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**Workshop 3**  
**Engaging the Marginalized – Partnerships between Indigenous Peoples, Governments and Civil Society**

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**CHALLENGES AND OPPORTUNITIES FOR ENGAGING INDIGENOUS PEOPLES IN THE CHITTAGONG HILL TRACTS**

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**1. Background:**

The Chittagong Hill Tracts (CHT) region in southeastern Bangladesh has from time immemorial been the home of eleven indigenous peoples. They are the Bawm, Chak, Chakma, Khumi, Khyang, Lushai, Marma, Mro, Pangkhua, Tanchangya and Tripura. Collectively they identify themselves as the Jumma people, the first peoples of the CHT, distinct and different from the majority Bengali people of Bangladesh in respect of ethnicity, language, culture and religion. The region has frontiers with (India and Myanmar (Burma) and covers an area of 5,093 sq. miles (13,189 sq. km). Topographically too it is distinct from the deltaic plains of Bangladesh on account of hilly and mountainous terrain and forests.

During and before Mughal rule in the South Asian sub-continent, the Jumma people were independent and their territory was much larger than the present CHT region. After the East India Company had conquered Bengal, it started to advance towards the hill country. Ultimately, the Chakma king too had to make a treaty named 'Cotton Treaty' with the Company at Fort Williams, Calcutta in 1787, and become a British tributary area. The Company, however, maintained a policy of non-interference with the kings in governing the CHT.

In 1860, more than a hundred years afterwards the British Government formally annexed the CHT region with Bengal and created a Non-regulated Tribal District known as "The Chittagong Hill Tracts" with limited autonomy. In 1900, the British Government enacted the CHT Regulation 1900 (1 of 1900) and declared it as a "Backward Tract" under the Government of India Act, 1919. This constitutional status was later changed to "Excluded Area" and "Tribal Area". These constitutional safeguards provided a measure of protection to the Jumma people from economic exploitation by outsiders and helped them to preserve their traditional, socio-cultural and political institutions based on customary laws, community ownership of land.

During the partition of India, the British violated the Indian Independence Act, 1947 and included the CHT within Muslim-dominated Pakistan. At that time, the majority of the population of the CHT (97%) was non-Muslim.

During the whole of the period of Pakistani rule, the Jumma people of the CHT faced discrimination in jobs, business, education and other spheres of life. In 1948, the Pakistani government disbanded the CHT Frontier Police Force manned by Jumma persons formed under CHT Frontier Police Regulation of 1881 by the British. Likewise, the government amended laws that restricted the entry of non-indigenous people into the region and prevented acquisition of land title (rules 34 and 52, CHT regulation, 1900).

Moreover, in 1960 the Pakistan government built the Kaptai Hydro-Electric Project, which uprooted about 100,000 Jumma people from their ancestral hearths and homes and submerged 54% (54,000 acres) of the best arable land of the region. In short it was a slow process of marginalisation of the Jumma people for the Islamisation through more and more Muslim settlements in the region.

The first Constitution of Bangladesh, adopted in 1972, did not recognise the presence of Jumma people in the CHT and the separate administrative arrangements hitherto enjoyed by the region. However, the CHT Regulation is still in force in the region. Soon after the independence of Bangladesh, in the wake of severe repression and discrimination against the indigenous peoples, Mr. *Manabendra Narayan Larma*, Constituent Assembly Member, led a powerful Jumma delegation to Dhaka in October 1972, prior to the adoption of the Constitution, demanding regional autonomy for the Jumma people. The then Prime Minister *Sheikh Mujibur Rahman* categorically rejected this demand.

Finding no other alternative to the very survival the Jumma people rallied behind the banner of the *Parbatya Chattagram Jana Samhati Samiti* (PCJSS) led by Mr. M. N. Larma. In the face of rising militarization and police atrocities, the peaceful democratic movement turned into armed struggle in 1975 for establishing self-determination, when all democratic avenues failed to draw attention of the government and the nation as well. Finally, on December 2, 1997 after series of dialogues with the governments of General Ziaur Rahman, General Ershad, Begum Khaleda Zia and Sheikh Hasina, the historic CHT Accord, 1997 was signed between the Bangladesh Government and the PCJSS to pave way for the peace, development and representation of the Jumma people.

## **2. CHT Accord paves opportunities to meaningful engagement of indigenous peoples in CHT:**

The CHT Accord had ended the decades-long fierce armed conflict between the Jumma people and government of Bangladesh. This Accord was hailed and welcomed by not only the Jumma people of CHT and democratic and progressive political parties and other sections of Bangladesh, but also by the United Nations, European Union and many democratic governments of the world. The following are among the important provisions of the CHT Accord:

- 1) Recognizes the CHT region as Jumma indigenous peoples-inhabited area;
- 2) Introduces a special administrative set-up led by indigenous Chairpersons;
- 3) Recognizes the CHT as a distinct region with a Regional Council (CHTRC) as the apex body and the three district councils (HDCs) under its supervision and coordination;
- 4) Government of Bangladesh shares executive and development powers with the regional Council and three district councils;
- 5) Recognises supervisory and coordinating authority of the regional council and district councils over general administration, law and order, development, land and land management, hill district police, education, culture and etc.;
- 6) Recognizes the rights of the non-indigenous permanent residents in the CHT;
- 7) Recognises and strengthens the traditional institutions, control over customary laws and social justice (tribal);
- 8) Provides for the de-militarisation of the region;
- 9) Provides for the restoration of alienated indigenous lands through land commission;
- 10) Stipulates that the premier regional development authority, the CHT Development Board, would be supervised by the Regional Council;
- 11) Introduces a new ministry for the CHT region with the Minister belonging to one of the indigenous peoples of the region;
- 12) Makes it obligatory for the Government to consult the CHT councils before legislating for the region;
- 13) Initiatives for proper rehabilitation of internally displaced indigenous people and India-returned Jumma refugees to their homes and villages;
- 14) Filling up of all posts of all government, semi-government, local government and autonomous bodies of the CHT by permanent residents, giving priority to the indigenous peoples;

- 15) Puts restriction to acquire and transfer any land in the region (except Reserve Forest areas and some classified lands/areas) without the prior approval of the concerned HDCs;

### **3. Gross violation of the CHT Accord:**

Despite the passage of more than seven years since the signing of the Accord, most of its crucial provisions remain totally or partially unimplemented. There is not only a lack of government sincerity in implementing the Accord, but a vested group of the government, military and civil administration in CHT, and Islamic fundamentalist groups have been trying to make impediments to it from the very beginning. If such racist and discriminatory policies are not resisted the indigenous peoples will be reduced into an insignificant minority and they will no longer be able to exercise their religious practices and their political, cultural and social rights in a free manner. The followings are the violation of the CHT Accord by the Government of Bangladesh:

- 1) No reflection of the activities of the Government and its functionaries to maintain the status of CHT as indigenous peoples inhabited region.
- 2) No execution of the CHT Regional Council Act though it was enacted and the Council was formed;
- 3) No execution of three HDC Acts; For instances-
  - a) Subjects were not transferred to HDCs;
  - b) No initiative to hold election of the HDCs with a separate voters' list with permanent residents and the HDCs are still in operation by selected ruling party-men;
  - c) No initiative has been taken to form Police (local) under the HDCs manned from the CHT peoples;
  - d) The entire land and land management system still lies with the government keeping under the Deputy Commissioners, instead of HDCs;
- 4) The MoCHTA does not extend support to the CHTRC for proper exercise of its functions and it sides with the three HDCs and CHTDB for obvious reasons.
- 5) Enactment of CHT-related laws without any consultation with the CHTRC and HDCs.
- 6) Not giving back of land and property to the India returned Jumma refugees and not taking any initiative for their rehabilitation.
- 7) Given rise to an unnecessary controversy regarding issuance of non-indigenous permanent resident certificate with a view to including the thousands of Bengali settlers.
- 8) Blocking of the function of the CHT Land Dispute Disposal Commission by not making necessary amendment to the CHT Land Dispute Disposal Commission Act, 2001.
- 9) Not giving of land to the landless indigenous families.
- 10) With regard to the vast land given in settlement to the non-indigenous and non-locals for rubber plantation etc. have not been cancelled.
- 11) Still winding up of temporary camps has not been done with a view to keeping the forces to 6 cantonments in the CHT. Rather, new military rule 'Operation Uttoran' has been issued in 2001 and expansion of new lands is in action for more installations.
- 12) Appointment of non-indigenous and non-locals in government, semi-government, autonomous and local bodies is in action without giving due priorities to the indigenous and permanent residents.
- 13) The responsibility of the CHT Affairs Ministry has been kept under the control of the Prime Minister. In violation of this provision, a Deputy Minister, rather than a Minister, from amongst the Jumma people, has been appointed to the post.

- 14) Appointment of a non-indigenous person to the post of Chairman of Chittagong Hill Tracts Development Board.

#### **4. Challenges to implementation of the CHT Accord:**

##### **4.1 *Non-recognition of rights of the indigenous people***

Even after the emergence of independent Bangladesh after 1971, the plight of the Jumma people increased manifold. Although general Bangladeshi and CHT laws acknowledge the CHT peoples as “indigenous” or “indigenous hill-people” but this was not acknowledged in the national Constitution of Bangladesh, which was adopted in November, 1972.

Despite the UN-declared international year and decade for the indigenous peoples, political space for the indigenous peoples of Bangladesh, is still quite small. Bangladesh has ratified many important human rights instruments, including ILO Convention No. 107, but remains largely lethargic towards its international treaty obligations.

##### **4.2 *Government's policy of Islamisation***

The CHT region once a pre-dominant non-Bengali Muslim area is fast becoming a Bengali Muslim area by Islamisation policies of the governments. It is crystal clear that the Jumma people are going to be a minority in their own homeland very soon, because of successive Islamic governments’ prolonged and sustained Islamization policy.

In 1979 the Government of Bangladesh undertook drastic programme to settle Bengali Muslim population from other plain districts of Bangladesh to CHT for outnumbering the Jummas and evicting them from their ancestral land.

There is recent Government move to provide free ration to a fresh number of 28,000 Bengali Muslim settler families and an initiative to settle 10,000 Bengali Muslim families inside Kassalong Reserve Forest and Sajek Union.

##### **4.3 *Military solution for a political problem***

In order to suppress the Jumma people, the CHT has been very heavily militarised. The military has been linked at the highest levels with the civil administration. The 24th Infantry Division of Bangladesh army is in-charge of the CHT. It is estimated that near about 150,000 army, para-military and other armed government forces have been deployed in different strategic places of CHT.

Though the Accord provides for dismantling of non-permanent military installations, only 31 out of more than 500 camps have been so far removed since the Accord. In fact, new camps are being established and existing garrison areas enlarged. The army still holds the supreme authority and control over the general administration entrusted through an administrative order “Operation Uttoron”. The army still commits human rights violations on Jumma people through killing, torture, rape and etc. Nowadays, in some areas the Army has re-opened their check-posts to control the movements of the Jumma people.

For instance, in August 2003, more than 350 houses of indigenous Jummas of 14 villages within Mahalchari sub-district were burnt, Buddhist temples and statues of Lord Buddha were destroyed, and two people and 10 Jumma women were raped. All this happened within a few hours by the Bengali settlers led by uniformed and armed soldiers of the Bangladesh military (21 East Bengal Regiment). This is very ironic, as Bangladesh now is the biggest contributor to the international UN Peacekeeping force. Moreover, we have been told that Lt. Col. Abdul Awal, the concerned Zone Commander, had just returned to Bangladesh after completing UN peace-keeping duties abroad.

##### **4.4 *Land Grabbing***

Our lands, forests and territories have been and are still being taken away without our free, prior and informed consent, to build so-called “Reserve Forests”, “Protected Areas”, “National Parks”, “Eco-parks”, Tourism, and even for establishing military bases and training centres. In 1960, the Kaptai Dam flooded our lands and homes and even today many of our people remain un-rehabilitated.

Following the settlement programme of Bengali Muslim population from other plain districts to CHT since 1979, thousands of indigenous people were displaced from their ancestral lands. The government-sponsored Bengali settlers have been occupying the lands of the Jummas and committing series of ethnicides upon the Jummas with the direct help of government forces. Even after the signing of the Accord, land grabbing process is continuing throughout the CHT.

For instance, the military authority and the government have taken initiative to acquire 9,560 acres of land for the expansion of Ruma Cantonment, 183 acres of land for the expansion of Bandarban Brigade Headquarters, 56,000 acres of land to establish a new Artillery Training Center and a new Air Force Training Center and 50 acres of land for the expansion of Longadu Military Zone without any prior consent either from the Hill District Councils or from the CHT Regional Council.

Very recently on 1 January 2005 the Bengali Muslim settlers from Maischari cluster village in Khagrachari district, with the help of army, constructed houses on the recorded lands of indigenous Jummas at Gamaridhala area under Khagrachari upazila.

#### **4.5 Emergence of pro-Islamic and extreme Bengali fanatic forces**

Emergence of pro-Islamic and extreme Bengali fanatic forces with direct patronisation of a section of military and the administration is one of the key challenges for indigenous Jumma peoples. With active patronization of the military, it is also seen the foundation of 'Equal Rights Movements', an organization of illegal Bengali Muslim infiltrators led by fundamentalists. Last month, the military administration was seen to be very cruel to arrest, torture and put tremendous pressure upon the old and permanent Bengali leaders and activists of the 'Old and Permanent Bengali Welfare Council' that demands fullest implementation of the CHT Accord, as it has recognized them and their rights in the CHT) for joining en masse to the 'Equal Rights Movement'. All these activities are to oppose the implementation of the CHT Accord and thus to pave the way for cleansing the Jumma people.

### **5. Crucial issues to be addressed:**

#### **5.1 Constitutional Recognition and Rights to Development**

It is also the conviction of the indigenous Jumma peoples that development not only concerns the socio-economic progress of the peoples and communities concerned, but that it equally includes the enjoyment of key fundamental rights. With this view in mind, the long-term positive implications of the followings are crucial:

- Recognition of the indigenous peoples in the Constitution of Bangladesh and rights to self-determination;
- Full and faithful implementation of the CHT Peace Accord 1997;
- Strengthening the role, functions and mandate of key representative institutions (e.g. *Ministry of CHT Affairs, CHT Regional Council, three Hill District Councils* etc.)
- Full operationalization of the *CHT Land Disputes Resolution Commission* and the *CHT Refugees Task Force* along with adequate resource allocations for the aforesaid bodies. Similarly, land administration in the CHT needs to be fully transferred to the hill district councils in accordance with the *Hill District Councils Acts of 1989*;
- Proper rehabilitation of the repatriated Jumma refugees and the Internally displaced Jumma people;
- A civilian law and order management and administration in the CHT, including a strong role for the hill district councils in accordance with the *Hill District Councils Acts of 1989*.

#### **5.2 Representation, participation and institutional arrangements**

The Jumma people have been deprived and neglected by all successive governments for a long time. The CHT people have never been consulted and involved in the low-scale development that has taken

place so far in the past and a top down approach has been imposed as a result of hostile national policy, wrong development approach, political conflict and instability for more than two decades in the region.

To make the representation of the indigenous Jumma peoples meaningful and effective, the government ensures their adequate representation in consultative processes through proper consultations with their recognized representative organizations/bodies (e.g. Ministry of CHT Affairs, CHT Regional Council, Circle Chiefs, Bangladesh Adivasi Forum, Hill Tracts NGO Forum, etc.)

- Holding of election to the HDCs and CHTRC as per the relevant acts;
- Proper execution of the CHTRC Act and HDC Acts
- Transfer of all subjects to the HDCs, giving priority to Land and Land Management, Police (local), Law and Order, Forestry & Environment, Primary and Secondary Education etc.;
- Provision of capacity building and more resources to the CHT institutions including traditional institutions;
- Reservation of three seats of national parliament for indigenous Jumma peoples.

### **5.3 Control over resources and recognition of the customary practices**

Rights to control over land and other natural resources – natural, public or otherwise - is absolutely crucial for the survival and livelihood of the indigenous peoples. However, it is a generally recognized fact that the indigenous Jumma peoples have very little or no control/rights over these resources. Any control/rights that may exist in this regard are gradually being eroded due, among many factors, to: rapid competition over natural resources; demographic shifts; and unplanned development policies, and the non-recognition of customary land and resource rights except in a limited manner.

In this context, the following issues should be addressed:

- Relevant policy measures to establish, and where applicable, to strengthen, the land and natural resource rights of the indigenous peoples of the country.
- Legal and constitutional recognition of customary laws, practices and usages of the indigenous peoples over ownership, management and utilization of lands and other natural resources, as justiciable and enforceable rights.
- Pro-active measures are necessary on the part of the government to not only prevent further alienation of aboriginal or indigenous lands, but to restore alienated lands of indigenous peoples.

### **5.4 Formulation and amendment of sectoral policy**

Sectoral policies, e.g. on Health, Education, Forest, Land, Environment, etc. need to be correspondingly amended to account for the special needs and situations of indigenous Jumma peoples. The Government will take appropriate measures in this regards (it may be noted, e.g., that the National Education Policy requirements for students and teachers' numbers and qualifications in order to receive state support are inappropriate for remote and sparsely-populated areas in the CHT).

### **5.5 Dismantling draconian policy**

In order to implement ethnic cleansing policy and to freely terrorize indigenous peoples and militarize their territories with a pretense of legality and outnumbering indigenous people in their territory, the successive governments enact laws, or issue decrees and orders, De facto military rule and undertake population transmigration programme. These draconian policies should be stopped and the following steps should be taken for that:

- Rehabilitation of outsider Bengali settlers outside CHT honorably;
- Withdrawal of military rule 'Operation Uttoran' and temporary camps of Army, APBN, Ansar and VDP;

- Enactment of Inner Line Regulation in the CHT for preservation of characteristic of Jumma-inhabited region recognised by the CHT Accord.

## **6. Partnership between Indigenous Peoples, Governments and Civil Society in Bangladesh:**

The overall picture of partnerships between the Government of Bangladesh, on the one hand, and indigenous peoples and civil society, on the other, is far from good. With regard to indigenous peoples and other minorities, the general situation of widespread discrimination and policy neglect has been a continuing phenomenon for almost all successive governments. Moreover, bureaucratic red-tapism, over-centralization of government, corruption, and other ills in poor governance have also not enabled other members of civil society more than a marginal role in democratic governance. Whatever little gains have been made over the years in the case of joint endeavours by government agencies and civil society, including indigenous peoples, have generally resulted due to lobbying efforts of civil society and indigenous activists and workers, and sometimes on account of pressure from bilateral development agencies of the industrialized countries. In the case of the CHT, among the most important factors behind the bipartite and tripartite development efforts involving indigenous peoples are the provisions of the CHT Accord of 1997 and the support of some development agencies of industrialized countries. Of course, not all of these efforts have necessarily been pro-people or truly inclusive, but some limited success can be seen in some areas, as mentioned below.

There are different examples of on-the-ground partnerships involving government, indigenous peoples and civil society, such as those mentioned below. However, among the most unique of such “best practices”, is the process of peace-making leading to the signing of the CHT Accord of 1997. Other notable examples include the Danida-funded development projects in the CHT; the UNDP-funded development project; the Asian Development-Bank-funded projects in the CHT; customary law-based natural resource management and the drafting process of the National Poverty-Reduction Strategy Paper.

### **6.1 Accord-making without Third Party Mediation**

The CHT Accord was reached between the Government of Bangladesh and the PCJSS without any involvement of third parties as mediators. This was possible on account of a spirit of goodwill, practical politics, and a principled stand on vital issues, such as human rights. Although the PCJSS and the Government of Bangladesh were the key parties to the accord, various sections of civil society on both sides had provided their valuable inputs in to the peace process.

### **6.2 Danida Funded Projects**

The Danish Government, and its development agency, Danida, have been among the strongest supporters of the peace process in the CHT. This has resulted, amongst others, in cooperation between Danida and CHT-based organizations of indigenous peoples and non-indigenous permanent residents of the CHT. One particular example is the Pilot HYSAWA project, the acronym HYSAWA coming from the words “hygiene, water and sanitation”. Under this project, a national NGO holds the project that undertakes activities on facilitating access of impoverished indigenous communities to potable water and sanitation facilities. The Government of Bangladesh, besides having the ultimate say in providing or withholding its mandatory consent for projects involving foreign funds, has a leading role in a National Project Steering Committee, whose members also include representatives of the project-holding national NGO, and the Hill Tracts NGO Forum (HTNF), the representative body of local NGOs of the CHT. At the regional level, HTNF chairs coordination committee meetings, and the coordination committee also include representatives of the CHT Regional Council and local government bodies. This is one of the very few examples in Bangladesh where governmental, non-governmental and indigenous representatives sit and work together.

### **6.3 Drafting Process of the National Poverty-Reduction Strategy Paper**

In line with the World Development Summit’s Millennium Development Goals and other related developments at international levels, the Government of Bangladesh has been involved in a process of drafting a national policy or “Strategy Paper” on Poverty Reduction, generally known as the “Poverty

Reduction Strategy paper” or “PRSP”. Initially, the draft included only a few insignificant sentences concerning “tribal” people with insufficient information, totally bypassing all issues of vital interest to indigenous peoples. However, after intense lobbying, the Government amended its earlier draft, and also held formal consultations with indigenous peoples in Dhaka on 28 April, 2005. Representatives of indigenous peoples offered various concrete suggestions on the Strategy Paper, including on terminology (they prefer the term “indigenous: and reject the terms “tribe” or “tribal”), need for amendments to constitutional provisions and sectoral policies, participation, projects and programmes, and so forth. It appears that the Government representatives agreed to some of these demands, including to accept the term “indigenous” along with its vernacular variants. The process is still going on. On 7 July, the facilitating agency, UNDP, is holding a meeting to discuss the implementation of the PRSP with major donor agencies, to which a few representatives of the government and indigenous peoples have been invited. **With all-round support, this effort may provide a good precedent of indigenous people’s involvement in policy-drafting processes.**

#### **6.4 Customary system of land and natural resource management**

Among local best-practices might be mentioned natural resource management systems in vogue in the CHT. At the formal level, the hill district councils and the deputy commissioner’s offices retain supervisory authority, while traditional headmen, with the assistance of village elders known as *karbaries*, manage and protect small forest, grazing and water commons, through customary laws and practices. These systems are also heavily dependent upon community acceptance and community involvement. In some case, local NGOs have also joined village communities in natural resource management. One noteworthy example is a local NGO known as Taungya (mostly indigenous members and employees), which is facilitating traditional forest management practices in the CHT.

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