

Land and Natural Resource in CHT

Introduction

The Chittagong Hill Tracts (CHT) region shares borders with Myanmar on the south and southeast, India on the north and northeast and Chittagong district on the west. It is completely different in physical features, agricultural practices and soil conditions from the rest of the country with mountains and beautiful landscapes. CHT is located between 21°-40' degrees and 23°-47' degrees north latitude and 91°-40' degrees and 92°-42' degrees east longitude. It is a unique territory with mountains and beautiful landscapes and socio-economically and culturally completely different from the rest of the Bangladesh. It roughly runs from North to South for 280 km. Geographically, the CHT region belongs to the hilly that branches off from the Himalayan ranges to the south through Assam and Hill Tripura to Arakan and Burma. The highest hills in the CHT are Tazingdong and Keokradong (4,034 ft high) located in Bandarban district.

The CHT region is divided into four valleys formed by the Feni, Karnaphuli, Sangu and Matamuhuri rivers and their tributaries and is marked out by chains of hills running from the south in a north-westerly direction. The Sangu and Matamuhuri rivers until they enter the plains, run parallel to the ranges, and form two river-valleys. The Karnaphuli and the Feni run transversely across the main lines of the hills, and the valleys here are formed by the large tributaries of the Karnaphuli entering the river at right angles to its course.

The geographical condition favoured the CHT to be endowed with vast natural resources like wood, timber, bamboo, sungrass, sandstone, limestone, natural gas, petroleum, coal, uranium etc. There are indications that the mineral resources, if extracted properly, would significantly contribute to national economy. The CHT area covers about one-tenth of the total land surface area of Bangladesh and the density of population is the lowest in the country. This suggests, the per capita availability of land in the CHT should be much higher than in the rest of Bangladesh. And, if one takes the per capita availability of land (without taking other issues into account) as an indicator of economic soundness, the people of the CHT should be economically much better off than the people in the rest of Bangladesh. The statistics indicate that the per capita income of the CHT is 320 percent higher than the national average of Bangladesh.¹

Apparently, the CHT have a good number of lands in compare to the rest of the Bangladesh. The CHT covers totally 13,184 sq. km. and consist of only 1,325,000 persons and density is only 190 persons per sq. km. (BCR: 1991). Whereas the density of the Bangladesh is 834 persons per sq. km. If one calculates the land pattern and look to the land account of CHT and compare it with the plain land pattern of Bangladesh, than CHT will come out the most populated area in the Bangladesh. In CHT 91 percent area covered by the Reserve Forest and Kaptai Lake Area only rest of the 9 percent of the land means 356.04 sq. Miles or 572.99 sq. km. can legally be used for inhabitation.

Land	Acres	Percentage
Land Suitable for Rice Cultivation	77,000	2
Land Suitable for Horticulture and Tree Corps	670,000	21
Land Suitable for Forest only	1,600,000	51
Reserve Forest	800,000	26
Total Land	3,147,000	100

Source: Forestial Survey 1964

Category of Land:²

¹ The Economy of the Indigenous Peoples of CHT by P B Chakma

² Extract from 'Land Rights of the Indigenous People of the CHT, Bangladesh' by Rajkumari Chandra Kalindi Roy

At present there is a dualistic framework of land rights in the CHT: customary and national. A summary of the legal framework of the major land use arrangements is given below with references to applicable national legislation, in particular to CHR Regulation 1 of 1900.

(a) Common Lands

The common lands are those which belong to the indigenous community with shared rights of access. The indigenous people have right to these lands and its resources, by virtue of their common ownership of these areas, and traditional economic activities such as fishing, hunting and gathering are carried out in these areas. Jum lands fall within this category, as do the lands used for orchards, grazing and for growing sungrass (used to make thatched roofs). The forests are also included within this category of mouza commons, and are the common property of the indigenous community with equal rights of access, use and extraction. Traditionally no taxes were levied for the use of these lands.

Government does not formally recognize the rights of the indigenous people to the common lands as a collective right. It regards these lands as state-owned. They are also known as *Khas* lands i.e. state lands, while the forest Department categorizes these lands as Un-classed State Forests (USFs).

The CHT Regulation recognizes some of the rights of occupation and extraction of common lands, although taxes are levied for some extractive activities. The indigenous people have qualified rights to homestead lands, the extraction of sungrass (Rule 45A), the right to herd (Rule 45B), and the rights to Jum (Rules 34, 41, 42, 45 and 50).

(b) Forests

The indigenous people of the CHT rely on the land and its natural resources, including the forests for their economic and spiritual well-being. Traditionally the right to use and extract forest produce was without any restrictions except those prescribed under customary law. However, between 1875-1882, the British administration initiated a policy of curtailing the rights of the indigenous people to the forests. This practice continues to this day. Initially, the forests were divided into two categories: (1) Reserved Forests and (2) Un-classed State Forests. However, in the mid-60s a third category was introduced: (3) Protected Forests.

Forest	Acres	Percentage
Kassalong Reserved Forest (North-east part of CHT)	406,542	
Rankhyang Reserved Forest (East-central part of CHT)	190,521	
Sangu Reserved Forest (South-east part of CHT)	83,612	
Matamuhari Reserved Forest (South-east part of CHT)	100,467	
Other minor Reserved Forest (Central part of CHT)	15,018	
Total	796,160	100

(c) Paddy lands

The lands which are used exclusively to grow rice are known locally as paddy lands, and are mainly to be found in the valleys and low lying areas. Traditionally, the majority of the indigenous Jumma people were Jum farmers, but during the time of Raja Dharam Bux Khan, when the capital of the Chakmas was still in Rajanagar, Ranguania in the foothills of Chittagong, the indigenous Jumma people learnt how to use the plough with the help of some farm labourers from the plains brought in expressly for that purpose by the Raja. The plough was gradually extended, and by the mid-19th century it became the preferred form of cultivation in the valleys and low lying areas of the CHT.

This was achieved in large part of the CHT. However, in 1960 after the Kaptai dam was built, a vast quality of plough lands in the CHT were submerged and over 100,000 people displaced. There remain only a meagre amount of land suitable for plough cultivation in the CHT and the district that once produced a surplus in food grains is now almost barren in this respect.

Strict records were maintained by the indigenous traditional authorities of the details of all plough lands, including name of owner, boundaries and other relevant information.

With the submersion of 40,000 acres of agricultural (paddy) lands by the Kaptai reservoir, there is an even greater shortage of these fertile rice fields. In an effort to increase rice production, the lands situated below the high water marks of the Kaptai lake are also being cultivated, in addition to the valleys and low lying areas. These are known as **fringe lands** as they are on the periphery of the lake, and due to fluctuation of the lake level they are out of the water for period of time every year.

(d) Grove Lands

With the construction of the Kaptai dam and the submersion of 40% of the agricultural land, the indigenous Jumma people had to seek alternative avenues towards economic self-sufficiency. The government made concerted efforts to introduce fruit farming in the CHT, instead of rice cultivation, which was the principal crop in addition to pulse and vegetables. The lands used for fruit farming and for forestry are known commonly as grove lands.

In the case of large gardens, leases are registered with the Headman and the Upazila Land Records. However, for the smaller gardens, there are no records of registration and the absence of ownership titles was a serious problem for the indigenous Jumma farmers in gaining access to credit and market facilities, in addition to providing documentary evidence of their rights to the land.

Land disputes

The economy of the people (particularly the indigenous peoples) is mostly based on agriculture. According to Land Revenue Administration Report of 1965-66, the total area of the CHT was 32,59,520 acres, the total cropped area was 2,23,002 acres, and the net cropped area being only 1,30,000 acres. That means, less than seven percent of the land in CHT is suitable for cultivation. The amount of land for plough cultivation is even less. The construction of Kaptai Dam (for Karnaphuli hydroelectric project) in the early sixties added to the already existing land crisis in the CHT. As a result of the Dam, an artificial reservoir (popularly known as Kaptai lake) was created which submerged 54,000 acres or 40 percent of the most fertile plough lands of the CHT. The net effect is further contraction of per capita availability of agricultural land.

Though the then government undertook programmes for rehabilitation of the displaced people, but due to scarcity of land the plough cultivators received hardly one-third of the land they lost as compensation, and that too was of inferior quality, and the Jum cultivators had to be content with smaller areas for Jum cultivation. The rest had to migrate to India, as no other alternatives were open to them.

President Ziaur Rahman began state-sponsored migration of Bengali Muslim settlers into the CHT, providing land grant, cash and rations. This program was continued in secret, the international communities were not aware of this program till mid-1980s. More than four hundred thousands of Bengali Muslim were transferred into CHT. During the armed struggle, the successive governments of Bangladesh followed same policies against the Jumma people. Since 1979, the government officially started to settle Bengali Muslim from the plain districts in the CHT to outnumbering the indigenous Jumma people and for using them (settlers) as human shield. The government declared that each settler family would be given *Khas* land free of cost according to the following scale including free ration for unlimited period:

Plain land	2.5 acres
Plain and bumpy mixed	4.0 acres
Hilly land	5.0 acres

In order to comprehend the complexity of the potential problems inherent in this policy of population settlement programme, it is necessary to take into account the numerical magnitude of this situation. The following is an informal calculation based on an average family of 5 persons:

Land	No. of families	Land required per family (acre)	Total amount of land (acre)
------	-----------------	---------------------------------	-----------------------------

Paddy land	80,000	2.5	200,000
Mixed land	80,000	4.0	320,000
Hilly land	80,000	5.0	400,000
Total (in acre)			920,000

Indeed, no cultivable land was vacant for settlement so the settlers started to forcibly occupy the land of indigenous Jumma people. With an aim to uproot the Jumma people from their ancestral land, a long series of massacres and genocide were perpetrated by the Bengali settlers with the direct help of military forces. As such it left a horrible legacy of violence, rape, loot, murder, arson, abduction and forcible conversion, sacrilege of religion and forcible occupation of Jummas' land and property as well as gross violation of human rights for more than two decades. Thousand of Jumma people were ousted from their own hearth and home.

CHT Accord and Settlement of Land Dispute through Land Commission

Clause 4 of Part D of the Accord provides, "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. No appeal shall be maintainable against the judgment of this Commission and the decision of this Commission shall be deemed to be final. This provision shall be applicable in case of Fringe-lands".

The Land Commission has been formed in accordance with this provision. As per this provision, Anwarul Haque Chowdhury was appointed the Chairman of the Commission on 3 June 1999. But he passed away on 6 December 1999 before taking his responsibility. Later, on 5 April 2000, retired Justice Abdul Karim was appointed to the post. He assumed the office on 12 June 2000. Since then he visited his office only once in Khagrachari Hill district. Later, he too resigned the post on health ground. Since then the post remained vacant for around one and half year. After assuming the office, the four-party coalition government appointed retired Justice Mahmudur Rahman on 29 November 2001 without any consultation with the PCJSS and CHTRC. He too passed away in November 2007. Despite repeated demand from CHTRC to appoint chairman of the Land Commission, the Caretaker Government led by Dr. Fakhruddin Ahmed did not take action to this effect.

A Secretary to the Commission was appointed later on. But other matters, such as appointment of necessary office-staff, setting up of offices of the Commission etc. are yet to be done.

During tenure of Justice Mahmudur Rahman as chairman of the Land Commission, after over 7 years of the CHT Accord, the first meeting of the Commission was held at the Khagrachari Circuit House on 8 June 2005. Discussion was held to undertake initiative for amendment of the Land Commission Act as per CHT Accord. But no effective initiative has been taken by the chairman of the Commission.

The new government, installed on 6th January 2009, announced the appointment of retired Justice Khademul Islam as the chairman of the Land Commission. No sooner had he assumed his office, he started in a dramatic fashion. He undertook a lightning tour of the three hill districts from 3rd to 5th August 2009 and convened meeting of the Commission for exchange of views. He used the DCs of the three hill district to issue letter calling upon the members to attend the meeting which was totally irregular. For, the DCs are nobody of the Commission. The Accord provides that the secretary of the Commission shall convene the Land Commission meeting. But the chairman of the Commission unilaterally declared to conduct land survey in the CHT without a decision to that effect in any of the meetings (despite the fact that the meetings were irregular). He went further, visited Rangamati and Khagrachari hill district on 7th and 8th September of 2009 respectively, assigned DC of Khagrachari hill district with the responsibility to act as secretary who convened meeting in one day's notice for the chairman of the Commission to share his views. He did not convene any formal meeting of the Commission. Rather, he declared in the meeting of the officials to decide on the procedures of land survey in 15 days' time and to complete the survey by 15 March 2009 beginning from 15th October 2009.

Despite the huge protest from the all sections of the citizens including CHTRC and PCJSS and also three circle chiefs, the Chairman of the CHT Land Dispute Resolution Commission justice Khademul Islam Chowdhury continues his unilateral and controversial activities. In mid-July 2010 the secretary of Land Commission issued a notice to the CHT Affairs Ministry and Land Ministry to conduct cadastral survey in CHT soon; otherwise the ministries would be charged non-compliance with court order.

Section 2 of the part D of the Accord clearly provides to conduct land survey after implementation of CHT Accord, rehabilitation of returnee refugees and IDPs, in consultation with the Regional Council, in order to determine the land ownership of the tribal people through settling the land disputes following proper verification, and record their land and ensure their rights thereto.

The decision by the Land Commission chairman to undertake land survey before resolving the land disputes is a clear violation of the provision of the CHT Accord. In any case he is not mandated to conduct land survey and the government cannot go for any form of land survey before finally settling the land disputes following proper verification, and record their land ownership and ensure their rights thereto.

Since after the appointment of present Chairman of CHT Land Dispute Resolution Commission, the only meeting was held on 27 January 2010 in Khagrachari. The meeting was ended without taking any concrete decision. On 14 March 2010 Secretary of Land Commission Md. Abdul Hamid issued public notice asking affected land owners to lodge application on land disputes with Land Commission. This notice was issued without the decision of the Commission.

CHT Land Dispute Resolution Commission 2011

It may be mentioned here that on 12 July 2001, just the day before the handing over charge to the Caretaker government, the previous government hurriedly passed the “CHT Land (Disputes Settlement) Commission Act 2001” in the parliament without taking into account the advice and recommendations given by the CHT Regional Council. As a result, so many provisions crept into the Act which were contradictory to the CHT Accord and detrimental to the interest of the Jumma people. Among these provisions, the followings are worth mentioning:

- (a) Section 2 ((f) of the Act narrates that the word “rehabilitated refugees” means the “refugees enlisted under the Accord signed between the government and Jumma refugee leaders on 9 March 1997 in Agartala, India”. This provision merely speaks of the land-disputes of the Jumma refugees repatriated from India under the 20-point Package programme. But it excludes the land-disputes of the Jumma refugees repatriated from India under a 16-point Accord signed between the government and the then Jumma leaders in 1992.
- (b) Clause 4, Part D of the CHT Accord contains a provision for settling the disputes of those lands and hills, which have been so far illegally settled and occupied, in addition to settling land disputes of the rehabilitated Jumma refugees. But the Section 6 (1)(a) of the CHT Land (Dispute Settlement) Commission Act 2001 only speaks of the “settlement of the land-disputes of the rehabilitated Jumma refugees”. Consequently, all other land-disputes of the Jumma refugees repatriated from India under the 20-point package will remain unsettled.
- (c) Clause 6 (b), Part D of the CHT Accord provides for a provision to settle land-disputes in accordance with the “traditional land-laws, customs and practices enforced in the CHT”. But the Section 6(1)(b) of the CHT Land (Dispute Settlement) Commission Act 2001 only refers to “laws and rules”. As a result, general land laws and rules applied in other plain districts of Bangladesh will overtake the traditional land-laws, customs and practices enforced in the CHT which will surely damage the traditional right and title of the Jumma people on their land. In other words, the traditional land-laws, customs and practices enforced in the CHT which were further recognised afterwards by the CHT Accord have totally been ignored. It is a gross violation of the concerned provisions of the CHT Accord.
- (d) The Act does not refer to fringe-land, but the Accord does so and provides for provisions to resolve disputes relating to such class of land.

- (e) Section 7(5) of the Act provides, “The Chairman, on the basis of discussion with other members present, shall take decision on consensus on the subjects and other related matters stated under Section 6(1). But if no consensus is reached, the decision of the Chairman alone shall be considered as the decision of the Commission”. This provision of the Act can easily turn other members of the Land Commission into rubber stamps. It will make the Commission an undemocratic institution by empowering its Chairman with a dictatorial power.
- (f) Regarding appointment of Secretary, officers and employees of the Commission, the Section 13(1)(2) of the Act violates the Clause 18, Part D of the CHT Accord.³

A 19-point recommendation paper on the part of the CHTRC was sent to the government for amendment to the contradictory provisions of the CHT Land Commission Act 2001. And a meeting was held to consider the recommendations at the Ministry of Law and Justice and Parliamentary Affairs Moudud Ahmed, the Ministers concerned, were present at the meeting. The CHT Regional Council Chairman J .B. Larma and Councillor Rupayan Dewan represented the Council at the meeting. Both sides reached a consensus on 18 recommendations. The lone recommendation that was refused by the government-side was the settlement of land-disputes regarding the fringe-land of the Kaptai Lake, though it has been referred to in the CHT Accord. A decision was taken to seek recommendation from the CHT Regional Council within the next one-month. Accordingly, the Council sent the recommendation with detailed explanations to the government in April 2002. Later, at a meeting held between the Minister of the Law, Justice and Parliamentary Affairs Moudud Ahmed and delegation of the CHT Regional Council on 21 January 2003, both sides reached a consensus on the recommendation. Thereafter the Land Commission Act was sent to the Prime Minister office. The issue was again discussed at a meeting held on 23 April 2003 between the Minister of the Local Government, Rural Development and Cooperative Abdul Mannan Bhuiyan and the delegation of the CHT Regional Council. Unfortunately the meeting was ended without any conclusion. The government has not amended the Land Commission Act as recommended by the CHT Regional Council till today. As a result, great uncertainty is prevailing over the function of the CHT Land Commission.

It may be noted that a letter bearing no. CHTAM(P-1)-Miscellaneous/Land/98/2002-159 dated 20 August 2002 was issued from the CHT Affairs Ministry instructing the Khagrachari Hill District Council for immediate disposal of 10,000 (ten thousand) land-settlement cases. The CHT Regional Council took up the issue with the Deputy Minister of the CHT Affairs Mani Swapan Dewan and requested him to revoke the instruction. Because the Hill District Councils formed undemocratically with the selected party workers of the ruling party do not have any popular mandate to deal with such delicate issue as per the CHT Accord. Later, operation of the instruction was postponed sine die.

Provisions for Allotment / Cancellation of Land for Rubber Plantation and Other Purposes

Clause 8 of Part D of the Accord provides “Land allocation for rubber and other plantation: Out of the lands allotted to non-tribal and non-local persons for rubber and other plantations, the lease (allocation) in respect of the lands of those who did not undertake any project during the last ten years or did not properly utilize the lands shall be cancelled”.

This provision has not been implemented till today. Rather, allotments of land under this category continue unabated by the authorities. The parliamentary committee on CHT affairs recommended in July 2009 that the concerned leases be cancelled, including for over 45,000 acres of land in the three hill districts.⁴ By August 2009, leases of 8,175 acres of land had reportedly been cancelled while

³ All classes of officers and employees shall be appointed from amongst the permanent residents of the CHT giving priority to the tribal people in all posts of the government, semi-government, council, autonomous bodies and institutions, provided that in case of non-availability of qualified candidate among the permanent residents of the CHT for a particular post, appointment to that post may be made on deputation from the government for a term of certain period [Clause 18, Part D of the CHT Accord]

⁴ <http://www.thedailystar.net/newDesign/news-details.php?nid=100173>

leases of another 15,000 acres are known to await 'immediate' cancellation.⁵ However, many indigenous peoples feel that the aforesaid reports are not based on fact, and that only a very few leases have actually been cancelled. In a few cases, some of the cancelled land has allegedly been leased out again rather than being given back to its original owner.

Hill District Council and Land Management

(a) Subject of Land and Land Management

As per clause 34(a) of this Part of the Accord, "Land and Land Management" is included in the First Schedule of the HDC Acts as a function of the HDCs. A proposal was sent to the government to transfer the responsibility of "land and land management" to the HDCs as per the CHT Accord. But till today, the subject has not been transferred to the HDCs.

(b) 64. Restriction on land transfer.- (1) Notwithstanding anything contained in any law for the time being in force- (a) no land including the khasland suitable for settlement within the jurisdiction of Rangamati Hill District shall be leased out, settled with, purchased, sold out or transferred otherwise with the prior approval of the Council;

Provided that, this provision shall not be applicable in case of Reserved Forests, Kaptai Hydroelectricity Project area, Betbungia Earth Satellite Station, state-owned industries land recorded with the Government.

(b) No land, hills and forests under the control and jurisdiction of the Council shall be acquired or transferred without consultation and consent of the Council.

(2) The Council shall supervise and control the functions of Headmen, Chainmen, Amins, Surveyors, Kanungos and Assistant Commissioners (land).

(3) Fringe land in Kaptai Lake shall be settled with the original owners on the priority basis.

(c) Subject of "Protection of Forest except Protected One"

CHT Accord vests the subject "protection of forest resources which are not protected by the government" on the three Hill District Councils (HDCs). However, it is yet to be transferred to the HDCs.

65. Collection of land development tax.- Notwithstanding anything contained in any law for the time being in force, responsibility of collecting land development tax from taxable under the jurisdiction of Rangamati Hill District Council shall be vested with the Council and the said collected tax shall be credited to the Council's fund.

⁵ http://www.thedailystar.net/newDesign/latest_news.php?nid=18725