangladesh who were practicing Shamanism, Buddhism, popular Hinduism and Christianity (mostly living in the northwestern region and in the CHT) now found themselves to be minorities both in the ethnic and religious sense when Islam was declared as the state religion of Bangladesh through the eighth amendment of the constitution in the 7th June 1988 (Bleie, 2005: 11-18 & 147-169).

According to one of my indigenous Respondents :Islamic missionaries have been active in the region, provoking religious tensions between converts and those who remained with Buddhism. Alongside communal feeling introduced during the regime of Ziaur Rahman. Earlier indigenous people and Bengali were lived in the region without clash and communal harmony among Banglai and Indigenous community was really impressive and tremendous. Nobody can say -- communal conflict took place before settlement in 1980. Communal feeling artificially created in CHT region. This is one of the reasons for communal attack in CHT.

CHAPTER SIX: CONFLICTS AND LAND RIGHTS

6.1. Introduction

The CHT has been experiencing severe ethnic tensions and violence since gaining independence from British rule in 1947. In this chapter, I will discuss the ethnic conflicts of the CHT and will also show what steps have been taken by several state policies to address the reasons of increasing conflicts in CHT.

6.2. The Picture of the Homeless and Landless

Three major events have affected the land rights of the CHT people during the last two centuries.

1. The first event was the declaration of common forests as reserved forest in the 1870's (British period). 2. The second one was the construction of Kaptai hydroelectric dam in 1960 that displaced about one-third of the indigenous people, which measured about 100,000, by inundating Rangamati town and submerging 54,000 acres of cultivable lands permanently (Pakistan period) (Ishaq,1975:126). After having been affected by the above-described development projects, 10,000 to 40,000 homeless and landless Chakmas permanently migrated to India, where they became stateless refugees. They settled in the northeast state of Arunachal Pradesh (Bhaumik et al. 1997: 140-149). Neither the compensation nor any other grants were adequate enough to make up for the loss of the lands, and the dissatisfaction with the havoc caused by the dam was thought to be a result of the political unrest of the 1970s (Sopher,1964). 3. The third event was the transfer program of 100 000 Bangalis in the 1980's to the CHT during the Bangladeshi military government period (Roy 1998).

The society and culture of the indigenous people faced a setback due to the above-mentioned approaches, and many settlers engulfed the accommodation and lands of the indigenous community who were evicted which consisted of approximately 10,000 persons. The indigenous peoples, deemed to be original occupants of these areas, were driven out from their ancestral lands and moved to the far-off forest region and hilly settlements. These evicted families have since then been living in hilly and forested sites and clinging on to a life filled with

immeasurable agony. Simultaneously, natural resources, which include common swidden lands, natural forests, and plantations under the auspices of the Forest Department, are under pressure. Such burden on the environmental landscape is generating a considerable amount of hostility between the homeless indigenous people and the newly settled individuals. This hostility is leading to grave repercussions and there is now little sense of tranquility in the regional setting since the strain is sturdily sensed in the CHT.

Different communities, especially the indigenous women, have faced hardships because of the combined effects of land dispossession, land scarcity, a swidden dependence on the market and the rising deforestation. Since women play the most important role in collecting firewood and water, managing resources, and other responsibilities. The situation has not been improved since the government sponsored the migration of non-CHT people to the region. Women have to work harder and move around longer distances as their access to nearby land and forests have decreased to a great extent (Roy, 2000:108). Development projects, like the expansion of the Reserved Forest areas, and mining activities for natural gas and oil also have a highly negative impact on the livelihood of the indigenous peoples. I came to know from one of my Respondents, reason of dissatisfaction and time of loss their land they answered:

Basically discrimination started in 1980 when Ziaur Rahman settled the floating people from plain land and settled at the hilly people's land. They forcibly grabbed the indigenous people's land in different places with direct intervention of Bangladesh army. It is true that the indigenous people had no document of their land as they would follow the customary law on land ownership. Besides, the administration helped the settlers to prepare document on the indigenous people's land in their name. Three types of administration are prevailing in CHT—general administration, traditional administration and CHT district council. However the district council is basically a local government body—and it is not full pledge administration body. District council coordinates the development activities and different department of the government. Despite there is three type of administration are prevailing in CHT—there is no contradict among the administration. Traditional administration has been introduced during British period in line with general administration and district council introduced in 1989 during Erashd regime. Later the councils strengthened entirely after the CHT accord in 1997.

6.3. The 1980s Population Transfer Programme

The 1980's, the government of Bangladesh started settling Bengali settlers in the CHT. The consequences of this resettlement programme led to thousand of indigenous people losing their lands and the emergence of new conflicts concerning land. Newly settled Bengali migrants started occupying cultivable lands in the indigenous people region. One aim of the transfer was to combat the rising insurgency in the region with a larger non-CHT population. The government resettled about 200,000 to 450,000 Bengali-speaking people from various parts of Bangladesh in the three districts of the CHT (Chittagong Hill Tracts Commission, 2000). The CHT Regulations were amended by the government to include the granting of lands to non-residents of the CHT, which continued for three to four years. As a consequence of this transfer program, about ten thousand of indigenous people were dislocated directly or indirectly. Some of the indigenous people became refugees in India and many others fled to remoter hill and forest areas for shelter. Though some of the international refugees returned to the CHT, refugee leaders claimed that no rehabilitation facilities were provided for them (Roy, 2000: 174). According to one of my Respondents:

The migrants were first kept in CHT and the state authority were arranging their settlement. The military and civil officials disregarded the pre-existing land rights of the IP and placed the Bengali migrants on the lands of the indigenous people forcibly. Since the settlement and displacement were getting done under the supervision of the security forces, the affected indigenous peoples could not oppose the takeover of their lands. And most surprisingly the Chiefs, Headmen and Karbaris⁵ were kept out of the process of placing Bengali settlers on indigenous peoples lands although the mentioned personnel are the traditional land management body in the CHT.

⁷ Raja (Chiefs/King): The head of the Chakma community is called a Raja (King/Chiefs) whom consider the Chakma people as the final decision maker, and he can forgive anyone if he wants. Except the District Commissioner, no one can appeal to review the decision of the Raja since his decision is always considered as final. Taking care of some mauzas (groups of villages) is also the responsibility of the Raja.

Headmen: The chiefs of Mauzas are called Headmen in the Chakma society and in terms of decision-making, the Headmen are considered next to the Raja or King. Most of the cases are solved by the Headmen. Usually the King chooses Headman from any particular family since it is a hereditary title, but the King possesses the authority to select headmen from any group of people.

Karbari: The Karbaris work as the assistant of the headmen in the Chakma justice system and they are the root level leaderships. The position of the Karbari is not hereditary like the King or the Headmen but the headmen can select them with the consent of the King.

6.4. The Military Operations

Military domination in the CHT started during British rule. The British authority formed paramilitary units to provide security to the eastern frontier of the newly formed CHT and to control the gluing of arms in this area. In the 1870's, they deployed one military policeman for every 96 inhabitants of the Hills (May, 1984:20). After partition from India, the Pakistani government disbanded the Frontier Police Force in 1948 and sent the Baluch Regiment for checking the local resistance. Up until 1962, during the Sino-Indian border war, the Central Intelligence Agency of the U.S. used the CHT, while the Inter-Services Intelligence (ISI) of Pakistan helped the Agency to run operations against China in Tibet. The insurgency of Naga National Army against Delhi's authority was also operated from the CHT. When the Awami League claimed autonomy from East Pakistan in 1969, the CHT became a busy zone for military purposes. In March 1971, President Yahya Khan postponed the National Assembly for an indefinite period and decided to crush the autonomy movement of East Bengal through military power (Mohsin, 1997:148-160). When Bangladesh became independent, the indigenous leaders demanded autonomy of CHT within the state. However, the Bangladeshi leaders considered the demand as a step of secession and made the CHT an issue of highest national security level. CHT leader Larma established the political party PCJSS and its' military wing *Santi Bahini* (Peace Force), since their demand of autonomy was refused. The government sent the 24th Infantry Division giving them total control of the civil administration so that the military could break the indigenous insurgency, which brought the CHT under the control of the military (Ibid).

As the military operation "Wildfire" was declared under a state of emergency, human rights were violated to a great extent by the deploying army. At the beginning of the operation, the security force's main target was the Tripura peoples, because they were identified as Hindu. But the

reality was different. Most of the Tripura people were followers of Shamanism, which is a mixture of indigenous elements and Hinduism. With time, military operations expanded through other indigenous territories in the CHT. It is estimated that about 10,000 indigenous people were killed in 1981 alone (Adnan, 2004:30). About 100,000 indigenous peoples fled from their villages because of the oppression. More than 500,00 peoples fled to India and Myanmar (Mohasin, 1997:115). The Bangladeshi scholar Swapon Adnan presented a picture of CHT, and he said that the Bengalis were used as human shields for implementing a socio-demographic change (locally termed political migrants) whose main purpose was to settle the Bengali Muslims from the plains and absorb the indigenous people through a process of converting them to Islam (Adnan, 2004:29). He again argued that transferring the Bengalis to the CHT was a soft warfare rather than using hard military operations. At the same time, several steps were taken by the government for controlling the insurgency movement. For example, general amnesty was declared for the cadres of Shanti Bahini. As a result, about 2,294 cadres of Shanti Bahini gave up insurgency and surrendered (Ibid,2004:30-32).

In the 1980's, the government announced an official pardon for the huge payments and paid for the military operations and for the deteriorating of the indigenous people's movement. The government also confirmed that the CHT would be a special economic area. The main aim of declaring the CHT a special economic area was to assimilate the indigenous people and Bengali settlers through a strategy of integration. Providing financial and other logistical support to the indigenous peoples, the state used different tricks to separate the PCJSS movements from the support of the local peoples. As a result, the special economic area appeared to be a policy of split and rule in the CHT. On the other hand, the government helped the Mro people to form a military group that held opposing views to the Shanti Bahini. The State provided this Mro military group with arms and monetary support up till the year 2005 (The Chittagong Hill Tracts Commission, 2000:38-39). The General Officer Commanding (G.O.C) of Chittagong Cantonment was appointed as the Chairman of the Chittagong Hill Tracts Development Board and as a result, he was also able to comprehensively control all military activities in the region. All development efforts were assigned to the CHTDB, including the control of international aid. A huge budget was allocated for the CHTDB, but the lion's share of the money was disbursed for the purposes of constructing military infrastructures such as defense camps, roads and bridges,

buildings for official purpose, mosques, and cluster villages intended for indigenous peoples as well as for Bengali migrants.

The Bangladeshi government, under pressure from the international community, was compelled to start a peace process in the CHT. The Peace Accord was finally pushed to be signed, though this action took a long time to accomplish. The Accord states that CHT should get the entitlement of a “tribal area” and that the indigenous people would be privileged to have their own institutional settings. There is also an arrangement for establishing a land commission to resolve land disputes. Since the signing the CHT Peace Accord in 1997, two hundred military camps have gradually been withdrawn . However, there is still military rule “Operation Uttaran” which is indirectly a military administration over the civil administration.

6.5. Development of the Parbatya Chattagram Jana Samhiti Samiti (PCJSS)

The indigenous peoples were ignored and deprived of political representation during the formation of the constitution of the country. The independent state of Bangladesh during the military regime also held the strategy of continuously excluding these peoples. As a result, the indigenous peoples formed their own political party in 1972 entitled “Parbatya Chattagram Jana Samhiti Samiti” (PCJSS).

Manobendra Narayan Larma was the leader who headed the formation of PCJSS in March of 1972. In 1973, Manobendra won the national election as an independent candidate and became a member of parliament. The Larma family is the most well known political family in the CHT. Jyotirindra Bodhipriya Larma, nicknamed Shantu Larma formed the military wing of the PCJSS, the Shanti Bahini (SB) during the period of 1973 to 1974 (CHT Commission 1991:16). The two brothers arranged the armed training of the Shanti Bahini and they took the leading role in the armed rebellion, too. They announced the existence of the Shanti Bahini from the Itchari Forest of Khagrachhari district in 1973. The name of the leader Manobendra, or Santu Larma, was the source of the name “Shanti Bahini” (the peace forces) since “Santu” or “Santi” means “peace” (Azad 2004:23).

The indigenous peoples' main demand was to achieve a life of dignity in the Hills by establishing a separate identity. They demanded it soon after the independence of Bangladesh. Representatives of the CHT brought the identity issue to the national parliament of Bangladesh, but failed to gain the support of the government. However, a political dialogue started between the CHT leaders and the president *Sheikh Mujibur Rahman*. Roy described the issue referring to Bhattacharya (Roy,2007:13) when he said that before the assassination of *Bangabandhu Sheikh Mujibur Rahman*, he was concerned about the fundamental rights of the indigenous people of CHT and agreed to resolve their grievances through potential dialogue.

6.6. The Bangladesh Administration Pre-Peace Accord stage CHT (1976-1997)

The PCJSS, having been deprived of their expected level of recognition and administrative freedom, resorted to taking up arms with the formation of SB (Shanti Bahini) in the CHT, and aimed to fight for the indigenous peoples. In order to constrain the insurgent assaults by the SB (Shanti Bahini), the government employed different mechanisms such as deploying military in the rebel-infested neighborhoods, establishing other types of authority figures whose specific purpose was to bring people from the plains in order to introduce them as settlers in the CHT; this was done with a purpose of curbing insurgency. Conforming to the amendment of rule 34(1) in March 1979,(during military government) the commissioner in the district of CHT, let between 200,000 and 400,000 landless Bengalese settle in the CHT (Roy,1997, cited by Rokeya 2012 :32). By adopting a manipulative strategy, the land of the indigenous peoples were to be possessed by non-indigenous settlers. Some indigenous people resisted such misappropriation of the land. So, the presence of security officials played a role in the transfer of land ownership (ibid:35). In order to legalize such evil acts, the government implemented the Chittagong Hill Tracts (Land Khatiyani)⁸ Ordinance in 1985. The Government also restricted return of the sponsored Bengali settlers to their origin until 1989 (*Life is not ours*: 1991:19).

⁸ Ownership and assessing land development tax is known as Khatiyani, which is also known as record of rights, sottolipi or porcha. But it is not any legal document in support of ownership (see detail :<http://zaman71.blogspot.se/2014/01/record-of-rights-khatiyani.html>).

CHAPTER SEVEN: THE CHITTAGONG HILL TRACTS PEACE ACCORD 1997

7.1. Introduction

In this chapter, I discuss how the democratic prosperity of the country has been hampered by the rule of the army. I would say from my perception that whenever Bangladesh falls under the control of a military regime or an army-backed government, the inhabitants of the CHT become entangled in resurgence, their lands are occupied and their social, political and economic lives are intervened. But during the democratic regime, they can at least place their demands and they can hold dialogues with the government and their administrators. Sheikh Hasina, the daughter of *Bangabandhu Sheikh Mujibur Rahman*, came into power in 1996 and a peace accord was signed in 1997, 21 years after the assassination of *Bangabandhu*.

7.2. The CHT Peace Accord 1997

The CHT Peace Accord was possible because of the willingness of the successive government of Bangladesh. However, it was not done overnight and took two decades to be formulated. The Peace Accord was substantiated during the regime of Sheikh Hasina, and different national and international communities played important roles as catalysts to continue the negotiation for materializing the process of the Peace Accord to pacify the insurgent situation in the CHT (Chowdhury, 2009:21). (1) The first steps came from the foreign donors in 1980, when they pressured the government to stop the insurgency in the CHT. (2) The second from the government of Bangladesh which grew more cautious after the end of the Cold War in 1990. (3) The third through the establishment of parliamentary democracy in Bangladesh in 1991 which accelerated the process. Before coming to power in 1996, the Bangladeshi Awami League declared that they would resolve the CHT problem if they came to power, a declaration that stood as their election manifesto. The Awami League, led by Sheikh Hasina won the election and took steps for negotiations, which eventually started with a committee of 12 members. After several meetings between the representative of the Bangladeshi government and the representatives of PCJSS, both parties agreed to sign a peace accord on December 2, 1997 and the procedure was forwarded for a formal recognition (Ibid).

Resolving the land issue and ensuring the social, political, cultural, educational and economic rights of the indigenous people of in the CHT were the main points of the accord. Equal rights of all citizens of Bangladesh and the guarantee of socioeconomic development in this region were also included in the accord. The Chittagong Hill Tracts Peace Accord both parties agreed that land and land management, law and order, civil administration, police (local), development, primary and secondary education, forest and environment should be supervised and controlled by local and regional councils with representatives of the indigenous peoples.

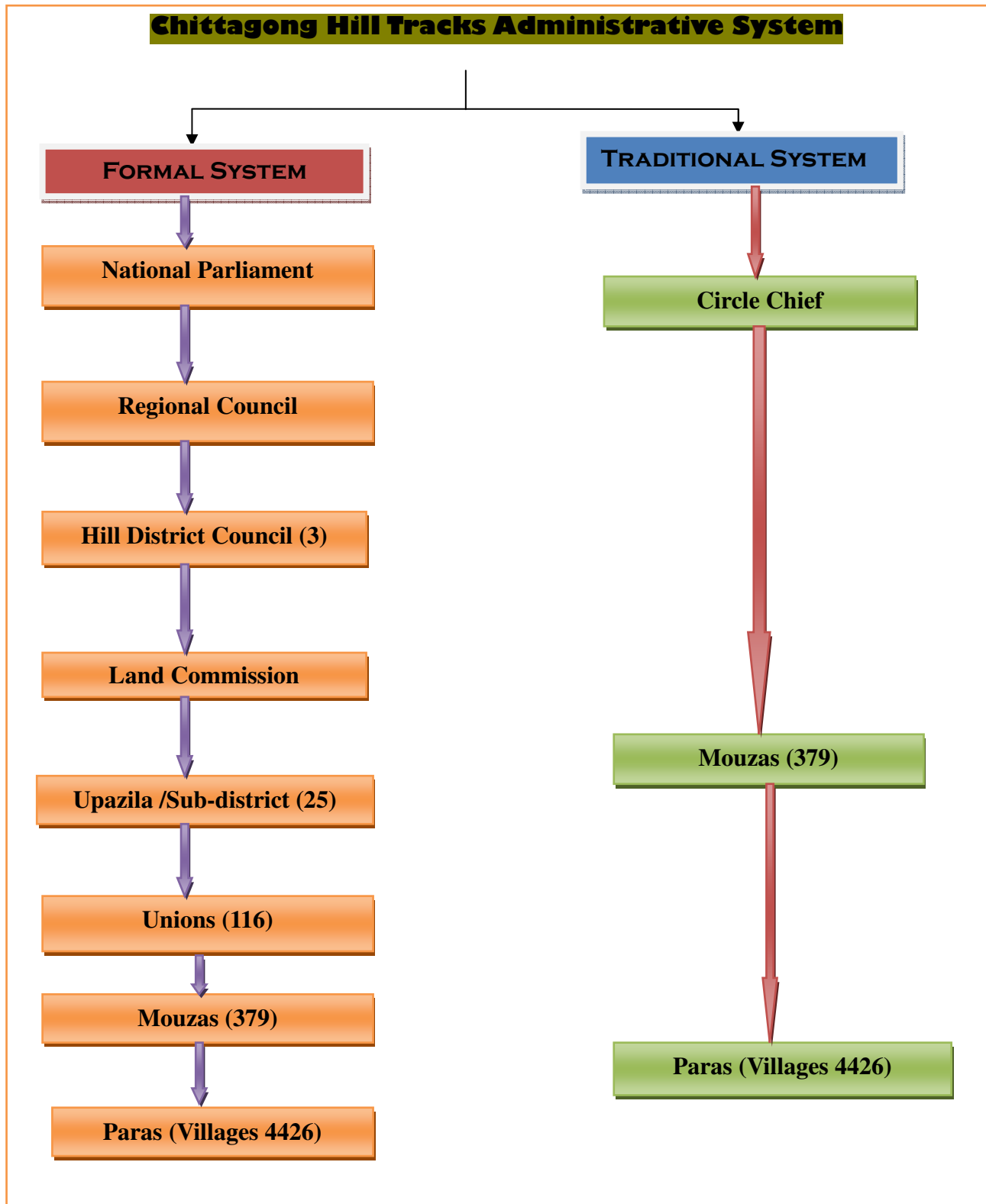
According to one of my Respondents :*"The main aim of the Peace Accord was to recognize and establish the land rights of the indigenous people. However, violations of human and land rights have not stopped almost two decades after the Peace Accord was signed. The Peace Accord brought an end to the violent conflicts between the government of Bangladesh and the indigenous people of CHT, however, many of the critical clauses of this peace agreement have yet to be implemented by the government, while the influx of Bengalis from outside and the grabbing of indigenous people lands have been allowed to continue. Lands are being forcibly acquired by not only government agencies but also private commercial interests led by Bengali power holders with connections to major political parties and agencies of the state. The failure of various governments in power since the Peace Accord to take effective measures against continuing in-migration and eviction of indigenous people from their lands threatens to undermine the social and political stability of the CHT and raises the prospects of renewed ethnic and political conflict"*.

7.3. Debates on the Peace Accord

The Peace Accord was signed between the Awami League-led government and the PCJSS, but its legitimacy in the light of national constitutions has been criticised by intellectuals, politicians, and civil society members. Bangladesh Nationalist Party (BNP) in fear of a parallel government in the country, opposed the accord strongly (Rashiduzzaman, 1998:55). But the Accord gained support from the political leaders of the Awami League, prominent intellectuals and constitutional experts of the country because they said that there was no contradiction between the Constitution of Bangladesh and the peace accord (Rashiduzzaman,1998:654).

Both traditional bureaucracy and elective local authority were combined in the administration of CHT, thereby setting it up as a kind of semi-autonomous administration (Novakova, 2010:57). Local and bureaucratic authority is separated by their features, but both are equally responsible for their deeds. The institutional structure of administration in the CHT is given below to make the administrative patterns clear.

Table 7.3: Institutional Structure of CHT Administration



Source: Novakova, 2010:57

The Ministry of Chittagong Hill Tracts Affairs (MoCHTA) was formed after the Accord to implement any policy regarding CHT and ultimately became the supreme administrative body. Comprising three Hill Districts Councils (HDCs), District Council, few Upazilas (sub-districts), Union (smallest administrative unit) Mouzas (revenue units) and Paras (villages), the Regional Council (RC) was formed as a regional elective body where the District Council were directly under the regional council (Novakova, 2010:57-58). The Chakma Circle, Mong Circle and Bhomong Circle were the three traditional administrative systems of CHT and there was a Raja or chief in each of the circles.

7.4. The Main Points of the Accord with Regard to Land

The Hill District Councils were made stronger so that they could solve land related issues more effectively. It is the responsibility of the Hill District Councils to deal with land and the management of land and without the permission of the Councils, no land would be transferable either by settlement, purchase, sale or by lease even it was applicable for the Khas land. Since the government could not exercise its power on disposing land in the CHT from time to time, the rule was not applicable in the case of state owned properties like the reserved forests, Kaptai Hydroelectric Project, and other projects (section Kha, clause 26 (1)). (CHT, Commission. 2000:37)

The Land Commission was established to create a sustainable resolution for settling disputes related to land. According to the rules of the commission, it can cancel any ownership if the land is settled illegally; at the same time, the Commission's decision is final and no one has the right to appeal against it (section Gha, clause 4).

Furthermore, if any land that has been allocated for rubber and other types of plantations is not used by the Bengalis for more than ten years, the Commission could see that it is returned (section Gha, clause 8) (ibid: 37).

According to one my Respondents :Relation between Hill district Council and Land Commission:" Chairman of Hill district council is a member of CHT land dispute resolution commission. Officially there is relation between two government body as well as these two bodies are independent in their respective works. Commission will resolve the dispute over the land in CHT. There is no scope for arbitration against the verdict of land commission as it is a judicial body formulated by law. However as per constitution right any per son can appeal to High Court against the verdict of land commission. in the process resolving the case relating land dispute in CHT--the chairman of HDC can oppose or support. If the member of the commission differ in their opinion, then the decision of the chairman will be the final decision."

7.5. Main Weakness in the Accord and Implementation with Regard to Land

The government gave the lease of certain lands to the non-resident people for plantations and industries. The already leased lands and the largest part of the CHT area (i.e. the reserved forests and unclassified state forests) were not under the authority of the Hill District Councils. The Hill District Councils and the regional council have been empowered to play their role in land and resource management as well as in development projects, but the legislation of such power has not been adopted yet. If the empowering of the councils is not completed, the maintenance and management of agricultural land and forest are not possible; at the same time environmental and mineral resources cannot be exploited properly due in part to the lack of power of the councils. On the other hand, it is also not clear how the local people will benefit from mined resources like oil. Besides, nothing is clearly stated in the accord regarding how the Hill District Councils will enjoy the share of royalties from mineral resources (CHT, Commission. 2000:37-38).

There was a discussion in the previous chapter about repatriated refugees and internally displaced indigenous refugees; it was also made clear through the presentation of evidence that none of these refugees are fully rehabilitated yet. The issue of displacing indigenous people from their land and allowing that land to become occupied by settlers is very sensitive but there is no verbal progress in solving this problem (ibid).

The Government has formed the Land Commission, but this commission has not started to perform its functions yet. The Land Commission also has a great weakness in the sense that it has no formal legislation and can work on executive order only. Several lawyers and representatives of the indigenous people urge that the commission have a detailed constitutional legislation so that the validity and legitimacy of the accord does not fall in opposition of the opponents of the Peace Accord (ibid: 2000:37-38).

7.6. Defending the Indigenous Populated Area

The CHT received the recognition of an indigenous populated area and the fortification of the general characteristic of the CHT was mentioned in the first parts of the accord (Clause A-1). As initiatives to preserve the characteristics of the CHT region, the government passed the Chittagong Hill Tracts Regional Council Act and Chittagong Hill Tracts Land Disputes Resolution Commission Act of 2001, and at the same time defined the administrative role of tribal chiefs and headmen in local administration (Roy, 2000). But the will of the successive governments of Bangladesh turned contradictory when the tribal people continued to be alienated from their ancestral lands, Bengali people were being relocated or migrated to the CHT region, and Bengali settlers were being illegally included in the voter lists (Baer, 2011:8).

7.7. Implementation of the Peace Accord

With the purpose of implementing the Accord, an Implementation Committee with three members was proposed. The Committee was formed, but remained inactive until May 2009; the current Awami League government reinstated the Commission once again when they came back into power. The indigenous people are not satisfied with the Committee, however, since it accomplished remarkable but instead held three meetings, ate lunch and delivered speeches among the people of CHT (Adnan, 2004:20).

7.8. Hill Districts Councils (HDCs)

To make the indigenous community more powerful, the Hill District Local Government Council Acts 1989 was amended and given the new name of the “Hill District Councils”(HDCs). According to the provisions of the Accord, the Councils were given authority over land, local police, forests, education and budget etc., and were made more autonomous, increasing their subjects to 68 from 21 in 33 areas of jurisdiction (Baer, 2011:10). But the reality was different from the provisions of the accord, as HDCs were not helped enough to exercise power over the above mentioned subjects (Adnan, 2004:21). According to Claus B-24⁹ of the Peace Accord, the HDC concerned must be consulted before transferring any land in the CHT, but the reality was not so and the Accord was violated in the case of land transfer (Ibid).

The local and non-resident persons of influence were acquiring land from the Deputy Commissioner (DC) of the concerned hill districts, but the headmen and HDC were not informed of the matter by the DCs (CHTC, 2000:38). The picture was all the same in the case of collecting land development tax. Deputy Commissioners of the three hill districts collect taxes but according to the accord (Clause B-67), this should be done by the councils and the collected tax should be deposited in the council fund (Chowdhury, 2010:37). In the same way, the accord specifies that the tribal and non-tribal permanent residents of the CHT will elect the members of the HDC. But government-appointed employees are administering the HDC and no election held since the accord has been signed (Baer, 2011:10).

⁹"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 by regulation: provided that in the matter of such appointment tribals shall be given priority".(see details: [:https://peaceaccords.nd.edu/site_media/media/accords/Chittagong_Hill_Tracts_Peace_Accord.pdf](https://peaceaccords.nd.edu/site_media/media/accords/Chittagong_Hill_Tracts_Peace_Accord.pdf)).

7.9. The Regional Council (RC)

Formation of a Regional Council (RC) was mentioned in the third part (Part-C) of the Accord where it was said that the RC will coordinate and supervise the activities of the three Hill Districts Councils (i.e. general administration, ensuring social justice, maintaining law and order, and tribal law) (Chowdhury, 2009:22-23). The provisions of the CHT Accord also says that the representatives of the three hill district councils will elect members of the RC and the members of RC will elect the chairman of the RC. But the chairman will be selected from the indigenous community and he or she will enjoy the status of a state minister. There will be a total of 22 members in the council including its chairman and two thirds of the council must be indigenous people or people from the hills. An interim RC was formed by the government on September 1998, and started its function on May 27, 1999 from Rangamati, one of the Hill Districts of CHT (Ibid). However, since some rules and other pertinent laws needed to be amended, the successive governments long kept the RC dysfunctional. According to the accord, the government will consult with the RC if they need to enact any law related to CHT. However, government was not found to consult with the RC in the case of enacting law (Adnan, 2004:21). At the same time, the RC could not supervise and coordinate the activities of the Hill District councils because the government did not impart adequate authority on the Commission (Ibid). For the purposes of creating forests, establishing army garrisons, artillery and air force training center, the government acquired 28,000 acres of land in CHT but they did not consult with the RC in this regard. About 5,000 Mro people became homeless because of this land acquisition (Chowdhury, 2009:22-23). On the other hand, the government arranged no formal election and appointed members while ignoring the will of local communities. They also violated the accord again by not appointing from local people (Baer, 2011:10).

7.10. The Land Commission in CHT

To solve this land dispute, the CHT Land Dispute Resolution Commission was formed in 1999, under the provisions of the Chittagong Hill Tracts Peace Accord (CHT Peace Accord 1997). (Mohsin,1997:111).

According to Clause D-4¹⁰ of the Peace Accord, when it comes to a resolving land dispute, a land commission will be formed whose head will be a retired justice. And the Commission will have the authority to cancel ownership of the land that has been illegally occupied and settled, so that tribal refugees land disputes can be resolved. The Commission's decision in this regard will be final and no one can appeal against the decision of the Commission. But contradiction arose when a new law regarding the land commission was passed in 2001 because this enacted law and provision of the Accord was contradicted to each other. The RC proposed 23 amendments to the land commission act but the government became indifferent to their grief and the commission was kept inactive until 2009, when the Awami League came into power and reactivated it (Adnan, 2004:24).

The present chairman of the Commission is a retired high court justice who entered his office on the 20th of July 2009. He has become very controversial figure due to his unsatisfactory role as Chairman. The Chairman was not selected from the tribal communities; and he has taken unilateral decisions neglecting the tribal members of the Commission, which is a systematic violation of the accord (ibid).

The present Chairman called for the submission of applications for resolving land disputes which created widespread resentment among the tribal communities and its tribal members. The members of the Commission boycotted the application process because they were not consulted before the Chairman took the decision about the submission of applications. There are about 5,000 applications in three hill districts for resolving land disputes but applications from tribal communities were few, no more than five to ten percent. So, it is expected that the Chairman will support the Bengali community while delivering the verdict over disputed lands because the participation of the ethnic minority is too minor to affect the hearing of the land commission (ibid).

According to one of my Respondents: *The Land Dispute Resolution Commission, part of the Peace Accord deal of 1997, remained ineffective for more than a decade because there was a bias of incorporation of its members and representation multiplicity was not recognized.*

¹⁰see details:https://peaceaccords.nd.edu/site_media/media/accords/Chittagong_Hill_Tracts_Peace_Accord.pdf.

7.11. Remedy of the Refugees

According to the agreement, the government of Bangladesh will take retrieve the refugees from the Indian state of Tripura, and necessary co-operation and support will come from the Jono Sanghati Samity (JSS) in this regard. The Peace Accord (clause D-1) also says that internally displaced people will be identified by a task force committee and the same committee will take initiative to rehabilitate the displaced population. The repatriation started on March 28th, 1997 and since then refugees have started coming back from India .

But 9,780 families (about 80%) cannot come back to their own homeland because the Bengali settlers occupy their lands; in fact, the Bengali settlers have completely occupied 40 tribal villages. The task force committee for rehabilitating the internally displaced people was formed but the committee failed to take any effective initiative in this regard. In the TFC (Task Force Management) there were members from both PCJSS and Jumma Refugee Welfare Association (JRWA), but the TFC made a list of internally displaced families on a unilateral meeting on May 15, 2000 without consulting with its PCJSS and JRWA members.

7.12. Withdrawal of Military Camps

According to the Accord, the JSS members will adopt a normal life and besides the Border Security Force (BDR) ,all forces including military, answer and the village defense force, will go back to their permanent installations along with the military camps. According to the accord, military can be deployed under the control of civil administration if the situations law and order deteriorates or with the purpose of helping people during natural calamities in the region. However, the deployment must be under the state's rules and procedures. It should also only occur if the regional council requests the appropriate authority when they need (Mohsin, 2003:48). More than one decade has passed and the government claims that they have withdrawn 200 military camps of the 500 but the PCJSS claims that in reality only 74 temporary military camps have been withdrawn so far. But the armed forces have reestablished many of the camps (Baer, 2011:13).

7.13. The Ministry of Chittagong Hill Tracts Affairs

The Accord promised a Ministry of Chittagong Hill Tracts of which minister will be appointed from the tribal community. The ministry will also be assisted by an advisory council which will help the ministry or central level to conduct activities related to CHT affairs. The advisory council has the authority to revise functions of the HDC, the regional council and the deputy commissioner, who is the head of district administration (Mohsin, 2003:47). The Ministry of Chittagong Hill Tracts and an advisory council were formed and Diponkor Talikdar, a tribal MP, was appointed the minister; at the same time, an advisory council was formed to assist the minister. But the office staff of the ministry was non-indigenous and the Prime minister's office has complete control over the activities of the Ministry of CHT. In addition, the tribal community of CHT complained that the minister was not active enough in working for the tribal community or in preserving their interests (Baer, 2011:14).

7.14. The Bangladesh Administration Post Accord Era 1997 to Date

According to the CHT Accord, land disputes in CHT should be solved through a Land Commission, however the function of the Land Commission has not been started yet properly since the signing of the Accord. (AIPP, 2007:14-16). With the intention to resolve land disputes in CHT, the CHTPA came up with three points: (i) forming a task force for repatriation of refugees and rehabilitation of both refugees and internally displaced persons (IDPs), (ii) settling the claims of land by the Land Commission; and (iii) recording the land title through an effective survey. The HDCs became dominant over the DC and the HDC could now assign tribal law, deal with social justice, and supervise the transferring of land (Rokeya, 2012:35). Now we will discuss in this section how dispossession of land continued even after such changes were made to the law.

Mr. Jyotirindra Bodhipriya Larma, Chairman of the CHT Regional Council (CHTRC) and Member of the CHT Land Commission mentions that by the 8th of June 2005, there had only been one meeting of the Land Commission and not a single land dispute was solved there. It is a matter of regret that the government approved the CHT Land Dispute Resolution Commission

Act in 2001, but the issue was not discussed with the CHTRC. So, many provisions of the Act seemed incongruous to the CHT Peace Accord, which went against the intention of the indigenous people. (AIPP, 2007:14-16). For example, according to Section 7(5) of the act, the decision of the Chairman alone shall be considered as the decision of the commission if the other members cannot reach an agreement. Such power concentrated in the hands of the chairman makes the commission an undemocratic institution. The government consented to revise the Act to comply with the CHT Accord but this has not been done yet. The leasing of huge areas land to non-residents for viable purposes such as rubber plantations, afforestation and land attainment for military purpose are the main reasons as to why the indigenous peoples are losing their traditional lands. The Movement for Protection of Land Rights and Forest claimed that outsiders like political leaders, military and civil officials and businessmen acquired the lease of 40,077 acres of land in the district of Bandarban alone. In the same district, 94,066 acres of land afforestation and 75,686 acres of land have already been allocated for military purposes (ibid). The Khyang and the Mro ethnic groups are the smallest, most deprived and least fortunate indigenous groups in the CHT who have been living and cultivating *Jum* from generation to generation. Presently, however, they are on the verge of being totally evicted from the lands of their forefathers. In March, 2007, the Ruma cantonment authority acquired about 7,500 acres of land for the expansion of Ruma garrison and ordered the indigenous peoples to leave the area, and more than 4,000 indigenous families will be homeless because of this military expansion. Seeking anonymity, some Mro leaders said that nobody consulted with them about the matter preceding the acquisition decision.

A report was published in August 2007 by Hill Watch, a group working on the promotion of human rights in the CHT, which was said to take advantage of the state of emergency imposed on January 12th. At this time, the military started settling Bengali settlers again into the indigenous people's land, especially in Khagrachari district. Mr. Prithwiraj Chakma, an affected villager of Kantkupya village in the Khagrachari sadar sub-district, told that in July 2007, the military evicted 12 indigenous families from their traditional land and settled about 200 Bengali families. The military forces set up their camps at Dantkupya village on the 8th of March 2007 to ensure security for the newly settled Bengali families, however there was no justice for the indigenous people (ibid). (AIPP) Chiang Mai, Thailand, January-August 2007:14-16).

The security forces and the civil administration provide direct help to new Bengali settlements in the CHT which occupy indigenous peoples lands even after the Peace Accord of 1997. For example, in the presence of the security forces and the civil administration, the Bengali settlers attacked the indigenous people in Baghaihat-Gangarammukh in April of 2008 and February of 2010. The Bengali settlers attacked the indigenous peoples to take over their lands by displacing them from their ancestral homesteads. Even today, the counter-insurgency strategy of demographic engineering that is going on in different places in the CHT reflects the insurgency in this area. The security forces and local administration are implementing counter-insurgency in the CHT.

According to one my Respondents: *On September 9, 2013 at around 8:00 in the morning, a group of Bengali settlers numbering 20-30 and led by Mujibul Haque Master (Mujibul leader) attacked indigenous peoples working in the Jum field in order to grab their land at Polijhiri (Polikhyong) in the area of Rupshi union of Lama upazila under the Bandarban district. In this attack, 8 indigenous persons, including two women, were critically injured. The terrorists also smashed up the Jum house (temporary firm house) belonging to the indigenous Jum cultivators. Following the incident, the henchmen of Mujibul Haque attacked other indigenous peoples they found in their path. They threw the chili powder on their faces and then attacked them with rods and sharp weapons. (Source: Online questionnaire).*

Table 7.14a: Major attacks by Bengali settlers backed by military personnel (2001-2011)

SL	Period	2001-2006	2007-2008	2009-2011	TOTAL
1	Regime	BNP & JIB regime	Caretaker regime	Awami League regime	
2	Torture	0	6	0	6
3	Temples burnt	4	1	4	9
4	Homes burnt	368	60	642	1,070
5	Homes destroyed	98	0	0	98
6	Looting	32	2	4	38
7	Rape	10	0	0	10
8	Injury	14	6	22	42
9	Deaths	2	0	5	7

Source : IWGIA, 2012:16

Table.7.14b: Human rights violations by the military in the CHT (2004-2011)

SL	Violation	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
1	Deaths	3	1	1	3	2	5	0	0	15
2	Injury	5	5	1	0	2	7	0	11	31
3	Rape	0	0	2	0	0	0	0	0	2
4	Attempted rape	0	1	1	1	0	8	4	1	16
5	Looting	4	20	1	0	0	0	6	1	32
6	Homes burnt	0	0	0	5	0	0	0	0	5
7	Temples destroyed	1	0	0	2	1	1	1	1	7
8	Arrests	53	84	21	38	11	159	43	55	464
9	Torture	64	40	42	30	38	112	9	39	374
10	Beating	26	36	0	1	1	36	22	32	154
11	Desecration	1	0	1	1	2	4	5	3	17
12	Harassment	10	0	0	0	0	33	24	18	85
13	Eviction	0	1	275	0	9	0	0	0	285
TOTAL		167	188	345	81	66	365	114	161	1,487

Source: IWGIA, 2012:15

According to one of my indigenous Respondents : On April 13, 2013, an attack was made by Bengali settlers on the Marma indigenous community in the Choto Nonar Bill area of Lama upazila in the Bandarban district which aimed to occupy land belonging to indigenous villagers. A total of 14 people were injured, and two indigenous villagers were arrested by military from that area. It is known that Thuinumong Marma wanted to make a boundary wall on his father's

land. But a group of miscreants of Md Abdul Ohab and Abul Khayer forbade Thuinumong from building the boundary wall (Research Questionnaire Note According to Binota Moy Dhamai).

In connection with this, Thuinumong filed a case against perpetrators on that day. The case file number is 501, dated 13/04/2013. After filing a case when he went to his land, he saw the miscreants had already broken the wall. When he went to protest along with community people, the Bengali settlers attacked them. At least 14 people of both groups including Thuimong Marma (29), son of Tujathoi Marma and Nepa Marma (27), son of Kejsing Marma were injured. The settlers again made a complaint to the Champatoli army camp under Lama zone, and later on that day at 3:30 pm, a group of army led by Major Kamrul of 30 Bengali persons came to the Nonar bill area, and arrested to Thuimong Marma and Nepa Marma. The soldiers took them to the local army camp, and after a night handed them over to local representatives of the area (Research Questionnaire Note According to Binota Moy Dhamai). It is known that Abdul Ohab was originally from plain district Noakhali. He came to Bandarban with his job at WAPDA. Later, he bought a piece of land illegally, thereby breaking the provisions of Hill District Council Act of 1989. According to Thuinumong's father, the original landowner, though he is the legal owner of the land, Abdul Ohab had been demanding that land illegally (ibid).

Through analysis on regarding the status of CHT Peace Accord one of my Respondents said :
"The Peace Accord of 1997 is a praiseworthy initiative . However implementation of the Peace Accord is not possible due to the heavy military presence in the region. The history of the CHT is full of corruption and this is the main cause of landlessness among the indigenous people of this region. Personnel of the administration help the Bengali settlers to forge fake documents in order to acquire land from the indigenous people."

This study found that all of the violence in the Chittagong Hill Tracts is related to land displacement. I came to know from one of my Respondents :
" Basically, this starts with creating a fearful and insecure situation and environment via any type of violence against local indigenous communities, and then easily occupies the land by the outsiders. The land has been occupied by different actors for different purpose such as the army taking land away for their camps or for the expansion of the garrisons,; the businessman is taking a lease in liaison with the Deputy Commissioner, and to some extent the army occupies the land to rehabilitate or settle

the non-indigenous members who comes from outside of the CHT. To achieve this they use force to occupy the land and to some degree they encourage non-indigenous members to commit communal violence against local indigenous groups in order to more easily occupy the land. So, basically, “by force” they are grabbing the indigenous land. On the other hand, there is also under the CHT Accord framework and the Hill District Council Act. However, the land grabbers are not respecting those local laws and that's one of the reasons for the unrest in the CHT. The CHT Accord is the safeguard for the CHT permanent residence. It has provided fundamental rights under the national constitutional framework.

7.15. Disappointment of the Task Force Programme

A 20-point agreement was decided upon by a task force, established in 1998, which brought back the refugees from India, and saw the PCJSS and the Government of Bangladesh addressing rehabilitation, including rehabilitation of the indigenous people who were Internally Displaced Persons (IDPs) despite a failure to resettle the refugees to the places already occupied by Bengali settlers, who were dubbed as IDPs for being frequent location changers within the country(Rokeya, 2012 :36).

However, the functionality of the task Force was ill-fated due to a deadlock between the indigenous people and the Bangalees trying to settle in the same areas of the CHT . Indigenous communities made up about 71 percent of the population migrating from their homesteads, while only 17 percent of the Bangalees settlers were represented in this population; this face was intentionally overlooked by the government of Bangladesh (ibid).

7.16. Activities of the Hill District Council (HDC)

The Hill District Council despite having power to control, could not stop the acquisition of indigenous people's land. The settlement of the Bangalees is still an ongoing custom despite the fact that the Deputy Commissioner's (DC) office issuing no Kabuliyat, nor “formal title”, to any; this is paving the way for the Bangalees to snatch land possession (Adnan & Dastidar 2011: 46-47). This happens as the HDCs are without authoritative power yet and so the Deputy

Commissioner (DC) office continues such prima facie illegal settling (Ibid : 47). The Ministry of Chittagong Hill Tracts Affairs' (MoCHTA) notification on December 21, 2000 empowered DCs to issue permanent resident certificates to the settlers with no legal basis for living, but cluster village¹¹ settlers were made an exception by the Prime Minister's directive .

In this way, the number of cluster village settlers rose to 50,000 because of their ability to provide certificates till 2006 (MoCHTA's, 2008:14-15). The migrants initially lived in local camps, followed by settlements through the DC's office, even after peace accord due to different advantages. Today migrants outnumber the settlers of the 1980's, causing an alarming demographically diversified structure in the Chittagong Hill Tracts (CHT) (Adnan & Dastidar 2011:65-66). Migration was sped up in the post-accord phase as a result of the absence of the SB and the absence of restrictions for migration (Ibid:30-31). According to the Baseline Survey, about 62 percent of the Bangalees settlers have made their residency in the CHT in last 30 years (Rokeya 2012 :38). Among them, some failed to possess any land, some could not hold the large tracts, some left CHT and some were driven out.

The year 2009 saw the Parliamentary Standing Committee issue the cancellation of leased lands remaining unused, though there were exceptions. The Bangalees tried to create artificial plantations¹² to dispel indigenous people from specific lands (ibid). Both indigenous and non-indigenous people of the CHT competed to exploit law and statutory legislation in order to misappropriate resource and lands in the area through administrative loopholes.

"The Jummas have made the Government yield to some of their demands. The Government had to revise its legal mechanisms more often than not. In case of the Jummas "dialectic" with a different legal system has created both radical change in the time of colonization and incremental changes over the years in independent Bangladesh .

¹¹ A cluster village is a village that has been raised at least seven feet above water level. The villages, are in extremely flood prone areas where there is no alternative, eg. no high ground or flood platform.

¹²After occupying indigenous people's land, the Bengali settlers plant trees on the occupied land. Such plantation is called artificial land plantation.

The legal pluralism in the CHT lies in this dialectic of constant conflict and not in the black and white letters of the official law or the numerous offices created by such law. So far, these changes have been in detriment of the Jummas. Thus jummas in the CHT were discriminated by the legal framework in at least three ways,(i) non-recognition of customary resource rights and community ownership, (ii) introduction of private ownership based on title deeds as opposed to oral tradition; and(iii) illegal settlement and grabbing of the Jumma land by government authorities. Equally true that in this process of systemic alienation the Jummas have survived and shaped their identity to fight the overarching Bangalee nationalism" (Rokeya, 2012 :39-40).

7.17. Case Study about Land Rights in CHT

CASE STUDY-1

Name: Ratendra Lal Tripura (55)

Father: Late Ritupurno Tripura

Village: 226 No. Sindukchhori Mouza, Sindukchhori Murapara

Union: 5 No. Sindukchhori, Word No: 01, Post+PS: Guimara

Upozilla: Mohalchhori, District: Khagrachori Hill District.

Description:

Ratendra Lal Tripura has been occupying about 5 acres of third grade hill lands for long in 226 no. Sindukchhori Mouza where his land is surrounded by his own recorded land in the North, Sindukchhori canal in the South, Monachan Trupura Hill in the East and Chhora or sweet water canal in the West. He has been consuming this land for more than three decades and has planted many trees for fruit and wood. Meanwhile, in 2005, some homeless temporary settlers forcefully occupied his land and started making houses and planting trees; the occupants were Md. Abdul Hoque, son of Md. Ingin Ali, Md. Alamgir- son of late Anisul Haque and Md. Hasan Ali whose father was dead but name not known. When Ratendra Lal Tripura tried to restrain the occupants from occupying his land, the occupants threatened Lal with death. The illegal Bangli occupants cut off his age old large trees and sold them without informing him. Lal sought for a legal resolution of the problem and applied to the local UP Chairman, Zone Commander, Upozilla Nirbahi Officer, and Chittagong Hill Tracts Land Resolution Committee but he received no judgment. Rather he is in face of great threat since the occupied land is very close to his house and the illegal Bengali settlers may attack him at any time.

(Through Interview telephone &email).

CASE STUDY -2

Name: Rahendra Lal Tripura (52)

Father: Late Chini Aung Tripura

Village: 226 No. Sindukchhori Mouza, Monajoy Karbaripara

Union: 5 No. Sindukchhori, Word No: 01, Post+PS: Guimara

Upozilla: Mohalchhori, District: Khagrachori Hill District.

DESCRIPTION:

Rahendra Lal Tripura has a first grade paddy land recorded in his own name under 226 no. Sindhukchhori Mouza and he have occupied about 5 acres of high third grade land for a long time. His occupied land is surrounded by paddy land of Puran Joy in the North, his own paddy land in the South, paddy land of Hok Kumar in the East and paddy land of Surandra in the West.

Rahendra Lal has been living in this land since 1990 and he has planted many trees for fruit and wood which is the base of his occupying this land. But in 1998, some new Bangali settlers from Sindukchhori Union started building houses in his land and occupied the land, cutting down trees illegally since Rahendra was weak in the society. When he protested, he was threatened with death and the settlers attacked his cattle. The Bangali settlers were Md. Altaf Uddin, Md. Abdul Jalil, Md. Altaf Munshi, and Md. Suruj Ali; fathers' names of these occupants are unknown and all of them hail from 5 No. Sindukchhori Union, village: Muslim Para, ward No-02, Post+P.S: Guimara, Upozilla: Mohalchhori, Districts: Khagrachori Hill Tract. Rahendra Lal Tripura lodged written complaint to the Zone, Headman, Chairman, and to the Upozilla Nirbahi Officer but no effective initiative was taken. Rather the entire above mentioned remained silent. At present, he and his family are passing the days in great terror. Rahendra Lal Tripura wants to get his land back again by evicting the occupants legally. (Through Interview telephone & email).

CASE STUDY -3

Ms. Munika Chakma

Because of the massacres of 1986, Ms. Munika Chakma fled to India leaving her three acres of land, but when she returned, she found that 22 Bengali families occupied her land. The land was occupied in 1994 and the settled families were from another village in Dighinala. Munika Chakma launched a case to get back her land (misc. case nr. 106/98).

Mr. Salauddin, the local TNO, dated 21/7/99, wrote letter in favour of Munika to the Deputy Commissioner and informed the settlers to vacate her land, but rehabilitation and shifting charges were demanded by the 22 settler families since they were settled there. The settlers said that they had not received any orders to vacate the land when the representatives of The Chittagong Hill Tracts Commission went to the settlers to inquire about of Munika case. One of the occupants Md. Harej Mia, s/o Mohammed Ali, came to the CHT in 1984 and was kept near the army cantonment in Dighinala. He was later settled in Munika's land in 1993. Harej also said that he was cultivating some hilly land, but the government gave him no land for cultivation. Other settlers also said that the government promised to give them land for cultivation but never they were never gives any land from the government (Chittagong Hill Tracts Commission 2000: 34).

CONCLUSIONS AND RECOMMENDATIONS

I like to conclude referring back to the theoretical concept of Tone Bleie, and the other relevant theorist which I used in this thesis. With a view to indicating the discrimination of minority groups from the process of national development, Bleie suggests to measure the misuse of resources in CHT and also suggests to recognize the group rights for the indigenous people in CHT so that the exclusion of minorities can be traced easily in state national development process, for example- indigenous people in the CHT were severely discriminated in the Kaptai Dam project. (Bleie, 2005:54-56)

Willem Van Schendel discusses the history of Bangladesh in his articles “the struggle for Bengali Nationhood” and “the Emancipation of the Muslims” where he described the history of Bengali as glorious (Van Schendel et al, 2001:295-298). The nationalist movements promised the liberation of Muslims in Pakistan, and in Bangladesh they promised the liberation of Bengalis. But there is no discussion on citizenship or culture in these narratives. So, indigenous people were excluded from the nationalist movements in the war for liberation from British hegemony as they failed to join the mainstream society. The indigenous peoples were denied citizenship in both Pakistan and Bangladesh since they were neither Muslims nor Bengalis. On the other hand, they opposed the nationalist style of history writing in singular and urged for a replacement where history would be narrated in multiple explorations of the past (ibid).

Anthropologist Tone Bleie gives a similar observation about the culturally homogenizing nature of the dogma of the independence movement that heralded the Liberation War of the 1970s. The main focus of this ideology is the establishment of Bengali language and culture which was undermined by the West Pakistanis. Awami League led the movement for liberation from Pakistan, but there was no vision for the ethnic groups in the north-west or the central plains and the south-eastern hills. (Bleie, 2005:163). The national history was written during the colonial and post-colonial era but it is different from the history of the indigenous peoples in the CHT.

This thesis paper upholds the relation between the Bangladesh state and the indigenous people of the CHT. On the other hand Bairth suggests through his Large Scale Level of Ethnicity that the

ethnic people are kept away from their traditional land through the state boundary concept. As policy making is related to the exercise of power and interest, Barth indicates state policy during national crisis. He also says that the ethnic population and their movements are controlled by the state through different policies because the state to materialize their different agendas during their tenure and so the particular tenure plays crucial role for the ethnic groups. As a result, state affects the lives and movements of people through creating groups among people of the state in the name of public goods. So, the ethnic relations of Barth and the analysis of the CHT indigenous people nationalism by Van Schendel are closely related to each other at large-scale political levels. It is also showed by Van Schendel how the land rights of the indigenous people of CHT is still existing in present Bangladesh since the British rule.

‘Hegemonism’ refers to the practice of influence over other states, and ‘Hegemonic control’ means the dominance of minority ethnic community/ communities by the political elite. In the same way, ‘Hegemonic party’ is a political party that has overall control and dominance over a particular society. Eminent writers like Machiavelli, Pareto and *Gramsci* write that the dominant class ensure their power using not only force and threat of force but also they establish particular consent in favour of them. The dominant class make a comprehensive comparison intellectually and morally, that creates a consent among the people and they can compare it with other social and political forces which are mixed together as parts of social order. Different institutions, social relations and ideas help to establish such hegemony in the society although these are not direct part of political sphere (George Clark, 2002).

After the independence of Bangladesh from Pakistan in 1971, the indigenous people continued their struggle for autonomy. Thus hegemonism was created when the Bangladesh State chose to dominate the subordinate minority communities with the hope of assimilating them in to the mainstream of the State (Mohsin in Roy et al, 2000: 59). So, there was no particular recognition of the indigenous groups because the Article 6.2 of the Constitution of Bangladesh says the citizens of Bangladesh shall be known as Bangladeshis which removes any scope of separate indigenous identify. Unofficially the indigenous people are included within the “backward section” of the population (Articles 14, 28 and 29). But the jumma rejected the title and took arms with the demand of recognition as a distinct group of people enriched with their own

culture and tradition . As mentioned by John Locke and Emeric di Vattle, mostly indigenous people are labeled backward and primitive. Such has been the case of indigenous people in CHT with the State identifying them as primitive. Still the indigenous people of Bangladesh are called tribal people but they have rejected this name because it is a sign of primitiveness. The state named them tribal because sometimes the state tries to alienate them from their lands using their tribal identity.

In the fifth chapter of this thesis, it is shown through the Hegemony of Antonio Gramsci how the state has adopted different policies during different regimes to alienate the indigenous people from their land. For example, different states, from the colonial to post colonial period, have taken different policies without prior concern of the indigenous people and made them bound to accept them (the policies). Besides, the state uses domestic and international military operation to resolve the ongoing conflict to control them. Different international organizations urge the state to ensure indigenous people's land rights, and sometimes the state tables policies, nevertheless, these policies are not realised. So, here it can be said that the indigenous people were not given back their land rights although it was promised in the State Peace Accord.

This is contrary to initiatives taken in similar circumstances by countries such as Argentina and Mexico. Steps taken by the Government of Argentina are mentionable. When the Indians (indigenous people of Argentina) were facing problems regarding the legal recognition of their land, the Argentinean government took steps to ensure their ownership on their land according to their own traditional customs. Mexico criticized the development programs in the indigenous areas as destructive and brought about reforms in their land rights.

As mentioned earlier , the British policy of land rights was disastrous for the indigenous people because it segregated the indigenous people from mainstream land rights. However in 1920, the British declared CHT an 'Excluded Area' and Independent area from the general administration. In 1964 however, the then Pakistani regime did not recognise CHT as an 'Excluded Area' and instead referred to it as a tribal area. People from the plains of Bengali settlers were then allowed to settled in the CHT and the natives/indigenous peoples were entitled tribal people. In the Constitution of Bangladesh, Article 6.2 says the citizens of Bangladesh shall be known as

Bangladeshis. There is thus no room for a separate indigenous identity. The British banned the feudal system, but their worldwide colonial rule implemented such policies which could not bring any changes in their ruled colonies. The same thing (1900 act again amended) happened during the Pakistani period and it has continued into the Bangladeshi period. Both Pakistan and Bangladesh termed the indigenous people as a (tribal) primitive or backward group of people. The indigenous people have been deprived of their land rights for the last 200 years in the name of primitiveness or backwardness. The policies of land use practice failed to create a conducive environment for the government adopting extensive land use practices, but the real cause of this change was not the indigenous people's adherence to traditional land use practices. But, friendly policies are not outlined for the purposes of promoting economic and environmental land use practices. The States discriminatory role in dealing with the plights of the indigenous people has often led to the inter-ethnic confrontational relations and thus hindering sustainable peace in CHT. The study found out that existing policy does not favour the land rights of the indigenous people so policy makers should "think twice" about whether the existing policies should be removed or revised. It is nothing short of oppression if indigenous people are deprived of their rights in the name of rules and policies. Pakistan obstructed the fundamental rights of the indigenous people in the name of different development projects which destroyed their lifestyle. History says that when any state starts tyrannical domination, policy makers are likely to sustain that for generations; which was started by the British and materialized by Pakistan. Humane people cover their face in shame when Bangladesh deploys the military to deprive the indigenous people of their land rights.

At the same time, going through the detailed accounts of the recurrent plight of the indigenous people of the CHT in Bangladesh, shaped by history that the unsettled land issues, the inter-ethnic confrontational relations and the state's discriminatory roles in dealing with indigenous people are the main obstacles hindering sustainable peace in the CHT. As many countries around the world have recognized the right of indigenous populations, there seems to be a glimmer of hope for such people in Bangladesh. The initial impression one would get from such a topic is that it is an isolated problem that does not have any relation to the problems prevailing in different parts of the world.

However, the discussions in this paper has identified that we have so much in common in our world – the tone of the oppressor and the oppressed are perceived to be similar. One of the key factors for land related disputes has to do with the ethnic origin of the people. Another area leading to tension between the indigenous people and the government of Bangladesh, which always had been hostile towards this population, is the naming or terming these people with derogatory connotations. The government's insistence on using degrading terms and the outright rejection of these people's leads to a melodramatic battle. Then, there was the issue of the CHT Land Dispute Resolution Commission, as it turned out with all the power at hand that it had played a hide-and-seek games regarding the settlement of the dispute. Consequently, land disputes remain unsettled that further led to the existing conflict.

The Berlin Africa Conference of 1884-1885 tried to uproot the poisonous tree of racial hatred towards indigenous people (Erni, 2008:32). However, the great powers continued to exercise a policy of discrimination whenever the opportunity presented itself. The League of Nations (the predecessor to the United Nations) took a positive view on indigenous peoples, but could not stand up to its promise in all stances. Later on, the United Nations and the USA recognized the need for a more pro-active role in improving the condition of the people in that category, and the ILO blatantly pointed to the bleak reality those people had to go through (Barsh,1986:370). The International NGO symposium on Discrimination against Indigenous Peoples of the Americas urged for greater facilities for those people as well. The United Nations declaration of the year 1993 as the international year for indigenous people and 1995-2004 and 2005-2015 as international decades for thriving and safeguarding the rights of the indigenous people led the way for greater acknowledgment, but the goal was still very far from being accomplished.

To be specific, the land related frustration emerged when the British declared the Chittagong Hill Tract a district in 1860, followed by, public announcing in 1868, that all of the land of that region would be counted as terra nullius (land belonging to no one) (Gilbert,2006: 26). The British rulers thwarted all efforts by the indigenous chiefs to keep that land for the inhabitants. Anthropologist Tone Bleie has drawn a parallel between the two struggles of the indigenous people's cultural rights, including the protection of cultural property and the land rights movement (Bleie, 2005:59).

Accordinging to one of my Respondents: *The indigenous people of CHT are losing their land for two reasons: (1)) the land of indigenous peoples are occupied under ethnic cleansing through weak state policies and (2) the lack of legal recognition of the traditional land policy of the indigenous people. As part of displacing the indigenous people from their land, settlers from other parts of the country have settled in the indigenous people's lands in the CHT after the partition of India and Pakistan.*

This study found that the indigenous people's lands were occupied in the name of settlement, forestation, announcing eco-parks, and for military purposes. Also, the land of the indigenous people were forcibly taken and given out to settlers. And this process of occupying land is ongoing even after the signing of the Peace Accord in 1997.

Through questionnaire analysis this study also found out that *the settler's tendency is to grab land. Some settlers are now economically sound yet they want to grab the land of indigenous people. Some officials of law enforcing agencies are also indirectly provoked to evict the indigenous people from their home estate. On the other hand, the corporate sector is interested in buying land in CHT. So it is most alarming for the CHT people to lose their land. If the CHT land commission can work independently and take action against the illegal land grabber, then it will be possible to stop land grabbing in CHT. The ancestral land, which has been used for years and for generations, should be returned to the owner, through the traditional land transfer system. and the land should not be sold. In order to respect the local and traditional customary laws, norms and values, the land should be returned.* In 1983, a hundred years after the Berlin Africa conference, the Ecuadorian UN ambassador José R. Martinez Cobo finalised an international report on land rights of indigenous people and suggested that indigenous people traditionally possess an absolute right to their own territories and they can claim rights to lands which had been taken from them .

Conversely, the development of the Hill people is neither respected nor given importance; they are considered unproductive and their natural resources are not encouraged to be used for their communal development. Furthermore, the indigenous people's communities are forced to be a

part of traditional development processes and commercialization like in other parts of the country. As a result, the management of natural resources faces a great challenge. Frequently, the indigenous people are assured their inclusion in resource management, but this has not turned out to be the case. It is not possible to regain or set durable management of the forest and natural resources if the indigenous people and local communities are not invited to take part in this process. If we want to gain knowledge about the indigenous people and want to establish durable management of the processing of natural resources, existing natural resource management needs to be reformed. At the same time, it is important to recognize the rights of indigenous people with regard to the natural resources of CHT. Rights of the indigenous people should be linked with the development processes of the local community and indigenous people must be included in the process of decision making.

To ensure this, the paper proposes the following recommendations to resolving the issue of the occupation of indigenous people's land by Bengali settlers, establishing a prospective local government, ensuring indigenous people's rights to land and wealth, and protecting the language and culture of the indigenous peoples.

Despite many initiatives and strategies taken by the Bangladesh central states, the CHT is still in paradox of land rights and conflict and therefore effective and significant development is lacking in the region. With the critical assessment of central policies and local positions, it is suggested that law and order shall be restored if ethnic violence should be reduced through ethnic reconciliation. If the existing turmoil is calmed, the government will have the effort and power to empower the local government agencies for the benefit of the overall development of the CHT, because in that case government will not remain busy in facing the insurgency.

At the same time, if the military is appeased, local civilians will have faith in their government regarding their security. The most important aspect of all policies concerning land and conflict resolution is people's trust and faith in the central government so that people can consider the state policy as a safeguard for their lives and an essential pillar of their development in the CHT.

Finally, I propose two important ways of resolving the land right tensions in CHT. First, through political will of the state, and second, through Bengalis' attitudes toward the indigenous people of the CHT.

Firstly, It is important for the state to recognize the indigenous people of CHT as citizens of Bangladesh, avoid all forms of discrimination against them, and ensure their basic human, civil and political rights. Secondly, Bengalis should change their attitude to accommodate the indigenous people of CHT as their co-inhabitants. In this regard, the CHT will become a peaceful environment to accommodate the heterogeneous and diverse ethnic groups.

To speak in a nut shell, in that case, the CHT become haven, a multi-ethnic region in Bangladesh, and in South Asia, and moreover, the tragedy land rights would end.

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Map

Source: <http://www.chtdf.org/index.php/about-us/working-location>

Source: <http://www.chtdf.org/index.php/about-us/working-location>

Source of Picture

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Google Map

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Annex =1**QUESTIONNAIRE**

Sample ID		Date	
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SECTION 1: BASIC INFORMATION OF THE RESPONDENT

SL	Types of information	Information
1.1	Respondent's Name	
1.2	Village	
1.3	Ward no.	
1.4	Union	
1.5	Police Station	
1.6	District	
1.7	Mobile no (if any)	

SECTION 2: INTRODUCING FAMILY

SL	Types of information	Information	Code
2.1	Type of family	Nuclear family , Joint family , Extended family .	
2.2	Gender	Male, Female .	
2.3	Marital Status	Married, Single, widow/widower, divorced , living separately, others.	
2.4	Religion	Muslim , Christian , Buddhist , Hindu , others .	
2.5	Nationality	Chakma , Marma, Tripura , Tonchonga, Bangali, others	
2.6	Occupation	Agriculture, business, household activities, day labor/domestic labour , Govt. service holder , Private service holder, student , others .	
2.7	Education Qualification	illiterate, can sign , primary school , secondary school , SSC, HSC, graduated, post graduate, others .	

SECTION 3: LAND RIGHTS ISSUES RELATED INFORMATION

SL	Types of information	Information	Code
3.1	Do you know regarding the status of land rights in Chittagong hill tracts?	All information I was applied in paper	
3.2	If yes, what would you know?		
3.3	Are you satisfied on present land rights status of the indigenous people		
3.4	If no, What are the reasons of dissatisfactory land rights?		
3.5	Do you know When the indigenous people start to lose their lands?		
3.6	If yes, Explain it please		
3.7	How many levels are there in CHT administration? Why?		
3.8	Do you think that all of the violence in Chittagong hill tracts is related to Land displacement?		
3.9	If yes, Explain it please		
3.10	Who (is/ are) snatching away your lands?		
3.11	Which procedures are being applied by the land takers in capturing lands?		
3.12	What is the role of CHT administration / Local government/ civil society /indigenous administration or leader in this regard?		
3.13	Could you please mention any recent example of violence in Chittagong Hill Tracts related to Land Issue?		
3.14	What is your opinion about the peace accord in 1997?		
3.15	Which tenure (Pre-colonial/ Colonial/ Pakistan/ Bangladesh) you think is mainly liable behind the land displacement?		
3.16	Do you think Who (is/ are) taking your land? Please, provide your analytical answer?		