

Comments
of the Parbatya Chattagram Jana Samhati Samiti (PCJSS)

On

'LIFE IS NOT OURS'

Land and Human Rights in the Chittagong Hill Tracts, Bangladesh

Update 4

of the Chittagong Hill Tracts Commission, 2000



Published by
Information and Publicity Department
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The Chittagong Hill Tracts Commission published the 2000 Update report 4 of “Life Is Not Ours’” on Land and Human Rights in Chittagong Hill Tracts (CHT), Bangladesh. On occasion of publication of this report, a launching programme was held on 28 November 2000 in Geneva, Switzerland at the office of the UN Human Rights Commissioner. Parbatya Chattagram Jana Samhati Samiti (PCJSS) appreciates the CHT Commission for publication of its update report. It is notable that the CHT Commission has been supporting the self-determination movement of the Jumma people since its inception. So, the PCJSS and the Jumma people are grateful to the Commission.

The JSS believes that the Commission’s Report covered a number of important issues. However, the report failed to project some significant points of the main issues. In some cases, the report highlighted the prevailing internal conflict among the Jumma people and indicated that the JSS is the deciding factor. On the other, the report significantly focused the existence of the UPDF and its activities. Unfortunately, the report also devalued the political and administrative rights achieved by the Accord.

Following are the notable points of difference on the report.

Update report (page-16): With the 3 elected Hill District Councils, the illegal settlement of more than 400,000 Bengali settlers since 1978 under secret government transmigration programme has been legalized, as the settlers now have voting rights. On top of that, settlers will get 7 out of 22 seats in the Regional Council and 9 out of 31 seats in the three Hill District Councils. On other words, with the Accord the rights of the settlers have been established, whereas the right to self-determination of the Jumma peoples has not even been acknowledged.

Comments: It is clearly mentioned in the Accord that the non-tribal permanent residents will get 7 seats in RC and 9 seats in HDCs. The Accord did not reserve seats and recognize voting rights of the settlers. The definition of the non-permanent resident in the Accord is “Non-tribal Permanent Resident” shall mean a person who is not a tribal and who has lands of lawful entitlement in the hill districts and who generally lives in the hill districts at a specific address.”

According to this provision the settlers are not considered as non-tribal permanent resident because they have no lands of lawful entitlement in the hill districts as per CHT Regulation of 1900.

During the formal dialogue the government expressed that the Awami League government on principal agree to withdraw the settlers from CHT, but they was not ready to write any word in the Accord as it may make reaction all over the country. That is way, though nothing was stated in the Accord regarding the direct withdrawal of the settlers but many mechanisms were included to exclude them indirectly. For examples:

In the Accord some provisions included are as below:

1. "Both the parties, having considered the Chittagong Hill Tracts region as a tribe-inhabited region, recognized the need of preserving the characteristics of this region and attaining the overall development thereof."
2. "Non-tribal Permanent Resident" shall mean a person who is not a tribal and who has lands of lawful entitlement in the hill districts and who generally lives in the hill districts at a specific address."
3. "A person shall be entitled to be considered as legally eligible for enlistment in the Voters' List if he is (1) a citizen of Bangladesh, (2) not below 18 years of age, (3) not declared by any competent court to be of unsoundly mind, (4) a permanent resident of the hill district.
4. "Notwithstanding anything contained in any other law for the time being in force, no land and premises, including the leas able Khas lands, within the territorial limits of the Hill Districts shall be transferable by Ijara, settlement, purchase or sale except with the prior permission of the Council;"
5. "A Commission (Land Commission) shall be constituted under the leadership of a retired Justice for settlement of disputes regarding lands and premises. This Commission shall, in addition to early disposal of land disputes of the rehabilitated refugees, have full authority to annul the rights of ownership of those hills and lands which have been illegally settled and in respect of which illegal dispossession has taken place"

The Accord recognizes the CHT as a tribal inhabited region with a spirit of keeping out the settlers from the CHT. According to the provisions mentioned above, the settlers have to return back the lands that were forcibly occupied by them to the original Jumma owners. As per CHT Regulation the process of settlement and allotment of land to the settlers is not lawful. So, they are neither considered as permanent resident nor have the rights to be enlisted in the voter list. The reserved 7 seats in the RC and 9 seats in the each HDC are for the old Bengali residents considered as non-tribal permanent residents. Therefore, the CHT Commission mistakenly held responsible the JSS that legalized the settlers and reserved seats for them in the RC and HDCs.

Update report: "...Where Bengali settlers were found to have settled on Jumma lands these Bengalis would be resettled on Khas land, I e; fallow government land (page 22).There is strong indication that settlers would be resettled on Khas land in the unclassified state forest and in the reserved forest (page 23)."

Comments: There is a provision in the Accord that "Notwithstanding anything contained in any other law for the time being in force, no land and premises, including the leasable Khas lands, within the territorial limits of the Hill Districts shall be transferable by Ijara, settlement, purchase or sale except with the prior permission of the Council; Provided that this provision shall not be applicable in respect of the area of Reserved Forest, Kaptai Hydro-electric Project, Betbunia

Satellite Station, State-owned in the industries and factories and the lands recorded in the name of the Government".

According to the provision mentioned above all Khas lands, Unclassed State Forest (USF) and Protected Forests are under the control of HDCs. All kinds of settlement and acquisition of land is not possible without prior permission of HDCs. Reasonably, the HDCs can not allow the resettlement of the settlers and it has never made.

Update report (page 17): "...The Chakma constitute almost 50 percent of the Jumma population in the CHT and they occupy almost 50 percent of the seats for 'tribals', whereas the 6 smallest ethnic groups have to be satisfied with being represented by only one person from one of these groups..."

Comment:

Update report (page 22): "What is extremely worrying about the Land Commission's brief is that it is not clear from the Peace Accord what legal ownership system will form the basis of the Land Commission's decisions. The traditional land rights in forced before the British annexed the area? The modified rights recognized by colonial state – which differ sharply from the system in the rest of Bangladesh? Or some new system of ownership based upon and extension of the land property system in the plains? The Accord is ominously silent about these absolutely crucial matters."

Comments: In the Accord it is clearly stated that "The Commission shall resolve the disputes in consonance with the law, custom and practice in force in the Chittagong Hill Tracts." So, the traditional land rights and British annexed CHT Regulation are obviously applicable to deal legal ownership of land. The question of applicability of new system of ownership practiced in the plains is meaningless. Moreover, the National Committee on CHT Affairs accepted the traditional land rights of the Jumma people in the dialogue. The issue of determination of the traditional land ownership of Jumma was also raised in the dialogue. And it was agreed that the traditional institutions such as Headmen, Karbaries would be the right authority to help determine the existing land ownership. The inclusion of the concerned Circle Chief in the Land Commission is basically to utilize the spirit of application of customary laws.

Update report: "However, only 10 percent of the arable land in the CHT falls under this rule whereas the land excluded from the Accord, such as the Kaptai Hydro-Electric Project and the unclassified State and Reserved Forests, comprise the other 90 percent" (page 23). ...The Hill District Councils have not been given the authority to deal with the largest part of the CHT area, i.e. the reserved forests and unclassified State forests, nor with land already leased out by the government, including land leased to non-resident individuals and corporations for commercial plantations and industries" (page 55).

Comments: Excluding the Reserved Forest, Kaptai Hydro-electric Project, Betbunia Satellite Station, State-owned in the industries and factories and the lands recorded in the name of the Government the rest whole area of CHT including Unclassed State and Protected Forest is under the control of HDCs. According to government statistics the total area of Reserved Forest is 1244 sq. miles (Please see Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh written by Rajkumari Chandra Roy, page 69 and 72) and the area of Kaptai Hydro-Electric Project is 254 sq. miles whereas the total area of CHT is 5093 sq. miles. It shows clearly that more than 70% of CHT is under the control of HDCs.

Update report (page 23): “A final potential point of conflict and confusion is the statement in the Accord that the lands that fall free after dismantling military or paramilitary camps and cantonments will be returned either to the original owners or to the Hill District Councils. It is unclear how this will be done and what grounds will be added to allocate land to either owners or Councils.”

Comments: The Accord clearly says that “The lands and premises abandoned by the cantonments, the camps of the military and para-military forces shall be made over to their real owners or to the Hill District Councils.”

Update report (page 24): “The Accord makes no mention of cases against Jumma activists who have been operating over ground within the existing democratic space, e.g. in the Hill People’s Council (HPC), Hill Students’ Council (HSC) and Hill Women’s Federation (HWF). Since the Accord, many activists of the HPC and HSC have been arrested on old charges and several of them are still being held in detention.”

Comment: In the Accord the following line is clearly mentioned. “General Amnesty will be given to all PCJSS members after they return to normal life and this amnesty will also be given to all the permanent residents who were connected with the PCJSS activities.”

Accordingly, the cases of HPC, HSC, HWF members who were connected with the JSS activities are covered by the said provision. The JSS submitted a list of cases of all kinds to the government before the Accord. In this connection, the cases of UPDF leaders, such as, Prasit Bikash Khisa, Sanchay Chakma etc. were also submitted to the government and withdrawn accordingly. The government itself to detain many Jumma activists including both workers of PCJSS and Prasit-Sanchoy group after the Accord lodged new cases.

Update report (page 32): “The government of Bangladesh brands the ‘full autonomy’ activists as ‘terrorists’ and uses their existence to justify the continuing presence of military in the CHT. They are called ‘terrorists’ despite the fact that these activists have always operated over ground by democratic means and the stated aims of the newly formed UPDF are all but separatists. The media in Bangladesh also give a very one sided picture and project UPDF activists and their supporters as anti peace, wanting independence from Bangladesh, thus adding to their criminalization instead of giving a political analysis of what is actually going on and starting a national debate about what ethnic identity and autonomy for the indigenous peoples of Bangladesh mean.”

Comment: Obviously, the government is trying to justify the presence of military in the CHT with the armed activities of the UPDF. The government never branded the UPDF as ‘terrorists’. Rather, both the vested interest group within the government and the UPDF have been engaged themselves to maintain a certain level of armed activity to justify the continuity of the presence of military in the CHT. It has been very clear that a vested corner of government and army authority are involved to support the anti JSS elements with a view to counter the JSS and to obstruct in implementing the Peace Agreement. Some examples are given below:

On 11/2/99 the anti-accord activists namely Buddha Muni Chakma, Chandra Jyoti Chakma, Jayanta Bikash Chakma, Ripan Chakma, Rupankar Chakma, Ranakriti Chakma, Mangal Jyoti Chakma, Jalaketu Chakma, Arun Chakma and Riten Chakma kidnapped 8 Bengali woodcutters from Kinaram Karbari Para of Chengi Union under Panchari thana. They demanded a big amount

as ransom. The armed forces conducted an operation on 13/2/98 and arrested the anti-accord activists including the woodcutters from the jungle of Pujgaong and Kalanal under Panchari with country-made guns. The Minister of CHT affairs personally dealt the issue and released the abductors from the police custody on next day.

Babuchara army zone authority under Dighinala thana gave shelter to the armed anti-accord elements at Babuchara Model Primary School, 150-200 metres closed to the army zone head quarter and police post of Babuchara Bazar. From this abode/shelter, they (anti-accord elements) conduct attacks upon the PCJSS member time to time and regularly collect money illegally from the businessmen and innocent Jumma farmers. On the other, an armed group of anti accord elements stationed at Ghilachari to collect money and harass the JSS members and supporters. They perform these activities on the road is 150 meters far from Ghilachari army camp under Naniarchar thana. It is also very close to the Guniapara camp. The camp authority does not bother the misdeeds of the miscreants.

In the month of December 2000 the military authority transferred the Brigade Commander of Guimara Artillery. It was learnt that the military higher authority transferred him under pressure from government. Because, he held many anti accord elements and handed over to the police authority that was not inconsistent to the government policy.

The above-mentioned examples show that the government is very keen to use a vested section of Jumma and military authority to tackle the growing up leadership of the JSS. For this purpose, two Jumma MPs have been directly involved themselves to strengthen the UPDF and its armed group. The main interests are:

1. To suppress the JSS
2. To create obstacles in implementing the Peace Accord
3. To make instability in the CHT
4. To justify the presence of military
5. To divide among the Jummas and encourage the internal clash.

The recent abduction of three foreign nationals is a part of the process. It is now very clear that the minister Kalpa Ranjan Chakma and MP Dipankar Talukdar became favorably engaged with the kidnapping drama. Though the government denied the payment of ransom in releasing the hostages the local people believe there was a give and take formula behind the scene. The secret packages and suspicious movement of two Jumma MPs witnessed by villagers on 21 February near Guniapara camp apparently proved the payment of ransom. By dealing the hostage crisis, both MPs used their diplomacy to help support the anti accord group by paying the ransom. Definitely, the UPDF is now able to buy arms for its armed group. The local leaders believe that the two MPs were also benefited in the kidnapping drama.

It is also mysterious being within the cordon of military and after a brief gun battle why none of the kidnapers is held or hurt. Many villagers believe the army also intentionally allowed the kidnapers to escape. Following the hostage drama the government can easily justify the presence of militaries in the Chittagong Hill Tracts.

They are branded as 'terrorists' by common people because of their armed attacks against the JSS and its supporters as well as their activity of toll collection, kidnapping etc. The UPDF claims itself as 'democratic' and the Commission is also very sincere to brand them as democratic. In reality, they undertook undemocratic activities and started killing, kidnapping in the CHT before the Accord.

Until to day, the armed group of UPDF brutally killed 30 JSS members and supporters, abducted more than 100. They attacked upon the women and children while returning after attending the International Women's Day in Rangamati.

Update report (page 32): "...Full autonomy activists alleged in 1998 that the JSS had a hit list of 21 named HSC, HPC and HWF members to be killed. The JSS denies having such a list. Reportedly in the past the Shanti Bahini did have a hit list: according to *The Daily Star* (Internet Edition, 18 January 1998), the Shanti Bahini, at a meeting marking the 26th founding anniversary of the JSS, had decided to drop its hit list of people to be killed because they had been active against the Jumma movement in the CHT. The Intelligence Branch of the Shanti Bahini had reportedly prepared this list over the last 24 years at the instruction of its high command."

Comment: It is reflected by the report mentioned above that the CHT Commission always tried to focus some misleading points minutely. It is mentionable that a section of vested news media have always been propagating against the just movement of Jumma people in Bangladesh. JSS believes that there is nothing but to destroy the image of the JSS, the CHT Commission mentioned this type of propaganda in order to fulfill the hidden its interest. In fact, JSS never held such meeting in January 1998 nor had such hit list. On the contrary, while the JSS signed the Accord with the government and a very little section of Jumma youths led by Prasit-Sanchay took position against the Accord as well as JSS. They took plan to kill the JSS members including the leaders who participated in dialogue with the government and accordingly killed 30 JSS members and supporters during last three years after signing of the Accord.

Update report (page 33): "...On 4 April 1998 Kusum Priyo Chakma (Panchari Union Council Chairman and former president of Panchari Hill Students' Council (HSC) unit) and Pradip Lal Chakma (President of Hill People's Council (HPC) Panchari unit, Khagrachari district) were stabbed to death on their way home from a meeting of Union Council Chairmen with Shantu Larma. Some of attackers were wearing masks. Kusum Priyo Chakma had reportedly contested the Union Council elections against a JSS backed candidate and had refused to withdraw his candidacy as requested by Shantu Larma. Pradip Lal has also previously been at Loggerheads with Shantu Larma. Both persons had hesitated visiting Shantu Larma as they had previously been targets of JSS supporters but other Union Council Chairmen had persuaded them to go and assured them that they would make arrangement for their safety. Allegedly, these two people's names were on a JSS hit list of 21 HSC and HPC members to be killed."

Comment: Prasit-Sanchay group repeatedly cautioned Kusum Priyo Chakma should not meet Shantu Larma as he was a worker of them. His associates argued that meeting with Shantu Larma is against their principle. Kusum Priyo tried to make them understood arguing that as a Chairman of a Union he has to maintain formal relation with Shantu Larma, the designed Chairman of the RC. In course of time he has to work with RC Chairman for the greater interest of the local people. The anti accord group warned and told to Kusum Priyo that they would not be responsible if anything happens after meeting with Shantu Larma. However, Kusum Priyo did not bother warning of his anti accord associates and met Shantu Larma. On the other hand, Subesh Kumar Chakma (Monoj), a close teacher of Kusum Priyo persuaded him to meet Shantu Lamra with a view to develop close relation for the common interest.

Kusum Priyo and Pradip Lal discussed frankly with JSS leader and committed to work according to the guidance of JSS. So, there is no question of killing by JSS. JSS confidently believes Kusum Priyo and Pradip Lal were killed by the anti accord group. The anti accord elements accused the JSS to play a political game.

The above-mentioned fact was informed to the CHT Commission, particularly Jenneke Arens in the meetings by the JSS President Shantu Larma in Rangamati and by Vice President Goutam Kumar Chakma in Dhaka. But the Commission did not mention it in its report. On the other, the Commission elaborately focused the UPDF opinions on the allegation made by the JSS against UPDF in the page 36 of the reports. For instances, the opinions of UPDF on the attack upon the three local Union Chairmen and a headman on 5/4/1998 in Panchari thana and Kidnapping of four returnee JSS members including Satyabir Dewan on 6/4/1998 from Ghilachari area under Naniarchar thana were mentioned in the report. So, a narrow intention to favor the UPDF and, on the contrary, to blame the JSS by the Commission are found in its reports.

In addition, the Commission also mentioned the allegation against the JSS put by the UPDF in page 37 that "...HWF (UPDF) activists reported that there were hardly any drugs before the Accord, drug use was limited to the Mukush Bahini (Mask Forces), created by the army. According to them, many of the Mukush Bahini have joined JSS ranks. Now there is much more heroin around and more people are addicted. HWF alleges that the JSS gives away money in order to attract supporters, hence people have money to buy drugs. The split even runs through families, some of the HWF women's own relatives started working with the JSS because they were promised jobs and money. But when they did not get jobs, they became dissatisfied. They started to collect taxes and kidnap people themselves and some times they quarreled about the distribution of the money..."

Every body knows that JSS has been struggling not only against the government but also against drug and anti-social activities among Jumma society since its inception. JSS has strict discipline and control to avoid drug in particular. On the contrary, in some cases, the kidnapped JSS members and supporters escaped from UPDF custody while their sentries were addicted and unbalanced.

Update report (page 38): "Alarmed by the developments described above, some prominent Jumma leaders, such as Upendra Lal Chakma (Chairman of the Jumma Refugee Welfare Association), Ananta Bihari Khisa and others formed a *Committee for Peace* on 10 April 1998. Upendra Lal Chakma acted as its convener. However, their attempts failed because Shantu Larma reportedly refused to engage in any kind of dialogue with the dissidents..... At local level however, according to the UPDF, an agreement was reached on 20 February 2000.... The UPDF alleges that the JSS has again killed several of their people in Khagrachari in violation of the agreement,..."

Comment: Needless to say that it is a fully a misleading report mentioned above. Shantu Larma agreed to hold dialogue with the dissidents at that time and a dialogue between the JSS was held in Khagrachari on accordingly. Mr. Laxmi Prasad Chakma, Organising Secretary of the JSS and Satyabir Dewan, Assistant Organizing Secretary of the JSS represented JSS in the meeting. The representatives of UPDF raised many unrelated questions at the very beginning. They questioned what is JSS? What are the aims and objectives of it? What is its future plan of actions? Consequently, the meeting turned into foil.

On the other hand, regrettably the UPDF activists killed (within 12 hours of 20th February meeting) a JSS member on 21/2/2000 at 6.00 a.m. named Mr. Sukhendu Bikash Chakma (25) s/o Promode Bikash Chakma of village Dantkupya Udayan Headman Para under Khagrachari thana.

The JSS leadership had been talking to Prasit-Sanchay group since 1989. JSS President conducted personally a series of meetings with the Prasit-Sanchay group till the signing. Shantu Larma spent

long 90 hours of discussion between 1992-95 as a gesture of making them realized. All the top leaders of the present UPDF attended those meetings. Finally, they committed to work according to the guidance of the JSS though many points remained differed. Even after their continued attacks the JSS called them to stop armed activity against JSS. The JSS showed its gesture by sitting down at two meetings with the UPDF. Yet, they are killing and kidnapping JSS members and supporters. Nevertheless, the JSS always welcomed every initiative of peaceful settlement through dialogue. The allegation usually raised by UPDF that Shantu Larma refuses any kind of dialogue with the dissidents is baseless.

Update report (page 41): “In the CHT itself the *Adivasi Bangali Kalyan Parishad* (Indigenous Bengalis’ Welfare Council) was set up in 1986. The organization, consisting of so-called ‘Permanent’ or ‘Indigenous’ Bengali settlers – those settlers who came to the CHT during the British period, was not active until after the Peace Accord due to the army presence in the CHT. They support the Peace Accord and work with the JSS...”

Comment: This part of the report is confusing and contradictory. There is no such organization named *Adivasi Bangali Kalyan Parishad* in CHT. An organization named ‘*Adi O Sthayee Bangali Kalyan Parishad*’ (Old and Permanent Bengali Welfare Association) has been formed by the recognized permanent residents after Peace Accord. It is most supportive to JSS. It seems that the Commission might indicate settlers organizations like ‘*Parbattya Gono Parishad*’, ‘*Bangali Krishok Shramik Kalyan Parishad*’ floated by military in 1986. It is almost clear that the Commission is not fully aware of events after Accord and merely dependent on the reports supplied by the UPDF.

Update report (page 61): “Although initially the Hill Women’s Federation (HWF) remained united over the Peace Accord, after several months it also split into a pro-JSS and a pro-UPDF faction. The pro-JSS faction is mostly concentrated in Bandarban District whereas the pro-UPDF faction is active in Khagrachari and Rangamati districts, as well as in Dhaka.”

Comment: The Hill Women’s Federation (HWF) is still very much united. Although, a few workers of HWF (those who have close and personal relation with some of UPDF activists) became detached themselves from the mainstream. The UPDF itself organized a number activity in the banner of HWF after Peace Accord in Khagrachari and Dhaka to be felt their existence. Indeed, the mainstream HWF that supports the Accord is active in three hill districts including Dhaka and Chittagong.

Update report (page 65): “On 15 July 1998, Sagarmoy Chakma and Sashi Bushan Chakma, both JSS members, were kidnapped, allegedly by masked army men, from Perachara, Khagrachari district. Sagarmoy Chakma was killed, reportedly because he refused to give up his membership of the JSS, while Sashi Bushan Chakma was released on condition that he would not support the JSS any more...”

Comment: Perachar in Khagrachari is the stronghold of the UPDF. They kidnapped and later killed Sagarmoy Chakma because of his involvement with the activities of JSS. With a view to save the image of UPDF the Commission intentionally alleged the military instead of UPDF for this kidnapping and killing.

Comments on The Mru Bahini (pages 38-39): Now the issue of Mru Bahini is death issue. The Mru Bahini was engaged to counter the JSS during a short period of time. The dissident group of

JSS led by Priti Kumar Chakma perpetrated many misdeeds including the case of rape mentioned in the Commission report.

Comments on Conclusions and Recommendations of the report (pages 78-82): In the recommendation (A4-4 & B-3) the Commission emphasized to highlight the repression of full autonomy Jummas, repression and arrest of UPDF members and their associates at the UN Human Rights Commission and UN Working Group on Indigenous Populations. The Commission recommended only to release the members of dissident group. Unfortunately, the Commission kept itself silent to recommend the release of a considerable number of detained JSS members and supporters. Sadly, the Commission did not pay any attention on the repression of JSS members and supporters by the security forces after the Accord.

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